

Competence, Compliance & Culture: behind the Building Safety Bill facade

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Summary

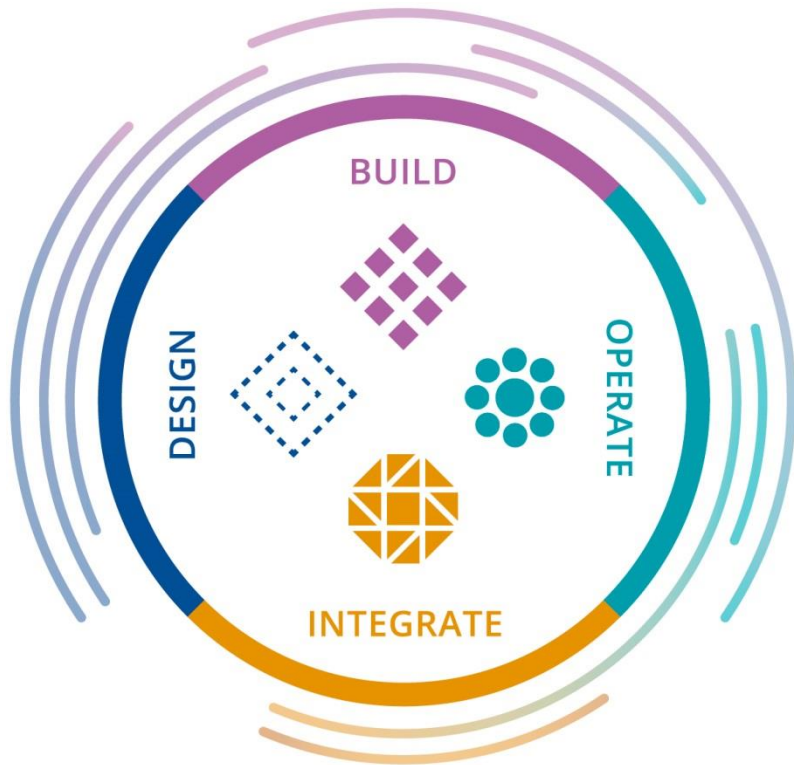
This is a time of unprecedented change in our sector:

the Draft Building Safety Bill and Building Safety Regulator **are** driving the most far reaching review of building and fire safety legislation in half a century;

greater digitalisation, modularisation and off-site fabrication and assembly **are** government priorities.

the Climate Change Act's net zero carbon target by 2050 **is** driving changes to building energy legislation.

Digitalisation



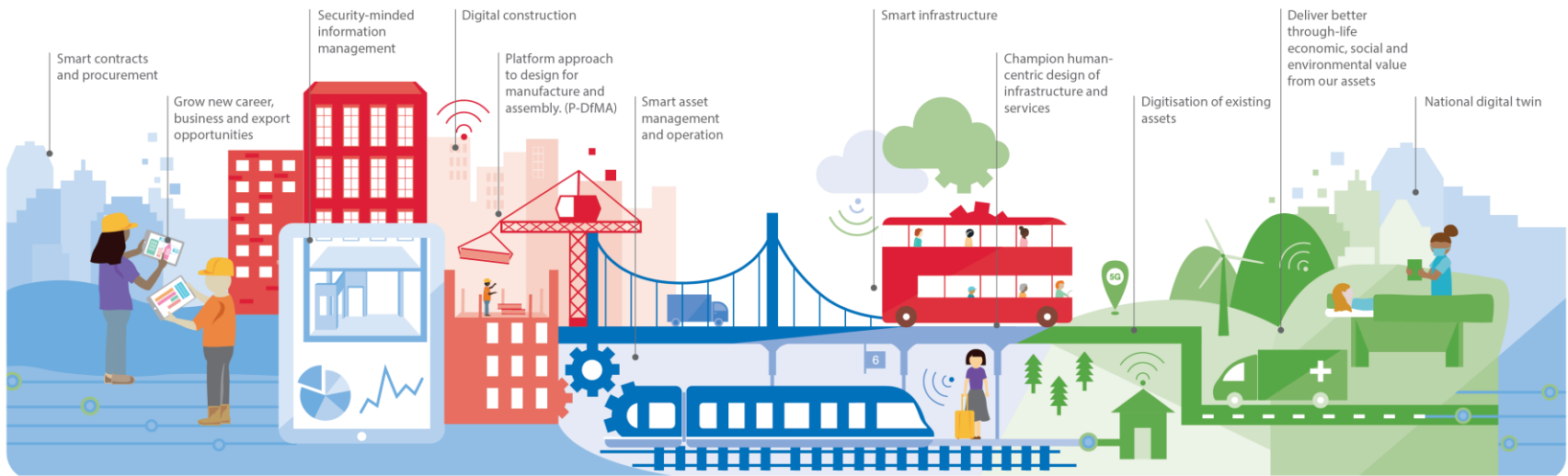
UK BIM FRAMEWORK

bsi.

cabb
Centre for Digital Built Britain

UKBIM
ALLIANCE
Enabling Digital Transformation

This is Digital Built Britain



Design

Use best practice, secure by default, information management and digital techniques to get data right from the start and design better-performing homes, buildings and infrastructure.

Build

Exploit new and emerging digital construction, information management, and manufacturing technologies and techniques to improve safety, quality and productivity during construction.

Operate

Use effective information management to transform the performance of the built environment and the services it delivers.

Integrate

Understand how the built environment can improve citizens' quality of life and use that information to drive the design and build of our economic and social infrastructure and the operation and integration of the services they deliver.



MODERN METHODS OF CONSTRUCTION

INTRODUCING THE MMC DEFINITION FRAMEWORK

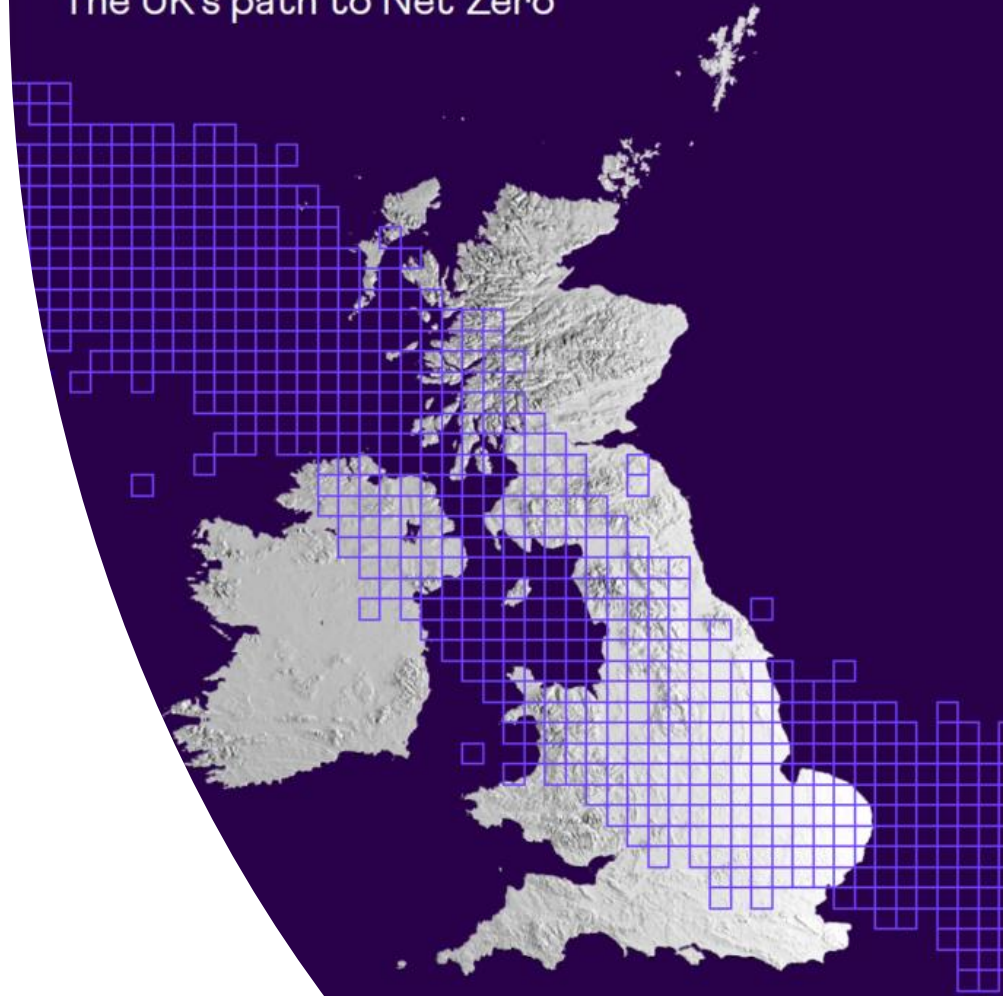
December 2020

The Sixth Carbon Budget

The UK's path to Net Zero

Net Zero

-
- Applies across the economy, not just the built environment
 - Sets challenging targets for the building sector to retrofit existing buildings
 - Has to be delivered alongside the building safety reforms



Building a Safer Future

Independent Review of Building
Regulations and Fire Safety:
Final Report

Building a Safer Future

Independent Review of Building
Regulations and Fire Safety:
Final Report

“The current system is “broken”...”



Key issues underpinning system failure

Ignorance – regulations and guidance are not always read by those who need to, and when they do the guidance is misunderstood and misinterpreted.

Indifference – the primary motivation is to do things as quickly and cheaply as possible rather than to deliver quality homes which are safe for people to live in. When concerns are raised by others involved in building work or by residents they are often ignored.

Some who undertake building work fail to prioritise safety, using the ambiguity of regulations and guidance to game the system.



Key issues underpinning system failure (2)

Lack of clarity on roles and responsibilities – there is ambiguity over where responsibility lies, exacerbated by a level of fragmentation within the industry, and precluding robust ownership of accountability.

Inadequate regulatory oversight and enforcement tools – the size or complexity of a project does not seem to inform the way in which it is overseen by the regulator.

Where enforcement is necessary, it is often not pursued.

Where it is pursued, the penalties are so small as to be an ineffective deterrent.

The government position

Accepts ALL of Dame Judith's findings

- Passed Fire Safety Act – implementation coming very soon!
- Introduced the Building Safety Bill
 - Establishing the new Building Safety Regulator for ALL buildings, NOT just higher risk buildings
 - A new regime for Construction Products safety and approvals – *Draft Construction Product Regulations*
 - Developing a new competence framework for ALL in the industry – *Draft Building (Appointment of Persons, Industry Competence and Dutyholders) Regulations*
 - Stringent procedures to notify work on HRBs – *Draft Building (Higher-Risk Buildings) (England) Regulations*

So what do we know now?

Building Safety Bill is in the Commons, at committee stage
Work already begun on key areas in the Bill, with draft Regulations
Competence frameworks for engineers being put into UK-SPEC (HRB) by Engineering Council, with three 'annexes' for structure, fire and building services. Facades currently being addressed within the structural group.

BSI PAS being developed for 3 roles – Principal Designer, Principal Contractor and Building Safety Manager – **PAS 8672**, Principal Contractor out for comment - **public consultation closes 10 Nov**
Safety Case & Safety Case Reports for ALL HRBs, **new AND existing**

Engineering Council (EC) considering licence arrangements for PEIs
EC considering 'revalidation model' – likely to be 5 years, professional logbook, CPD, possibly with interview, for ALL licensed engineers



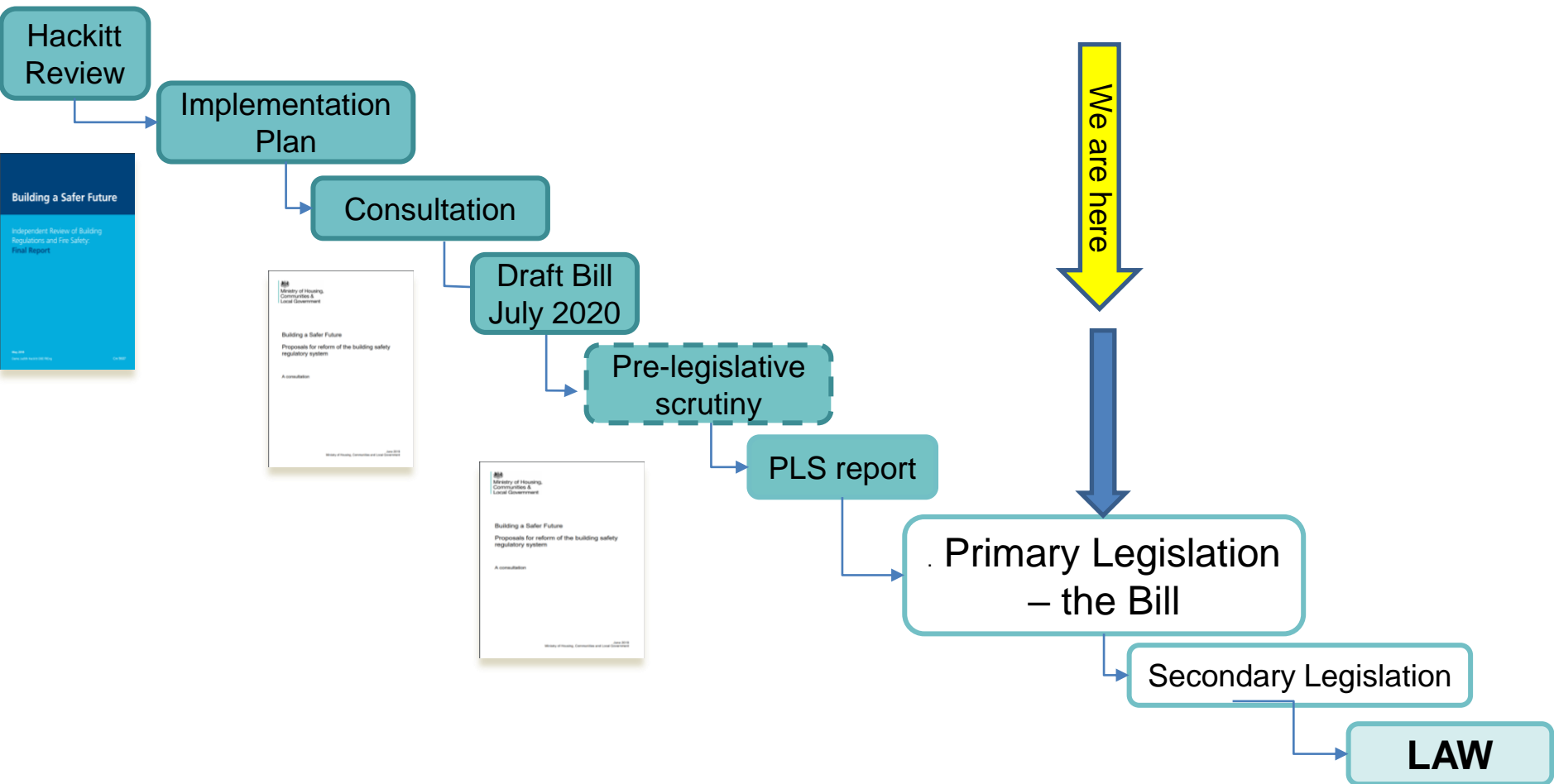
The Building Safety Bill

The Bill will:

- Create the Building Safety Regulator, operating within the HSE
- Transfer responsibility for building control to the BSR
 - This includes ALL building work that requires building control approval – whether through a building notice or full deposit of plans*
 - The BSR will set standards for building control officers*
 - The BSR will be responsible for enforcement of building regulations, with potential criminal sanctions in the worst cases*
- Give the BSR responsibility for building work on ALL buildings
 - It is NOT just for higher risk buildings – its for everything!*
- Set new competence requirements for work on ALL buildings
- Set up a new safety case based regime, initially for higher risk buildings – often called “buildings in scope” – which means in scope of the HRB rules
- Establish new dutyholder roles and regulatory gateways
- Establish the golden thread of information for buildings in scope



Building Safety Bill – current status



Building Safety Bill

A Bill in five Parts

- Introduction and Scope
- Establishing the new Regulator, Committees and Powers
- Major revision and reform of the Building Act 1984
- The new Higher Risk Buildings Regime
- Construction Products, Architects Registration

The Bill also contains some enabling provisions relating to the costs of building remediation

Its not just the Bill....

openpdf CIBSE Decar Build Built Safety net-ze Build Ventilation Building S IX Why S Build Coronavir COP26 Events Build X

← → ↻ https://www.gov.uk/government/publications/building-safety-bill-draft-regulations

Getting Started Other Bookmarks

GOV.UK Topics Departments Government activity

→ **Coronavirus (COVID-19)** | Guidance and support

Home > [Housing, local and community](#) > [Planning and building](#) > [Building regulation](#)

Policy paper

Building Safety Bill: draft regulations

These draft regulations provide Parliament with more detail of our intentions for secondary legislation.

From: [Department for Levelling Up, Housing and Communities](#) and [Ministry of Housing, Communities & Local Government](#)

Published 5 July 2021

Last updated 14 October 2021 — [See all updates](#)

Documents

Related content

Building Safety Bill

Type here to search

6°C Clear 21:04 01/11/2021

8 sets of draft regulations

These are the draft competence regulations issued to support the Building Safety Bill

They apply to ALL BUILDING WORK THAT REQUIRES BUILDING REGULATIONS APPROVAL

They do NOT just apply to high rise resi

STATUTORY INSTRUMENTS

[2021 No. xxx]

BUILDING AND BUILDINGS, ENGLAND

The Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations [2021]

Made - - - -

Laid before Parliament

Coming into force - -

The Secretary of State has consulted the regulator and such other persons as the Secretary of State considers appropriate in accordance with section 120B(3) of the Building Act 1984(a).

The Secretary of State, in exercise of the powers conferred by section 1 of, and paragraphs 1D, 5A, 5B and 5C of Schedule 1 to, the Building Act 1984, makes the following Regulations.

PART 1

Preliminary

Citation, commencement, extent and application

Building Control Applications for HRBs

They set out
the MORE
STRINGENT
procedures
that will apply
to HRBs under
the new
regime.

[2022 No. xxx]

BUILDING AND BUILDINGS, ENGLAND

The Building (Higher-Risk Buildings) (England) Regulations
[2022]

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Coming into force - -

CONTENTS

PART 1

Preliminary

Competence

Building (Appointment of Persons, Industry Competence and Dutyholders) Regulations (DRAFT)

- A new competence framework for the industry
- Applies across the industry – **not** just higher risk buildings
Effectively a general requirement that everyone working on buildings must be competent to do what they do
- Sets the onus on people and employers to assess competence and demonstrate it to clients and regulators
- It is largely for industry to decide who is competent to do what – no “to do task X you must be in scheme Y” model

What do they require?

Considerations before a person carries out work

7.—(1) This regulation applies where a person (P) is proposing to use any person (A) to carry out any building work or design work.

(2) Before permitting A to carry out any work, P must take all reasonable steps to satisfy themselves that A—

- (a) fulfils the requirements in regulation [8(1) and (2)] (competence: general requirement), or
- (b) is an individual who is in training to fulfil the requirements in regulation [8(1) and (2)] and arrangements have been put in place to supervise A.

(3) Before permitting A to undertake any work, P must additionally take all reasonable steps to satisfy themselves that A is able to fulfil the duties of regulation [13] (general duty to plan, manage and monitor).

Requirements for dutyholder roles

(4) Where A is to be appointed as the principal designer, the client must take all reasonable steps to satisfy themselves that A fulfils the requirements in regulations [8(1) and (2)] (competence: general requirement) and [9(1)] (competence: principal designer) in relation to the design work.

(5) Where A is to be appointed as the principal contractor, the client must take all reasonable steps to satisfy themselves that A fulfils the requirements in regulations [8(1) and (2)] (competence: general requirement) and [10(1)] (competence: principal contractor) in relation to the building work.

(6) A request to undertake any building work or any design work must not be accepted by A if A does not satisfy the requirements in regulation [8(1) and (2)] (competence: general requirement) at the time of the appointment (except where those requirements do not apply to it by virtue of regulation [8(3)]).

(7) A must not act—

- (a) as the principal designer in relation to any design work if A does not satisfy the requirements in regulations [8(1) and (2)] (competence: general requirement) and [9(1)] (competence: principal designer) at the time of the appointment;
- (b) as the principal contractor in relation to any building work if A does not satisfy the requirements in regulations [8(1) and (2)] (competence: general requirement) and [10(1)] (competence: principal contractor) at the time of the appointment.

Dutyholders

Note the responsibilities being placed on clients AND designers/contractors:

Its for the clients to “take all reasonable steps to satisfy themselves” about the competence of those that they propose to appoint.

And there is a duty on the designers and contractors to satisfy themselves that they are accepting an appointment that they are competent to undertake.

It is a huge responsibility shift.

The responsibility for doing this falls to industry and its clients.



Building Control Applications for HRBs

To work on an HRB then you need to be fully conversant with these regulations. They set out the procedures that will apply to HRBs under the new regime.

[2022 No. xxx]

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PART 1

Preliminary

Safety Cases

Every HRB will need to have a safety case that identifies the potentially harmful events that could occur in an HRB and what the owner or operator is doing to prevent, control and mitigate those risks.

There is a focus on fire and structural stability in the safety case regime.

The safety case will be used to prepare a safety case report for the regulator.

The HSE plans to issue further material about safety cases.



Safety case principles for high-rise residential buildings

Building safety reform – Early key messages



The golden thread

The golden thread is the information that allows you to understand a building and the steps needed to keep both the building and people safe, now and in the future.

- The golden thread is about fundamentally changing how HRBs are designed, built and managed under the more stringent regime.
- Higher Risk Building (HRB) regime will apply to buildings 18 meters and above or over 6 storeys and they will be subject to direct oversight by the new building safety regulator.
- The aim of the golden thread is to give the right people the right information at the right time to keep buildings safe.
- For the golden thread to deliver fundamental reform regulatory change is not all that will be required, significant industry ownership and changes in practice are needed.
- Further guidance to follow.

So what needs to change?

- Approach to responsibility (“culture”?)
- Industry practices
- Management of competence

- Will current business models need to change?
- How we demonstrate compliance must change
- Is it time to think again about procurement?

Further reading

The following links are almost essential reading to provide fuller context for the material presented above:

<https://www.gov.uk/government/collections/building-safety-bill>

In particular

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997755/Competence and Dutyholder draft regulations.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/997755/Competence_and_Dutyholder_draft_regulations.pdf)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1025876/The Building Higher-Risk Buildings__England_Regulations_2022_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1025876/The_Building_Higher-Risk_Buildings__England_Regulations_2022_.pdf)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1024841/DRAFT_construction_products_regulations_2022.pdf

Dame Judith Hackitt

“I have been shocked by some of the practices I have heard about and I am convinced of the need for a new intelligent system of regulation and enforcement for high-rise and complex buildings which will encourage everyone to do the right thing and will hold to account those who try to cut corners.

“Changes to the regulatory regime will help, but on their own will not be sufficient unless we can change the culture away from one of doing the minimum required for compliance, to one of taking ownership and responsibility for delivering a safe system throughout the life cycle of a building.”

Are we ready to change, now?

Thank you for listening

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