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Post Grenfell: Enhanced Statutory Duties for the Principal Designer

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Gillian Birkby

Topics covered

- Building regulations
- Background
- Consultation paper:
 - Building a Safer Future Proposals for reform of the Building Safety Regulatory System
 - New requirements – PD responsible for Building regulation compliance?

Building Regulations

- Statutory instrument made under the Building Act 1984
- Protect people's safety, health and welfare in and around buildings
- Energy
- Environment
- Sustainable development
- Supported by Approved Documents, e.g. Approved Document B on fire safety in dwellings

Building Regulations Cont.

- No requirements on management of a building but assume it will be properly managed, e.g. unobstructed escape routes
- Reliance on unrealistic or unsustainable management regime does not meet the requirements of the regulations
- Building control body – local authority or Approved Inspector. Grenfell used local authority as building control body

Background

- 12 industry working groups have identified competence of various parties such as fire engineers
- Professional indemnity insurers are very nervous
- Ministry of Housing, Communities and Local Government (MHCLG) issued consultation paper in June 2019:
 - Building a Safer Future Proposals for reform of the Building Safety Regulatory System
- Does not contain draft regulations
- England only

Reform Consultation Paper

- Extra rules for HRRB but could extend to other living accommodation such as prisons, care homes which are also high rise
- Not just for new build but also refurbishment
- Eventually apply to existing HRRB
- [Suggestion that new rules apply to all construction governed by CDM]

Building Safety Principal Designer

- Control, plan, monitor and manage pre-construction phase and coordinate matters relating to building safety to ensure that the project complies with building regulations
- Building safety = structural and fire safety
- Ensure co-operation between designers, client and principal designer
- Ensure designers take account of building regs
- Liaise with principal contractor and share information

Building Safety Principal Designer Cont.

- Assist client in meeting gateways – see below
- Contribute to handover of information
- Sign off at completion that to the best of their knowledge works meet building regs requirements and handover of information has happened
- Corporate PD to have an accountable individual at board level

Gateway 1 – before planning granted

- Access for fire and rescue services
- Water supplies in the event of fire
- Submit a Fire Statement with planning application
- Fire and rescue authorities to be statutory consultees to the planning process before deciding on planning applications

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Gateway 1 Cont.

- Should fire and rescue authorities be consulted on planning applications for developments within the “near vicinity” of HRRB? (Should “near vicinity” be 50 metres, 100 metres or 150 metres?)

Gateway 2 – before construction begins

- Dialogue between duty holder and building safety regulator (new role) to discuss risks (fire and structural or more extensive than that?)
- Duty holders to provide strategy for complying with building regulations and managing and controlling safety:
 - PD to procure full plans
 - PD to procure 3D digital model of the building including products to be used
 - PD to procure fire and emergency file

Gateway 2 Cont.

- PD to produce construction control plan – how building safety and building regulations compliance will be maintained during the construction phase and how change (variations) will be controlled to deliver a safe building
- Duty holder to demonstrate through discussions with the regulator that they have the necessary management systems and competency in place to ensure the finished building will be safe
- No construction to start until the regulator gives permission

Gateway 3 – before occupation begins

- Client to submit a complete construction control plan, as-built digital record of the building, complete key dataset, updated fire and emergency file, provisional building registration application
- Client must also confirm appropriate handover of information to the accountable person in occupation has happened
- If the client is the accountable person they must submit a resident engagement strategy

New roles

- Building Safety Regulator
- Building Safety Client
- Building Safety Principal Designer
- Building Safety Principal Contractor
- Accountable Person
- Building Safety Manager

Proposed criminal sanctions

- Accountable person not submitting valid application to register the building
- Clients, principal designers and principal contractors proceeding beyond gateways without permission of the regulator
- Failure to apply for a building safety certificate to be registered within the time limit
- Breach of conditions in the building safety certificate
- Penalties for breach of building safety

Other issues

- Developers will not be able to choose their own building control body
- Emphasis on competence
- Partial occupation
- Vandalism