

Essential Guide to the **Building Safety Act**

**IMPORTANT INFORMATION
FOR CONTRACTORS**

»

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Building long-lasting change

The Building Safety Act is, truly, history in the making for the construction industry.

Following Grenfell, the Government appointed Dame Judith Hackitt to carry out an independent review into the UK's building regulations, with a particular focus on fire safety. This led to the report, [Building A Safer Future](#), which made clear that a very different approach to the regulatory framework needs to be adopted, covering the design, construction and maintenance of high-rise residential buildings.

Commenting on the importance of taking a principled approach to building safety, Dame Judith Hackitt said:

“Transparency of information and an audit trail all the way through the life cycle of a building, from the planning stage to occupation and maintenance, is essential to provide reassurance and evidence that a building has been built safe and continues to be safe.”

To accomplish this, a change in behaviour and culture is required across the industry, with a greater emphasis on everyone involved throughout a building's life cycle to evidence and prioritise safe working practices.

The goal? To create meaningful, long-lasting change.

The Building Safety Act is an essential reform of building safety, impacting everyone throughout the construction industry.

It's encouraging and commendable to see a business like Constructionline - operating at the very heart of the supply chain industry - providing clear guidance on the essential information companies need to be aware of, identifying the steps that need to be taken to remain compliant.



Mishcon de Reya
It's business. But it's personal.

Kizzy Augustin,
Health, Safety, Fire and Environment Partner at Mishcon de Reya

Kizzy Augustin is the Health, Safety, Fire and Environment Partner at Mishcon De Reya. She has significant experience in defending companies and senior directors and employees in corporate manslaughter and serious fire and health and safety prosecutions. Kizzy provides preventative consultancy advice to high-profile corporate and commercial clients concerning corporate policies and procedures, ensuring compliance with health and safety legislation, as well as strategic advice in response to incidents.

She is a member of the Health and Safety Lawyers Association and is also an Executive Committee member of the London Health and Safety Group. She has been described as a Leading Individual in the Legal 500 2021-22, and was voted one of the 15 most influential health and safety professionals by Safety & Health Practitioner.

Championing positive action

For a long time, the Building Safety Act has been viewed as something that's coming - but it's here, now, and it's the law.

Laying the foundations for a safer future, the Act is a result of the devastating failures in building safety that led to the Grenfell Tower tragedy on 14 June 2017. Transforming how the industry approaches designing, building and maintaining tall buildings - particularly those that are classed as higher-risk buildings - it intends to address the issues around a lack of accountability throughout a building's life cycle.

At Constructionline, we're committed to championing a safer future. In this white paper, we break down the essential information contractors need to know about the Act, plus take a closer look at what the secondary legislation means in practice.

We're here to make sure you feel completely confident in your compliance.



Robert Walton,
Chief Product and Engineering Officer at Once For All



Why should you care about the Building Safety Act?

- **Fines, sentences and reputational damage** - Failure to comply means you risk breaking the law, potentially resulting in imprisonment, financial penalties and serious damage to your brand's reputation
- **Greater compliance across the supply chain** - Managing risk has never been more important, and those that cannot illustrate they have the appropriate capabilities, knowledge, experience and behaviours will struggle
- **Promote positive safety culture across the industry** - Together, the construction industry can nurture a safer environment throughout a building's life cycle.



Introduction

In July 2020, the Government introduced the Draft Building Safety Bill, aimed at advancing comprehensive reforms to the building safety system and addressing concerns identified by Dame Judith Hackitt DBE in her independent review, “Building a Safer Future.”

Following rigorous scrutiny in Parliament and collaboration with industry stakeholders, the Building Safety Bill successfully gained Royal Assent, officially becoming the Building Safety Act of 2022 on April 28, 2022. After consultation on the new building control regime and wider changes to the building regulations, the Government published key secondary legislation on August 17, 2023.

This signalled considerable regulatory change, with clear accountability for clients, contractors and designers. This means from and including 1 October 2023, new buildings that fall within the regime and are “completed” after this date must be registered before the building is occupied.

The Building Safety Act 2022 stands as the primary legislative framework that legally establishes building safety standards throughout the design, construction, and occupation phases. While the Act’s practical implementation will depend on detailed regulations, often referred to as Statutory Instruments, these secondary legislations will provide specific guidance on its enforcement.

To support the industry in navigating this new legislation effectively, we are creating a series of whitepapers to provide construction industry leaders with clarity and valuable strategies to meet the requirements.

In this series of whitepapers, we will cover:

- Essential guide and overview of the Building Safety Act and Secondary Legislation
- A detailed deep dive into the Secondary Legislation
- What you need to know about 8670
- What you need to know about 8671
- What you need to know about 8672

In this whitepaper we are going to cover:

- Timeline of the BSA¹
- The Gateways – new safety checkpoints
- New Roles and Responsibilities
- The Golden Thread
- Secondary Legislation
- Setting the standards throughout the supply chain

¹ Build UK, ‘Building Safety Timeline’, www.builduk.org/buildingsafetytimeline



What is a HRB?

The Building Safety Act is the most fundamental reform of regulations for building safety in living memory. It reforms existing legislation, while also bringing in new requirements through secondary legislation.

The Building Safety Act 2022 introduces revolutionary reforms to enhance resident rights, powers, and protections, enhancing the safety of homes nationwide. These changes bring a substantial overhaul to existing regulations within the construction industry, ushering in enduring transformation. The Act also provides explicit guidelines for the construction and management of higher-risk buildings, prioritizing the safety and peace of mind of their occupants.

The Building Safety Act applies to all new buildings, while including additional requirements for those classed as higher-risk buildings.

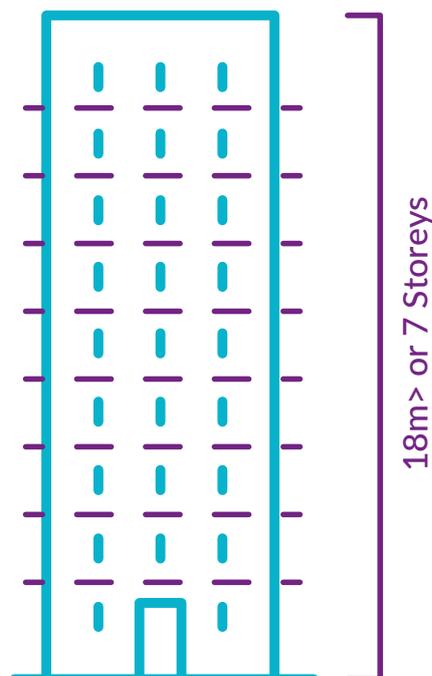
What's the definition of a higher-risk building?

Higher-risk buildings are those in England that are classed as being:

- At least **18 metres** in height, or
- At least **7 storeys high**, and
- Which contain at least **two residential units**, including hospitals, care homes and student accommodation

Hotels, prisons and military accommodation are not classed as higher-risk buildings.

Higher-Risk Building



Which contain at least **two residential units**, including hospitals, care homes and student accommodation



A timeline of the Building Safety Act

To help put the BSA into context, let's begin with a timeline of key dates compiled by Build UK¹, both past and fast-approaching, which are playing a part in building a safer future.

2021

1 August - [Planning Gateway One](#) comes into effect

2022

28 April - *Building Safety Act becomes law*

28 June - New [leaseholder protections](#) come into force

28 June - New liability periods for claims under the [Defective Premises Act](#) come into effect

1 December - Changes to [Approved Document B \(Fire Safety\)](#) come into force

2023

2023

23 January - [Fire Safety \(England\) Regulations](#) come into force

13 February - The Mayor of London [confirms planning applications](#) for new residential buildings over 30m in London must now have two staircases

6 April - [New regulations](#) detailing exclusions from the definition of higher-risk building come into force

12 April - Registration opens for existing high-rise buildings

21 June - [Key Building Information \(KBI\)](#) can now be submitted as part of the registration process for existing high-rise residential buildings

21 June - [Responsible Actors Scheme](#) is launched for eligible developers to join

24 July - The Government [confirms](#) its intention to mandate second staircases in new residential buildings above 18m

30 September - [Deadline for registering](#) existing high-rise residential buildings

[Introducing the secondary legislation](#)

¹ Build UK, 'Building Safety Timeline', www.builduk.org/buildingsafetytimeline

1 October 2023

Dutyholder responsibilities come into force

New building control system comes into force through new regulations:

- The Building Safety Regulator becomes the Building Control Body for new higher-risk buildings
- Gateways Two and Three come into effect
- Registration opens for Building Control Approvers and Building Inspectors

Transitional arrangements for Higher-Risk Buildings and other buildings begin

A golden thread of information is now required for each higher-risk building

A safety case is now required for each higher-risk building

A Mandatory Occurrence Reporting system is now required for each higher-risk building

New High-Rise Residential Buildings must now be registered before they are occupied

Amendments to the Regulatory Reform (Fire Safety) Order come into force

TBC

TBC - New regulatory framework for construction products is expected to be introduced

TBC - The Building Safety Levy is expected to come into force

1 April 2024

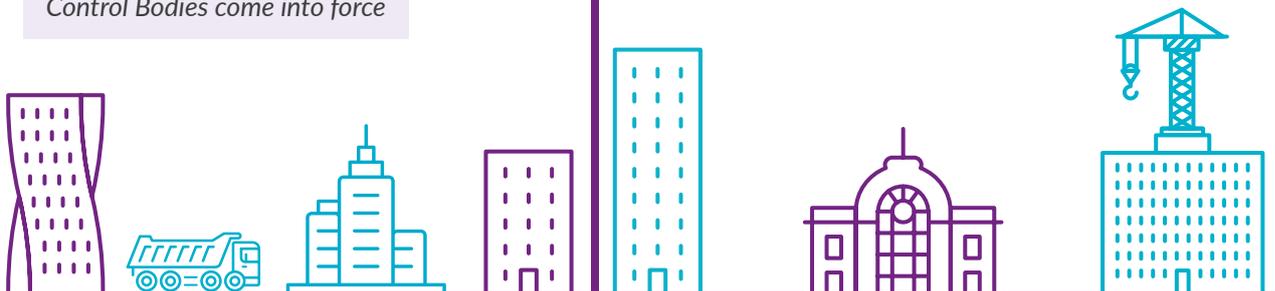
1 April - Transitional arrangements for higher-risk buildings end

1 April - Deadline for registering as Building Control Approvers and Building Inspectors

1 April - Operational Standards Rules for Building Control Bodies come into force

1 April - Professional Conduct Rules for Registered Building Control Approvers and Code of Conduct for Registered Building Inspectors come into force

1 April - The Building Safety Regulator is expected to start issuing Building Assessment Certificates





New roles and responsibilities

The creation of the Building Safety Act has seen a number of new bodies and roles established, each with their own duties and responsibilities.

Building Safety Regulator

The [Health & Safety Executive](#) has been named as the new Building Safety Regulator. It will be responsible for three main functions:

1. To oversee the safety and standards of all buildings
2. To help and encourage industry and professionals to improve their competence
3. To lead the implementation of the new regulatory framework for high-rise buildings

Building Control Body

From **1 October 2023**, the Building Safety Regulator becomes the Building Control Body. This means the Health & Safety Executive will be responsible for verifying building work meets the standards set out in the building regulations, before providing a completion certificate.

In this role, the Health & Safety Executive will also be responsible for maintaining the **golden thread of information**.



The Golden Thread of information

The golden thread is defined as ‘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’².

When a building is being developed, information must be kept that describes the building and shows how it complies with regulations.

Embracing digital processes across the supply chain can only be a positive move. While the golden thread currently only applies to higher-

risk buildings, eventually - as this approach is commonly adopted - it seems likely that everyone will have a consistent digital process for maintaining records for health, safety and quality management.

In short, everyone working within the construction industry will need to embrace the practices of the golden thread now, so a new gold standard can be established for the industry.



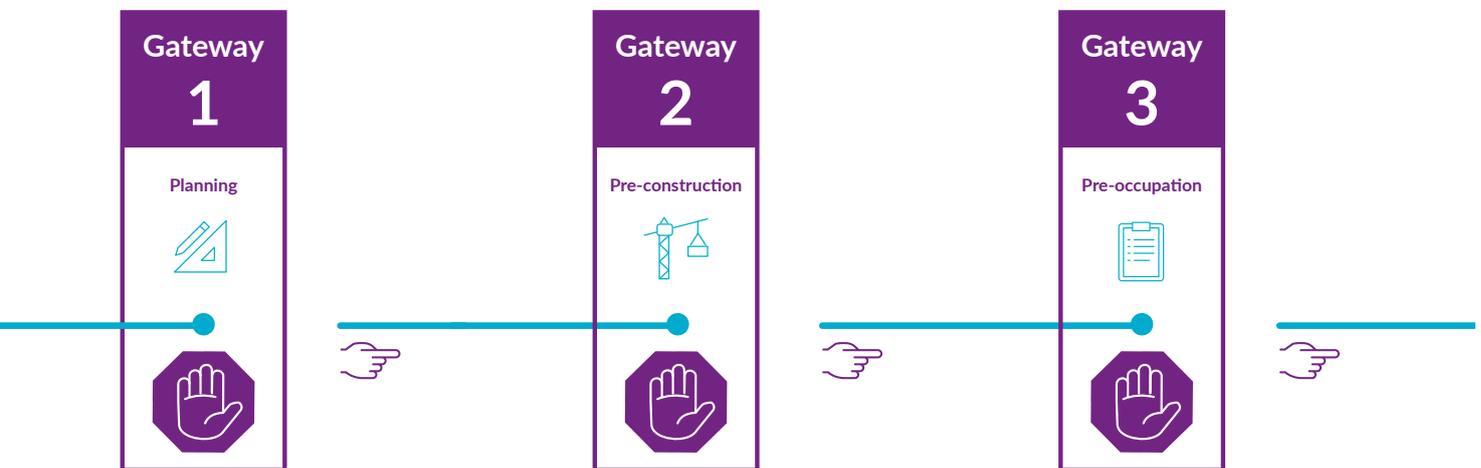
² UK Government, 'Building Regulations Advisory Committee: golden thread report', www.gov.uk/government/publications/building-regulations-advisory-committee-golden-thread-report/building-regulations-advisory-committee-golden-thread-report



The Gateways - the new safety checkpoints



As part of the Building Safety Act, a new approvals process has been established to ensure building safety has been taken into account throughout the design and construction phases. Acting as 'checkpoints', the Gateways apply for construction, refurbishment or any works in higher-risk buildings. Throughout this process, the Building Safety Regulator will ask dutyholders to evidence how competence has been established, encompassing a company's own individuals and organisational capabilities, plus that of their supply chain.



Gateway One - Planning

Introduced on 1 August 2021, any developer seeking planning permission for a high-rise building must submit a comprehensive fire and structural safety report. This should make clear how the proposed design should meet the strict safety standards of the Building Safety Act.

Gateway Two - Pre-construction

Replacing the building control 'deposit of plans' stage, this occurs prior to construction work. No building work can begin until the Building Safety Regulator confirms that the plans meet the demands of the building regulations. Complex schemes can be submitted in phases, but this is at the discretion of the Health & Safety Executive.

Gateway Three - Pre-occupation

Taking place before a building can be occupied, Gateway Three occurs at the final completion stage of a higher-risk building. The Building Safety Regulator will assess whether work has been completed in line with the building regulations. If it passes, then the building will be registered, and can be occupied. There is a proposed 12-week period for the Health & Safety Executive to approve the application for a Completion Certificate. It will be an offence to occupy a building without this certificate.



Accountable person

The accountable person owns or has a legal obligation to repair any common parts of a building. This covers the structure and exterior of a building, corridors, lobbies and staircases.



Each building requires one clearly identifiable accountable person, known as the principal accountable person. This will typically be an organisation, such as a commonhold association, local authority or social housing provider.

In certain cases, it might be the owner of a building, or the individual will be named on the leasehold as being responsible for this maintenance.

Secondary Legislation - an overview

On 17 August 2023, the Government announced new regulations for higher-risk buildings, as well as major changes to the [Building Regulations \(Part 2A\)](#). For those responsible for procurement, designing or building in the industry, Part 2A makes for critical reading on how to put the Building Safety Act into practice.

This secondary legislation ensures the full force of the BSA comes into effect from **1 October 2023**.

The Building Regulation (Amendment) introduces new amendments to the 2010 Regulations regarding duty holders and competence. It outlines the responsibilities of clients in ensuring compliance and competency throughout the supply chain with all relevant requirements, including suitable arrangements for planning, managing, and monitoring a project.

The secondary legislation provides clearer structure for the client, principal designer and principal contractor in relation to general competence and provides considerations duty holders should be making before someone carries out work.

We will be going in more depth on the Secondary Legislation later on in this whitepaper and also cover this off in detail in the next whitepaper of the series.



Dutyholders - a duty of care

A series of new dutyholder roles have been introduced into building regulations. These have a responsibility to ensure arrangements and systems are in place for building and design work, complying with the law.

Individuals must be able to evidence they have the appropriate skills, knowledge, experience and behaviours to perform their roles, and organisations must be able to demonstrate their organisational capabilities.

The dutyholders who fall under these regulations and broadly follow the CDM definitions of these roles are:

- The Client
- The Principal Contractor
- The Principal Designer
- General Contractors
- General Designers

Duties for all



Planned, managed, monitored

Building work must be planned, managed and monitored to comply with the building regulations



Designed appropriately

If a building is constructed in accordance with a design, it should meet all relevant regulation requirements



Communicate and cooperate

Everyone has a responsibility to share information and support other dutyholders in achieving compliance

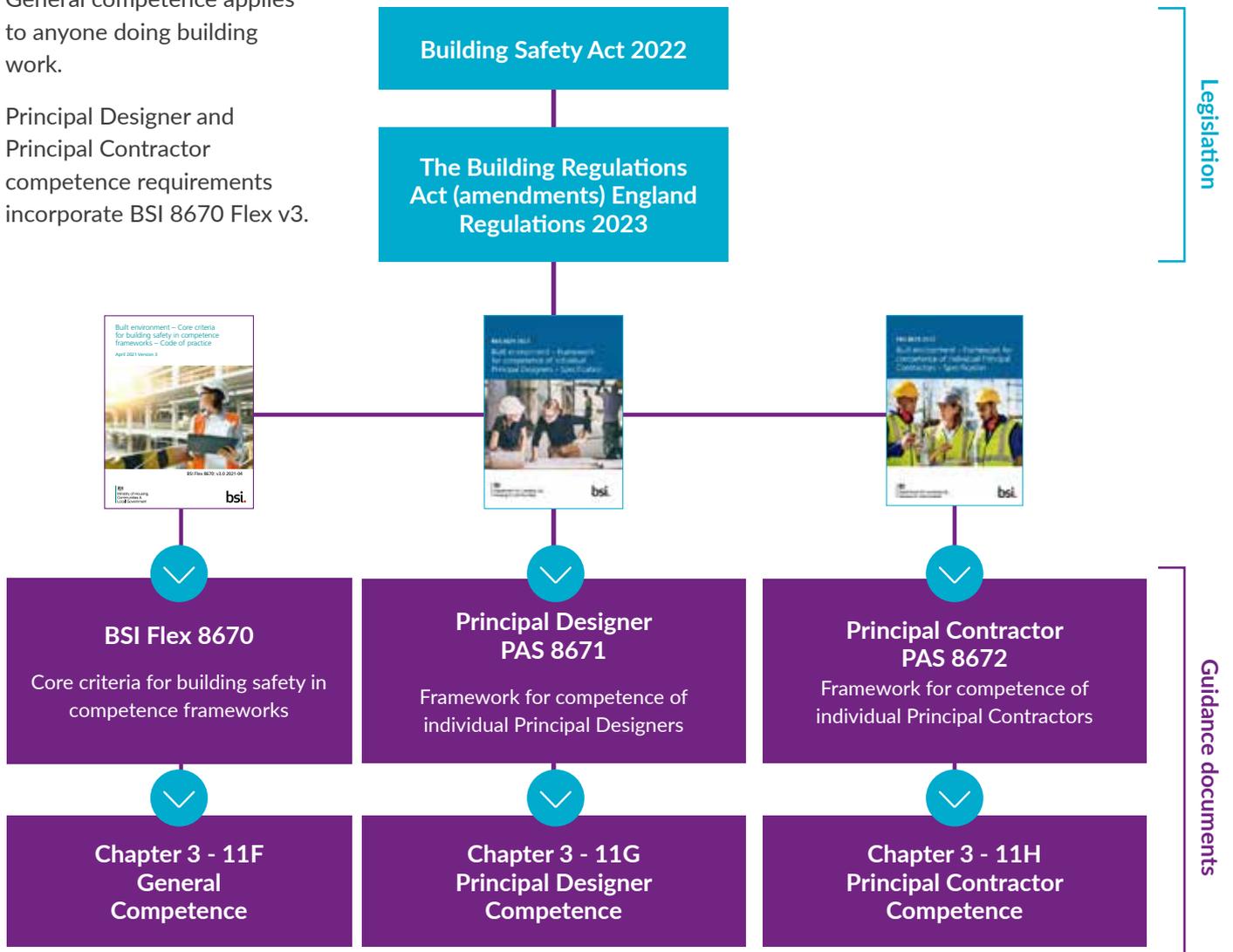




Competence requirements

General competence applies to anyone doing building work.

Principal Designer and Principal Contractor competence requirements incorporate BSI 8670 Flex v3.



How can you strengthen your supply chain to meet the Act's requirements?



Define a procurement process that maintains openness and transparency in decision-making, and assesses proportionately the competence of contractors and suppliers.



Perform due diligence on the prequalification and selection of contractors, suppliers and service providers, including establishing authenticity and integrity of information and record keeping.



General Competence Compliance

The General Competence Compliance applies to everyone throughout the supply chain.

In essence the responsibility of meeting the criteria in this part of the legislation, is on any entities that are doing building work.

11F (General Compliance)

1. Any person carrying out any building work must have –
 - a. where the person is an individual, the skills, knowledge, experience and behaviours necessary,
 - b. where the person is not an individual, the organisational capability, to carry out –
 - i. the building work in accordance with all relevant requirements
2. Any person carrying out any building work as a contractor must have –
 - a. where the person is an individual, the skills, knowledge, experience and behaviours necessary,
 - b. where the person is not an individual, the organisational capability, to fulfil the duties of a contractor under these Regulations in relation to the work.

BSI Flex 8670 provides a framework for the General Competence Requirement. Any business undertaking building work, in any duty holder role, have to ensure that their organisation meets the sentiment of BSI Flex 8670, and therefore 11F.

What does 'organisational capability' mean?

'Organisational capability' is a term that's referenced throughout the secondary legislation. Essentially, it means having the appropriate management policies, procedures, systems and resources in place to ensure the individuals in your organisation can meet the competencies required by these regulations.

Did you know?



Almost 25% of Constructionline gold members do not have a whistleblowing policy. After Grenfell, and the requirements of BSI 8670, this is an example of where there's a serious gap in compliance with the demands of the Building Safety Act.

How do you meet Regulation 11F?



You need the ability to assess compliance with 11F - and, therefore, BSI Flex 8670 - at scale for all subcontracted contractors or designers.



You need to easily evidence your compliance with 11F upstream, to the client, principal contractor and principal designer, as well as the contractor or designer who has subcontracted the work to you.



Multi-tier responsibilities

Throughout the project, some responsibilities and considerations must be considered at each tier.



Non-Domestic Client



Principal Contractor:
11F/1BSI 8670/ BSI 8672/
Principal Designer:
11F/11G/BSI 8671



Tier 1 Contractor/Designer
11F/11H/BSI 8670



Tier N Contractor/Designer
11F/BSI 8670





Client

It's the client's responsibility to make suitable arrangements for planning, managing and monitoring a project. In practice, this means the client should appoint the right people, with the right competencies, making sure reasonable steps have been taken to validate this.

This is covered under the 11D and 11E section of the legislation:

11D

1. Where there is more than one contractor, or it is reasonably foreseeable that more than one contractor will be working on a project, the client must appoint in writing—
 - a. a designer with control over the design work as the principal designer for the purposes of these Regulations, and
 - b. a contractor with control over the building work as the principal contractor for the purposes of these Regulations.
- i. ask A whether a serious sanction has occurred, in relation to them, within the 5 years ending on the date of the appointment; and
- ii. consider any information available to P relating to any misconduct of A (including any serious sanction).

This point is particularly important. If a client is planning to use a firm for higher-risk building that has a 'serious sanction' levelled against it during the last five years, then it must have confidence and evidence that the issues raised by the serious sanction have been addressed.

11E

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—
 - a. P must take all reasonable steps to satisfy themselves that A—
 - i. fulfils the requirements in regulation 11F (1) and (2) (competence: general requirement, or
 - ii. is an individual who is in training to fulfil the requirements in regulation 11F (1) and (2) and arrangements have been put in place to supervise A, and
 - b. where the work relates to a higher-risk building, P must—
 - i. ask A whether a serious sanction has occurred, in relation to them, within the 5 years ending on the date of the appointment; and
 - ii. consider any information available to P relating to any misconduct of A (including any serious sanction).
- What exactly is meant by a 'serious sanction'?**
8. In this regulation "serious sanction" means—
 - a. the issue to A of a compliance notice which referred to contravention or likely contravention of a requirement of Part A (structure) or Part B (fire safety) of Schedule 1;
 - b. the issue to A of a stop notice;
 - c. the conviction of A for any offence under—
 - i. the Act;
 - ii. the Health and Safety at Work etc. Act 1974;
 - iii. the Building Safety Act 2022;
 - iv. the Regulatory Reform (Fire Safety) Order 2005;



d. a report published by an inquiry under the Inquiries Act 2005 finds that A's action or inaction resulted in one or more deaths or was likely to have been a contravention of any requirement of—

- i. the Act;
- ii. the Health and Safety at Work etc. Act 1974;
- iii. the Building Safety Act 2022;
- iv. the Regulatory Reform (Fire Safety) Order 2005.

11E also makes clear that a client needs to make sure that either a principal designer or principal contractor meets their competence requirements.

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 11F (1) and (2) (competence: general requirement) and 11G(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 11F (1) and (2) (competence: general requirement) and 11H(1) (competence: principal contractor) in relation to the building work.

Taking all this into account, what are the key takeaways principal contractors and principal designers need to consider, to help the client meet its responsibilities?

- You need to make it easy for clients to be able to meet this requirement
- Principal designers need to evidence the competence requirements for PAS 8671 in the context of BSI Flex 8670
- Principal contractors need to evidence the competence requirements for PAS 8672 in the context of BSI Flex 8670
- You need to be prepared to defend any 'serious sanction' contraventions



Principal contractor

A principal contractor must plan, monitor and manage building work, while understanding the requirements of building regulations and other relevant legislation. They have a duty to cooperate, communicate and coordinate their work with other parties, and take ultimate responsibility for a site.

PAS 8672 establishes and agrees the competence requirements for principal contractors, following the framework set out in BSI Flex 8670. To demonstrate competence to the Building Safety Regulator and the client, principal contractors must evidence how they comply with PAS 8672.

The principal contractor has the responsibility that anyone they are working with meets the General Competence requirement as detailed in 11H and 11E of the secondary legislation:

11H

1. A principal contractor must have
 - a. Where the person is an individual, the skills, knowledge, experience and behaviours necessary
 - b. Where the person is not an individual, the organisational capability, to fulfil the duties of a principal contractor under these Regulations in relation to the building work included in the project.
2. Where the principal contractor (C) is not an individual, C must designate an individual under C's control who has the task of managing its functions as the principal contractor.
3. Before making the designation under paragraph (2), C must take all reasonable steps to satisfy themselves that the individual to be designated has the skills, knowledge, experience and behaviours necessary to manage the function of principal contractor on behalf of C in such a way as to ensure c fulfils the duties of the principal contractor under these Regulations in relation to the building work included in the project.

From managing the flow of information encompassing design and construction processes
- Dame Judith Hackitt's famously quoted 'golden

thread' of information - to monitoring and maintaining all records to ensure compliance, the principal contractor controls the construction phase of any project involving more than one contractor.

The principal contractor must take all reasonable steps to ensure:

- a. contractors and any other person involved in relation to the building work cooperate with the client, the principal designer, the principal contractor and each other (including any successor in a role);
- b. the building work of all contractors is coordinated so that the work is in compliance with all relevant requirements; and
- c. contractors and any other person involved in relation to building work comply with the duties under these Regulations

This means that the principal contractor must ensure that all firms involved in building work comply with their regulatory duties, no matter how many subcontracting tiers are involved.



11E

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—
 - i. fulfils the requirements in regulation 11F (1) and (2) (competence: general requirement), or
 - ii. is an individual who is in training to fulfil the requirements in regulation 11F (1) and (2) and arrangements have been put in place to supervise A

11E is an absolutely critical part of the secondary legislation for principal contractors. In essence, it states you must ensure every subcontractor you use meets the requirements of regulation 11F, and therefore BSI Flex 8670.

BSI Flex 8670 is the framework that details the requirements for 11F and what, in this instance, the principal contractor should consider when assessing a subcontractor's competence.

Furthermore, PAS 8672 provides additional guidance, stating the principal contractor should proportionately assess the competence of its suppliers and subcontractors using BSI Flex 8670 v3 as the framework for assessment.

Additional principal contractor duties

- Plan, manage and monitor building work
- Coordinate and cooperate with the client and principal designer, ensuring construction work complies with building regulations
- Liaise with the principal designer and share all relevant information
- Review and regard comments from the principal designer
- Assist the client in providing information to other designers and contractors
- No more than 28 days after the end of their appointment, provide a document explaining how they fulfilled the above duties
- If a replacement principal contractor is appointed, they must review the previous arrangements to ensure building work complies with regulations

Regulation 11N in the [Building Safety Act's secondary legislation](#)



Principal designer

The principal designer must plan, monitor and manage the design work during the design phase of a building. Design work must comply with all the relevant requirements of the building regulations, and principal designers must cooperate, communicate and coordinate with all involved on a building project.

PAS 8671 establishes and agrees the competence requirements for principal designers, following the framework set out in BSI Flex 8670. To demonstrate competence to the Building Safety Regulator and the client, principal designers must evidence how they comply with PAS 8671.

Especially important is liaising with the principal contractor, and assisting the client in providing information to others. This is covered in 11E as detailed above in the Principal Contractor section and 11G.

11G

1. A principal designer must have –
 - a. Where the person is an individual, the skills, knowledge, experience and behaviours necessary.
 - b. Where the person is not an individual, the organisational capacity, to fulfil the duties of a principal designer under these Regulations in relation to the design work included in the project.
2. Where the principal designer (D) is not an individual, D must designate an individual who has the task of managing its functions as the principal designer.
3. Before making the designation under paragraph 2, D must take all reasonable steps to satisfy themselves that the individual to be designated has the skills, knowledge, experience and behaviours necessary to manage the function of principal designer on behalf of D in such a way as to ensure D fulfils the duties of the principal designer under these Regulations in relation to the design work included in the project.

Additional principal designer duties

- Plan, manage and monitor design work
- Coordinate and cooperate with the client and principal contractor, ensuring design work complies with building regulations
- Liaise with the principal contractor and share all relevant information
- Review and regard comments from the principal contractor
- Assist the client in providing information to other designers and contractors
- No more than 28 days after the end of their appointment, provide a document explaining how they fulfilled the above duties
- If a replacement principal designer is appointed, they must review the previous arrangements to ensure building work complies with regulations

Regulation 11N in the [Building Safety Act's secondary legislation](#)



General contractors and designers

There is also a list of general duties for all contractors and designers that must be met.

Additional contractor duties

1. The contractor is **not** to begin construction work unless satisfied the client understands the duties they must take under all the requirements
2. The contractor needs to ensure building work carried out complies with all relevant requirements and provide each worker under their control with appropriate supervision, instructions and information, so building work complies with regulations
3. Assist the client, other contractors and designers with sufficient information to ensure they comply with regulations
4. If carrying out only part of the building work for a project, consider other risks that might affect this and report any concerns to the principal contractor
5. If requested, provide advice to the principal contractor or client on whether any work is higher-risk building work

Regulation 11N in the [Building Safety Act's secondary legislation](#)

Additional designer duties

1. The designer is not to begin construction work unless satisfied the client understands the duties they must take under all the requirements
2. The designer must ensure that when building work follows the designs, it complies with all relevant requirements
3. Assist the client, other contractors and designers with sufficient information about the design, construction and maintenance, to ensure they comply with regulations
4. If carrying out only part of the design work for a project, consider other risks that might affect this and report any concerns to the principal designer
5. If requested, provide advice to the principal designer or client on whether any work - whether preparing or modifying a design - is higher-risk building work

Regulation 11N in the [Building Safety Act's secondary legislation](#)

Setting the standard throughout the supply chain

How can you strengthen your supply chain to meet the Act's requirements?

As stated in BSI 8672, to meet the requirements, you must:

1. Define a procurement process that maintains openness and transparency in decision-making, and assesses proportionately the competence of contractors and suppliers
2. Perform due diligence on the prequalification and selection of contractors, suppliers and service providers, including establishing authenticity and integrity of information and record keeping

Essentially, what these new regulations show is just how important the competencies of your supply chain are. 11E makes clear that those appointing another business to undertake building work must take every reasonable step to ensure they have

the relevant skills, knowledge, experience and behaviours to perform the work to the standards expected in the Building Regulations.

To understand what the necessary behaviours expected of a contractor are, for example, we need to cross-refer with BSI 8670. This states:

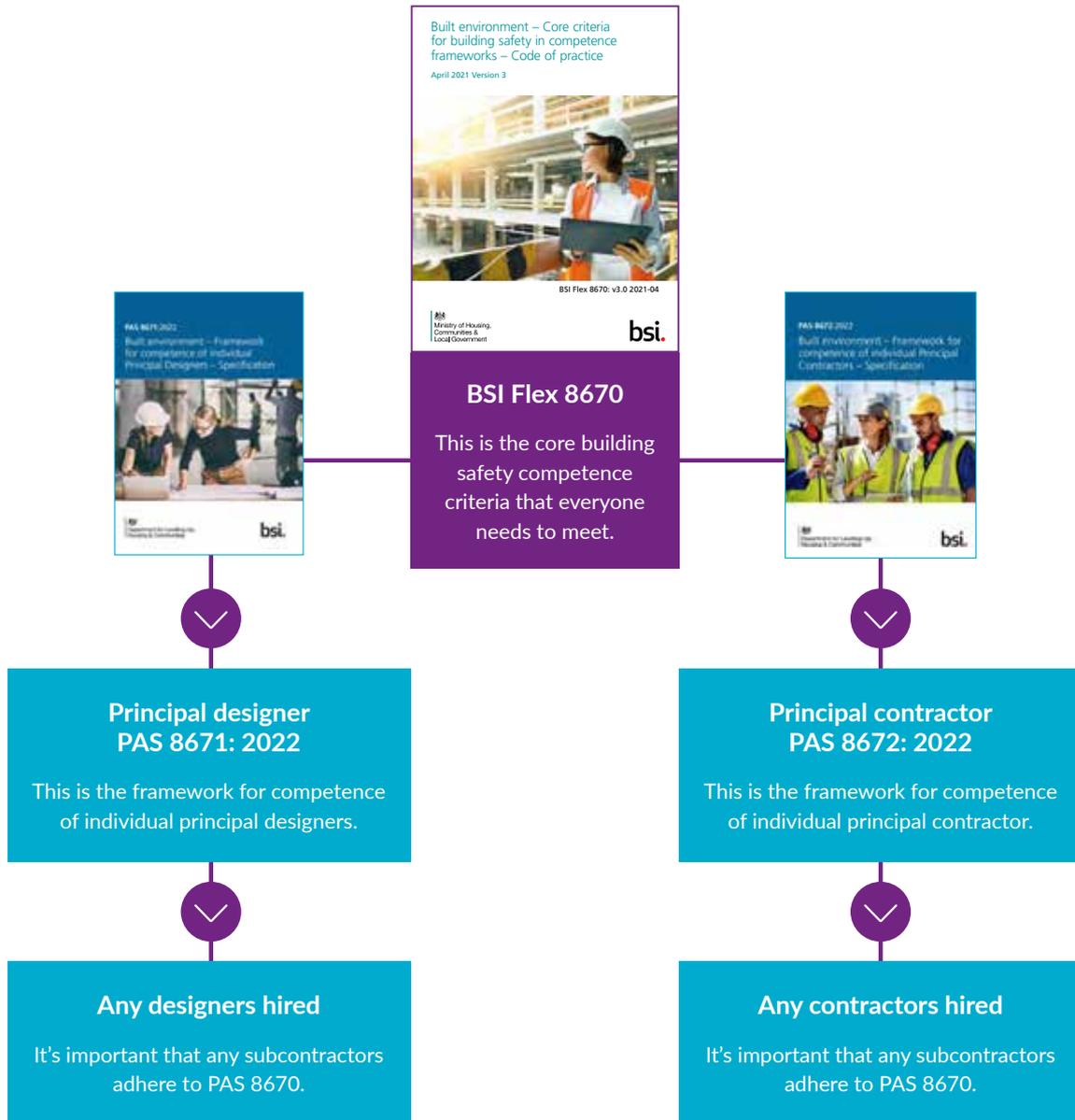
'Ensuring that people possess appropriate behavioural competence is critical to achieving and maintaining building safety outcomes.'

BSI 8670 goes on to detail 4 key principles, which act as the core criteria for behavioural competence. We've listed these below and detailed the actions to take.





Standards to meet throughout the supply chain





Key behaviours



Respect for life, the law, environment and public good

- Prioritise the health and safety of others and draw attention to hazards
- Ensure the work you undertake is lawful, ethical and justified
- Recognise how important physical and cyber security and data protection are
- Respect and protect personal information and intellectual property
- Preserve and improve the built and natural environment
- Optimise public good and social value
- Take due account for the limited availability of natural resources



Honesty and integrity

- Behave in a reliable manner, treating others equally and fairly
- Recognise how your work and behaviour may affect others, respecting their privacy, rights and reputations
- Respect confidentiality
- Declare and manage conflicts of interest
- Prevent and report corrupt practices and professional misconduct
- Reject bribery and improper influence



Accuracy and rigour

- Always act with care
- Only perform roles in which you are competently trained, or with competent supervision
- Ensure knowledge and skills remain up-to-date
- Assist with developing others
- Review evidence honestly, accurately and objectively, and respect the alternative views of others
- Identify, mitigate and manage risks
- Avoid misleading or allowing others to be misled



Direction, conduct and communication

- Effectively communicate the issues the built environment has on society
- Communicate unambiguously to avoid misunderstandings
- Champion equality, diversity and inclusion
- Raise awareness about the latest industry advances, and their impact and benefits
- Be objective and truthful, in both a professional and personal capacity
- Challenge statements or policies that cause concern

'Instead of behaviours appearing detached from the very act of work, they are an intrinsic part of it.'

PAS 8672



Behaviours embedded into legislation

Behavioural competencies have been talked about for some time, but are now embedded in legislation.

Indeed, the behavioural competencies championed in the Building Safety Act are not new concepts. For example, the Institute of Directors previously partnered with the Health & Safety Executive to create guidance on how directors can drive health and safety improvements in their businesses. This encompasses leadership, governance, culture and behaviours, as well as the skills, knowledge and experience required under the Construction (Design & Management) Regulations.

However, the Building Safety Act is the first time behavioural competencies have been captured in legislation.

The ability to demonstrate these behaviours is vital for contractors involved in all building work, but decidedly critical for those working on higher-risk projects.

This acts as a stark warning for how seriously the regulator is assessing who is allowed to work on a higher-risk building. Essentially, if a company has received a serious sanction in the past five years, they must make this known.

The principal contractor has a responsibility to find out if there have been any serious sanctions. If there has been, it does not mean this supplier cannot be used, but there needs to be a paper trail that demonstrates the principal contractor has identified it, engaged with the supplier and understood how this has since been addressed.

This might include how behaviours and culture has changed, or what mitigation measures have been put in place so the inherent risk has been eliminated or reduced to an acceptable level. If the principal contractor does not carry out this process, then it could leave them exposed.

The regulations state that a 'serious sanction' is classed as:

- A compliance notice referring to the contravention or likely contravention of a requirement of Part A (structure) or Part B (fire safety) of Schedule 1 of the 1984 Building Act
- A stop notice
- A conviction for any offence under the 1984 Building Act, the Health and Safety at Work Act 1974, the Building Safety Act 2022 and the Regulatory Reform (Fire Safety) Order 2005
- A report published by an inquiry under the Inquiries Act 2005 which found action or inaction resulted in one or more deaths, or was likely to have been a contravention of any requirement of the 1984 Building Act, the Health and Safety at Work Act 1974, the Building Safety Act 2022 and the Regulatory Reform (Fire Safety) Order 2005

Furthermore, any organisation that's proposing to contract work to another company must consider all available information that discloses any form of misconduct - again, making sure everyone involved in a project has done their due diligence.

Implications for Subcontractors

In short, **EVERYONE** throughout the supply chain is held accountable.

Regulators will be assessing who is in control and what systems and procedures are in place to deliver safety throughout a project. For construction work, it is ultimately the principal contractor who's in control. Of course, everyone in the supply chain will be held accountable, but the principal contractor will need to have taken reasonable steps to satisfy the regulator that their supply chain has the skills, knowledge, experience and behaviours necessary to fulfil their duties.

Considerations for subcontractors

As we've hopefully made clear, the regulations clearly state that everyone in the supply chain has a duty to meet the Building Safety Act - including subcontractors.

While the principal contractor and principal designer have an essential and accountable role to fulfil, the buck does not stop with them.

The responsibility placed on subcontractors can be clearly seen in regulation 11L.

Should a subcontractor 'cease to satisfy' the competencies expected for 'any building work,' then they must 'notify the person who asked them to carry out the building work and the principal contractor'.

Everyone in the supply chain must have measures in place to assess and be confident in their competencies. If they are unable to fulfil their role because they stop being competent - for whatever reason - then it's their duty to let others higher up the chain know. This is to try and stop everything being pinned on the principal contractor, and stress the culture change towards building safety that needs to happen throughout the supply chain.

What are your next steps as a subcontractor?



You need the ability to assess your compliance with 11F - and, therefore, BSI Flex 8670.



You need to easily evidence your compliance with 11F upstream, to the principal contractor and principal designer, as well as the contractor or designer who has subcontracted the work to you.



Conclusion: The foundations for a safer future

The Building Safety Act is a game-changer, and could be likened to being the construction industry's GDPR.

The advances it heralds should be welcomed, and viewed by decision-makers as an opportunity to prioritise building safety. The Act will involve making considerable changes to how the industry approaches constructing higher-risk buildings, and building works in general, but will pave the way for a safer, stronger and more transparent process throughout a building's life cycle.

Rather than a series of hurdles for the industry to overcome, the sector should view these changes as a chance to rebuild

public trust, drive powerful new efficiencies throughout your supply chain and nurture a proactive and positive safety culture.

These measures are an important step on the journey to building a safer future for the industry, laying the foundations for all construction work going forward.

Get in touch

If you would like more information on how Constructionline can help manage your Supply Chain and stay compliant, speak to one of our experts today.



sales.support@constructionline.co.uk



