

The Building Safety Bill – Questions & Answer sheet

Following the webinar we held in Association with the Insurance Institute of London on the 3 March 2021 we provide the answers to the questions we received from the audience during the session.

How is the Bill going to sit with the current responsibilities pursuant to the CDM Regulations? Is it replacing the CDM for those buildings exceeding a height of 18 meters?

Compliance with the Bill will sit alongside other health & safety obligations, including the CDM. For example, five categories of ‘duty holder’ will be created during the construction phase, comprising of the Client, Principal Designer, Designer, Principal Contractor and Contractor. These match the existing health and safety roles under the 2015 CDM Regulations, but include new responsibilities in relation to the fire and structural safety of buildings.

To what extent do you feel the EWS1 report is fit for purpose? There is currently a severe disconnect between the lending market and insurance market imposing buildings below 18 metres to carry out a EWS1.


The EWS1 form will likely only be one aspect of the risk assessment carried out. Note 10 to the form states that the signatory may wish to provide their client organisation with a separate report on their investigation to support the conclusion set out in the EWS1.

Regarding an EWS1 form being required for buildings below 18m, the RICS has issued some useful FAQ’s which provides guidance on what would qualify as a “specific concern” and warns that there must be justification for requiring an EWS1. Those FAQs can be accessed via the link [here](#).

Accountable person – for the life of the building while occupied? Who would ever volunteer for that? How would they get paid?

There will be new duty holders during the occupation phase in both the Accountable Person and the Building Safety Manager. They will be responsible for keeping the golden thread of information up to date and sharing it with the Building Safety Regulator and the residents.

It is understood that payment would be made by the Landlord, the costs of which he would seek to recover through the service charge provisions.



Does the bill intend to manage design/construction of the building including materials i.e. quality of materials?

The intention of the bill is to better regulate construction materials and products to ensure they are safe to use. The draft bill included provisions to strengthen and extend the scope of the powers available to government to regulate construction products.

This has resulted in the establishment of a new national regulator to ensure construction materials are safe. The regulator, once established, will have the power to remove any product from the market that presents a significant safety risk. The regulator is expected to operate within the Office for Product Safety and Standards which will be expanded and given up to £10 million in funding to establish the new function. It will work with the Building Safety Regulator and Trading Standards to encourage and enforce compliance.

The EWS1 Form has to be completed by a “suitably” qualified person. Is that defined? Would the RICS, providing training for its members to complete this form with an eight-week self-study programme – is that suitable?

The EWS1 statements require the person completing the form to confirm that they are regulated by a suitable professional body and (crucially) meet competence criteria set out in the notes to the form i.e.:

Relevant EWS1 option	Competence criteria
Option A: External wall materials unlikely to support combustion	Expertise to identify relevant materials in the wall and attachments and whether fire resisting cavity barriers and fire stopping have been correctly installed.
Option B: Combustible materials are present in the external wall	Expertise in assessment of fire risk presented by external wall materials.

Regarding the announcement last month by MHCLG of further funding for cladding removal – do you think this i.e. likely to be a straight boost of funds to the existing 18m+ building scheme, or used for a new or wider ranging scheme?

The funding announcement can be read via the link below. As with the previous rounds of funding, further information is expected to be released on qualifying criteria and the application process, however, at present it is expected that the additional funding will be available on a similar basis to the pre-existing building safety fund. Read more [here](#).



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