

# Welcome to The JCT Povey Lecture

10<sup>th</sup> November 2022



Setting the standard for construction contracts

# Karen Kirkham

JCT chair



# Building Safety Act 2022

## Practical Steps to Compliance in Construction

# Introduction

Skanska - Head of Fire

40 years + in construction industry specialising for over 30 years in fire safety engineering

working on fire safety (design and delivery) focusing on management controls and the implementation of compliant fire safety measures

Primary objectives are to provide:

- fire safety leadership
- best practice guidance
- technical advice and training
- knowledge coordination and the delivery of compliant fire safety measures across the project lifecycle.

# Grenfell Tower

In the early hours of **14 June 2017** a devastating fire engulfed the Grenfell tower block in North Kensington, west London. The building burned for several hours and **72 people** were eventually confirmed to have lost their lives.

This was a direct result of a relatively minor fire reaching the open cavity formed behind cladding which included combustible insulation. The fire was able to spread uncontrolled to engulf most of the upper floors. Several hours later Grenfell was still alight as the insulation burned uncontrollably.

## *So what have we learned from another fire disaster*

If Building regulations in place during the refurbishment of Grenfell Tower had been followed I don't think those lives would have been lost. Yes the fire would have started but would it have spread so extensively, it seems to me that's very unlikely.





# Building Safety Act 2022

**The Act (BSA) received royal Assent on 28<sup>th</sup> April 2022**

The BSA has 4 main areas of focus:

1. Changes to General Building Safety Rules
2. Introduction of New Regime for Higher-Risk Buildings (HRBs)
3. Changes to Fire Safety Regime
4. Extended Limitation Periods: came into force on 28 June 2022.



# Building Safety Act 2022

## 1. Changes to General Building Safety Rules

- General changes to the building safety framework are introduced. This applies to all building work (as defined in the existing Building Regulations) and also to “design work”, namely, the design of any building work. It also applies to higher -risk buildings (“HRBs”).

### Key Changes

- 1) New competency requirements introduced for building contractors and designers:
- 2) New safety liabilities for corporate directors
- 3) Automatic lapsing of building approval after 3 years





# Building Safety Act 2022

## 2. Introduction of New Regime for Higher-Risk Buildings (HRBs)

- A new regime for higher risk buildings (“HRB”) has been introduced. These are buildings which are either at least 7 storey or 18 meters high, and, in each case, having at least 2 or more residential units: Came into force on 28 June 2022.

### Key Changes

- 1) New gateway points for compliance with building safety rules
- 2) New Building Safety Regulator (who will sit with the HSE)
- 3) New duties are imposed to keep “golden thread” of building information from design to occupation
- 4) Before occupation, building safety sign off is required
- 5) New Accountable Person is responsible for building safety during occupation
- 6) Continuing Building Assessment Certificate required to demonstrate fitness for occupation





# Building Safety Act 2022

## 3. Changes to Fire Safety Regime

- The government will continue to consult on changes to Fire Safety Order (FSO), the FSO regulates workplaces and the non-domestic parts of blocks of flats.
- There is the potential for overlapping responsibilities of Accountable Persons under the Act and Responsible Persons under the FSO, and this will be particularly evident in a mixed-use building containing residential flats and other uses such as offices or hotels.
- The FSO places obligations on each 'Responsible Person' in respect of a building, which is generally the person who has control of premises (usually the owner or landlord) and the employer of any workplace in the premises where the employer has a level of control over the premises (e.g., of a floor leased by a business).

### Key Changes

1. Responsible Person must identify himself/herself and co-operate with Accountable Person.
2. Competency requirements for those carrying out risk assessments.
3. Strengthening requirements for provision of information.



# Building Safety Act 2022

## 4. Extended Limitation Periods: came into force on 28 June 2022.

Extension to Limitation Periods: The current period of time of 6 years from practical completion for bringing a claim has been extended to 15 years for claims in two areas:

- a) Dwellings unfit for habitation under Section 1, Defective Premises Act 1972; and
- b) Breaches of the Building Regulations under Section 38, Building Act 1984.

**This extension applies prospectively i.e. to claims which arise after the BSA takes effect.**

**In relation to claims brought under Section 1, DPA, however, claims can be brought up to 30 years after completion of the dwelling retrospectively i.e. to claims arising before the BSA takes effect, potentially giving rise to claims on historic projects.**



# Building Safety Act 2022

## Key points for Construction

1. check projects are Building Regulations compliant.
2. Appoint an approved fire engineer.
3. Ensure design is fully compliant and coordinated.
4. Employ only UKAS 3<sup>rd</sup> party accredited specialists to carry out works
5. Only use approved fire products that come with adequate certification.
6. Record what we do as we do it and provide Regulation 38 compliant information to the building user
7. The BSA applies to all construction and not just HRB's



# Thank you

# Panel Discussion / Q&A

**Karen Kirkham**, JCT chair

**Gary Neal**, head of fire, Skanska UK

**Amanda Long**, chief executive at Considerate Constructors Scheme, Building a Safer Future, and Construction Product Information Ltd



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