

JCT NEWS

THE JCT CONTRACTS UPDATE FOR THE CONSTRUCTION PROFESSIONAL

SUSTAINABLE WORKSPACES, COUNTY HALL, LONDON

Sustainable Workspaces is the redevelopment of a part of County Hall – a Grade II* listed building and the location of the former Greater London Council (GLC) - which was left unused since the abolishment of the GLC in the 1980s. The project was completed using a JCT Design and Build Contract.

Sustainable Workspaces is a branch of project client, Sustainable Ventures, a business that works with sustainable start-ups to provide investment, community, innovation and workspace. Having outgrown their previous location, they acquired a 3,600m² space within part of the fifth floor of the former Greater London Council Building. On the surface, the brief was to retrofit the space to provide a vibrant and affordable workspace, including the creation of private offices, event spaces, innovation labs, cafes, and breakout areas. At the core of the project, however, is to achieve this with an absolute commitment to a low-impact design philosophy, focusing on minimizing embodied energy, reusing existing materials and fabric wherever possible, adding new elements from waste sources, and keeping repair and alterations to a minimum.

During the design phase, the architect, Material Works, used carbon calculation software to assess the impact of the design against what would be a typical ‘benchmark’ office fit-out. What they discovered was that reducing the scope and expectation of the finish, for instance omitting the usual layers of suspended ceilings, raised floors, plastered and painted surfaces, and so on, made a significant difference. This led to a rethink of what a retrofit might look and feel like, moving away



County Hall, London

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from reinvention, and celebrating a less polished version of what is already there.

As such, the project reuses and retains as much of the existing fabric, fittings, and fixtures as possible. Where new elements have been added, their focus is on full life-cycle considerations. Materials are chosen for their low carbon and limited post-life impact, with an emphasis on being highly renewable or with significant waste and recyclable content.

One example is the space’s modular partition wall system, developed by U-Build. The plywood design is demountable and has minimal mechanical fittings which can be easily reconfigured. A large amount of the wall system

was sourced from Sustainable Workspace’s previous location and reused. Other joinery items are also developed in a modular way with clearly visible fixings or limited adhesive that allows for easy configuration, disassembly, and reinstallation. Finishes for the joinery are created from waste coffee and vegetables.

Other elements are built from waste materials, natural plant forms, and even unwanted industrial byproducts – composite boards formed from agricultural waste, cork flooring, mycelium acoustic baffles, and a countertop formed from reclaimed building rubble.

Light fittings formed from recycled single-use paper coffee cups were supplied by specialists, Blast Studio.

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**Enforcement
Powers under the
BSA during the
In-Construction
Phase**

Natalie Pilagos

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Existing doors, windows, flooring, and plaster have been retained, and much of the furniture has been sourced from reclaimed supplies. Fabric repairs have been limited to the essential, and redecoration has only been applied in those areas of high footfall and expected wear – revealing the layers of previous finishes, as well as the scars left by previous alterations.

This challenging project has been achieved not only in the context of its innovative commitment to a sustainable approach, but also with a limited budget, and within a century-old building in a serious state of disrepair. For every action, the design team had to consider the practical and aesthetic value against the financial and environmental costs – deciding carefully if each feature was genuinely required, looking at how it would be made

or sourced with minimal impact, and what will happen at the end of its current use. The result is a project with 1,150 tonnes less embodied carbon than what would be generated through a typical office fit-out project.

The JCT Design and Build Contract is used on a wide variety of construction projects, and especially where there are complex and specialist requirements. JCT contracts have been at the forefront of enabling sustainable working, but this goes even further with the launch of the JCT 2024 Edition, where the previously supplemental provisions relating to Sustainable Development and Environmental Considerations, have been made mandatory within the main contract.

PROJECT DATA:

START	OCTOBER 2022	M&E CONSULTANT	TAYLOR PROJECT SERVICES
COMPLETION	APRIL 2023	PROJECT MANAGER AND QS	QUARTZ PROJECT SERVICES
GROSS INTERNAL FLOOR AREA	3,686M ²	MODULAR WALL DESIGN	U-BUILD
CONTRACT	JCT DESIGN AND BUILD CONTRACT 2016	SERVICES ENGINEER	TAYLOR PROJECT SERVICES
CONSTRUCTION COST	£4.25M	MYCELIUM AND WASTE	BIOHM
ARCHITECT	MATERIAL WORKS ARCHITECTURE	STREAM FINISHES	MATERIAL WORKS ARCHITECTURE
CLIENT	SUSTAINABLE WORKSPACES C.I.C.	PRINCIPAL DESIGNER	MATERIAL WORKS ARCHITECTURE
MAIN CONTRACTOR	CAST INTERIORS	PRINCIPAL CONTRACTOR	CAST INTERIORS
		APPROVED BUILDING INSPECTOR	JM PARTNERSHIP

ENVIRONMENTAL PERFORMANCE DATA

PERCENTAGE OF FLOOR AREA WITH DAYLIGHT FACTOR >2%	70%	HEATING AND HOT WATER LOAD	19.13 KWH/M ² /YR (CALCULATED BY DSM MODELLING)
PERCENTAGE OF FLOOR AREA WITH DAYLIGHT FACTOR >5%	40%	OVERALL AREA-WEIGHTED U-VALUE	2.5 W/M ² K (EXCLUDING FLOOR, EXISTING BUILDING)
ON-SITE ENERGY GENERATION	NONE	DESIGN LIFE	15-20 YEARS
ANNUAL MAINS WATER CONSUMPTION	20 L/PERSON/DAY, 5M ³ /PERSON/YR (ESTIMATED)	EMBODIED / WHOLE-LIFE CARBON	48.05 KGCO ₂ EQ/M ² (EXCLUDING MEP)
AIRTIGHTNESS AT 50PA	UNKNOWN	ANNUAL CO₂ EMISSIONS	6.21 KGCO ₂ EQ/M ² (CALCULATED BY DSM MODELLING)

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JCT 2024 EDITION – AVAILABLE CONTRACTS

JCT announced the release of the 2024 Edition of Contracts, which launched with the Design and Build family of contracts on 17 April 2024.

The following contracts are now available across all platforms via the JCT Online Store – hardcopy, JCT On Demand digital, and via the JCT Construct digital subscription service:



JCT Design and Build Contract 2024 (DB 2024)

ISBN: 9780414109070

ONLY £89.00 + VAT (hardcopy price)

JCT Design and Build Contract Guide 2024 (DB/G 2024)

ISBN: 9780414109049

ONLY £54.00





JCT Design and Build Contract 2024 Tracked Change Document (DB 2024 Tracked)

ISBN: 9780414108240

ONLY £136.00

(available as hardcopy only)

For DBSub/A 2024 Tracked and DBSub/C 2024 Tracked, visit www.jctitd.co.uk/category/jct-tracked-change



JCT Design and Build Sub-Contract Agreement 2024 (DBSub/A 2024)

ISBN: 9780414109032

ONLY £71.00 + VAT (hardcopy price)

JCT Design and Build Sub-Contract Conditions 2024 (DBSub/C 2024)

ISBN: 9780414109025

ONLY £82.00 + VAT (hardcopy price)



JCT Design and Build Sub-Contract Guide 2024 (DBSub/G 2024)

ISBN: 9780414109018

ONLY £50.00

JCT 2024 – Key themes and changes

Modernising and Streamlining – including adoption of gender neutral language, and increased flexibility around the use of electronic notices.

New for JCT 2024 – the introduction of a new contract family, JCT Target Cost Contract (TCC), comprising main contract, sub-contract, and guide.

Legislative changes – major updates in relation to the new Part 2A of the Building Regulations, Termination accounting and payment provisions reflecting the Construction Act, new insolvency grounds reflecting the Corporate Insolvency and Governance Act 2020.

Future proofing – including changes to reflect the objectives of the Construction Playbook, and the incorporation of previously optional supplemental provisions relating to Collaborative Working, and Sustainable Development and Environmental Considerations, into the main document.

Make sure you are signed up to the JCT Network to receive to receive advanced information about Contract releases, more information about the 2024 Edition, and to get registration notice for the 1 May launch event: corporate.jctltd.co.uk/jct-network

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JCT 2024 EDITION OF CONTRACTS ONLINE LAUNCH EVENT

1 MAY 2024, 11:00 A.M. – 12.00 P.M.

On Wednesday, 1 May, JCT will be hosting an online launch event for the JCT 2024 Edition of Contracts.

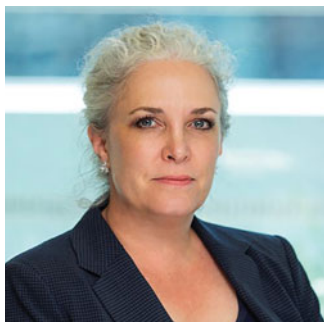
The latest update to the suite includes a number of improvements to modernise and streamline the documents, provide future proofing, reflect the latest legislative changes, and introduce a new contract family.

In this session our panel of experts from the JCT Drafting Sub-Committee will take us through the changes to the suite, providing more detail on key clauses, new features, and particular areas that contract users need to look out for.

This special video presentation is an important update for all those involved in the contracting process within the industry.

This online event will be taking place in conjunction with Building Magazine. To register, visit the following link: www.workcast.com/register?cpak=8039861727242440&referrer=Email

Featuring the following speakers:



Victoria Peckett

chair, JCT Drafting Sub-Committee
partner, Clyde & Co LLP

Victoria Peckett is a partner in the Clyde & Co London office and joined the firm in 2022. She advises a wide cross-section of the construction and engineering industry on the drafting and negotiation of complex construction contracts for a broad range of projects both international and domestic. She has experience of working with most of the main suites of contract including JCT, FIDIC and NEC as well as working with bespoke contracts. She also has extensive experience of assisting clients with the resolution of disputes (both before and after the commencement of proceedings), including through adjudication, DABs, arbitration, litigation and mediation. Victoria also chairs the JCT Drafting Sub-Committee. She is regularly ranked as a leading lawyer in directories such as Legal 500, Chambers and Who's Who Legal, as well as being named as a Stand Out Lawyer in the Thomson Reuters annual lists.



John Riches

vice-chair, JCT Drafting Sub-Committee
arbitrator, adjudicator, quantity surveyor, Henry Cooper Consulting Limited

John Riches is a Chartered Quantity Surveyor and Chartered Builder with more than 40 years' experience in the construction industry and dispute resolution. He formed and owns Henry Cooper Consultants with a wide remit of consultancy services to the construction industry. Presently he acts as Arbitrator, Mediator and Adjudicator. He is an Arbitrator on the RICS Arbitration Panel acting both in the UK and overseas. He has carried out approximately 550 Adjudications, ranging from £5000 to £32m and covering value, liability, loss and/or expense, damages and quality. John is a member of the JCT Board and Council, and vice-chair of the JCT Drafting Sub-Committee. He also chaired JCT's Payment Review Working Group.

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Ben Patton

member, JCT Drafting Sub-Committee
partner, Ashurst LLP



Sarah Elliott

member, JCT Drafting Sub-Committee
partner, Wedlake Bell LLP

Sarah Elliott leads the Wedlake Bell Construction Team, advising a wide range of clients on complex development schemes ranging from five star hotels, large Build to Rent (BTR) and affordable housing developments to high end residential projects for both developers and ultra-high net worth individuals. In addition, she acts on complex office and life science matters.

Most recently Sarah has focused on guiding clients through the implications of the Building Safety Act (BSA) and is advising at the cutting edge of this important regulatory area. Sarah provides commentary for Lexis PSL in her capacity as Editorial Board member and is a member of the JCT Drafting Sub-Committee, responsible for producing the widely used JCT suites of contracts.

JCT

JCT 2024 Edition of Contracts Online Launch Event

01 May 2024, 11:00 a.m. – 12:00 p.m.

Featuring the following speakers

Victoria Peckett Chair, JCT Drafting Sub-Committee	John Riches Vice-Chair, JCT Drafting Sub-Committee	Sarah Elliott Member, JCT Drafting Sub-Committee	Ben Patton Member, JCT Drafting Sub-Committee

[CLICK HERE TO REGISTER](#)

INTRODUCING THE JCT 2024 EDITION OF CONTRACTS

This year we are launching the JCT 2024 Edition of Contracts. Let's take a look at what's changed...

WE'VE MODERNISED AND STREAMLINED THE SUITE:



Gender neutral language applied across all contracts.



New provisions and guidance on the use of electronic communications - specifically related to email as a means to give notices.



Improved drafting of the Extension of Time provisions to expedite the process, and a new provision under Relevant Events to cover epidemics.



Adjustments to allow Parties to specify a nominating body or appointer of their own choosing in relation to Adjudication and Arbitration.



Antiquities provision expanded to include UXOs, contaminated material, and asbestos.

WE'RE ADDING A CONTRACT FAMILY FOR JCT 2024:



JCT Target Cost Contract (TCC)



The contract family includes a main contract, sub-contract, and guide, and is for use where the Employer wishes to incentivise the Contractor by the use of Target Cost and difference sharing arrangements.



The method of remuneration of the Contractor under TCC 2024 is payment of the "Allowable Cost" (as defined in the contract) of the Works together with a "Contract Fee" (a fixed sum or percentage fee specified in the Contract Particulars) and, if applicable, a "Difference Share" as calculated in accordance with the contract.

WE'VE COVERED THE FOLLOWING LEGISLATIVE CHANGES:



Major Building Safety update to accommodate the new Part 2A of the Building Regulations 2010, introduced in the Building Regulations etc. (Amendment) (England) Regulations 2023.



Termination accounting and payment provisions (Section 8) have been updated to refer expressly to the Construction Act's payment regime.



New insolvency grounds added to reflect the relevant aspects of the Corporate Insolvency and Governance Act 2020.



WE'VE APPLIED FUTURE PROOFING MEASURES:

In considering the elements within the Construction Playbook relating to the use of, and impact on, construction contracts, the following three previously supplemental provisions have been repositioned and become mandatory:



Collaborative Working Article



Sustainable Development and Environmental consideration clause



Notification and Negotiation of Disputes clauses



Join the JCT Network today to receive advance notice of the release of JCT 2024 Contracts: corporate.jctltd.co.uk/jct-network.

JCT TRAINING - 2024

New courses added for May and June – Find out all you need to know about the JCT Design and Build Contract 2024 with our range of full-day in-person courses and 3-hour online webinars. Book your place today: Visit www.jctltd.co.uk/jct-training

The latest batch of JCT Training courses for the Spring/Summer 2024 season are now available to book:

Full-day, in-person Courses

JCT Design and Build Contract 2024

Date: 22 May 2024

Venue: JCT Offices, 4th Floor, 28 Ely Place,
London, EC1N 6TD

Time: 10.00 a.m. - 4.30 p.m.
(lunch and refreshments provided)

Host: Peter Barnes, past-member, JCT Council

£455 + VAT

JCT Design and Build Contract 2024

Date: 12 June 2024

Venue: JCT Offices, 4th Floor, 28 Ely Place,
London, EC1N 6TD

Time: 10.00 a.m. - 4.30 p.m.
(lunch and refreshments provided)

Host: Peter Barnes, past-member,
JCT Council

£455 + VAT

3-hour Webinar Course

JCT Design and Build Contract 2024

Date: 8 May 2024

Venue: Webinar
(link and login details provided)

Time: 2.00 p.m. - 5.30 p.m.

Host: John Littler, member, JCT Council

£320 + VAT

Have you seen our latest range of JCT Training Video Modules? If you are not looking for a full day or webinar course, consider our brand new range of JCT Training Video Modules - shorter segments on key elements of JCT contracts. We have the latest new modular course:

Introduction to JCT Intermediate Building Contract 2016

The Introduction to JCT Intermediate Building Contract 2016 video modules series provides a background and overview to the JCT Intermediate Building Contract 2016. The bundle includes the following modules:

- Overview and when to use IC 2016
- Agreement 1: Recitals & Articles
- Agreement 2: Contract Particulars & Attestation
- Time 1: Date of Possession, Sections, Practical Completion
- Time 2: Non-Completion, Liquidated Damages, Partial Possession
- Time 3: Extensions of Time, Relevant Events, Defects
- Payment 1: Interim Payment Procedure
- Payment 2: Suspension, Interest, Retention, Final Payment & Final Certificate
- Payment 3: Loss & Expense
- Variations
- Settlement of Disputes

For more information about these and our full range of JCT Training Video Modules, visit www.jctltd.co.uk/jct-training-videos.

ENFORCEMENT POWERS UNDER THE BSA DURING THE IN-CONSTRUCTION PHASE

NATALIE PILAGOS – CONSTRUCTION PARTNER, WEDLAKE BELL

1. Introduction

The construction industry is undergoing a transformative shift with the implementation of the **Building Safety Act 2022 (BSA)**. As part of these reforms, the BSA introduced a regime that seeks to strengthen pre-existing enforcement powers and introduces new enforcement tools.

In the **Enforcement Policy Statement (EPS)** published in December 2023, the Building Safety Regulator (**BSR**) indicates that enforcement of the BSA, **The Building Act 1984 (BA)** and associated regulations reflects its overall aim to transform the built environment, ensure the safety of people in and around buildings, and to improve building standard laws.

This article will summarise the enforcement powers under the BSA specifically in relation to the in-construction phase (see our previous article on **enforcement of occupational obligations of the BSA**), explain the enforcement authorities' approach to enforcement according to the EPS and outline what this means for those involved in the construction phase.

Importantly, it is a mistake to think that the BSA's enforcement regime applies only to Higher Risk Buildings (**HRB(s)**) (as defined in **S120D of the Building Act 1984** (as amended by the BSA) and the **Higher-Risk Buildings (Description and Supplementary Provisions) Regulation 2023**), as it applies to most building work. **Those involved in the construction phase of all buildings should be aware of this new enforcement regime.**

2. Who is the enforcement authority?

The BSR, part of the Health & Safety Executive, is responsible for enforcing the BSA, **The Building Act 1984 (BA)** and associated regulations in respect of HRBs.

For non-HRBs, other relevant building control authorities (e.g. local authorities) will also be empowered to apply the new enforcement powers and tools.

3. What are the enforcement methods which may be used by the enforcement authority?

The BSR states that it believes in firm and fair enforcement of the law, where enforcement actions taken by it and local building control authorities should be proportionate to the risks, level of non-compliance and seriousness of any breach of law.

Accordingly, enforcement authorities have a range of methods available to them to secure compliance with the law and ensure a proportionate response to any breaches. These include:

- following inspection or investigation, providing:
 - written information regarding breaches of law; and/or
 - verbal warnings;
- requiring improvements in the way risks are controlled and managed;
- requiring action to be taken to remedy non-compliance;
- stopping certain activities where they create serious risks or where they do not comply with relevant requirements; and
- recommending and bringing prosecutions where there has been a serious breach of law.

Where a contravention is sufficiently serious, the BSA also empowers building control authorities to issue enforcement notices (see section 4 below), prosecute, or do both.

4. Enforcement notices, 'Compliance notices', 'Stop notices' and 'S36 notices' – what are they and how do they work?

The BSA allows the relevant building control authority to issue the following enforcement notices:

- **'compliance notice'** requiring non-compliant work to be remedied within a specified period;
- **'stop notice'** requiring that works be stopped because the work would contravene building regulations or does contravene building regulations and there is serious risk of harm; and/or
- **'S36 notice'** requiring alteration or removal of offending work where building work contravenes a provision of the building regulation,

Contravening the notices without a reasonable excuse (for a compliance notice) or without proving that all reasonable precaution and due diligence were taken to avoid the contravention (for a stop notice), will attract the penalties set out in section 5 below.

Those involved in the construction phase should be aware that these notices apply to non-compliance with all building regulations.

5. What are the offences and liabilities under the BSA?

In addition to the enforcement tools introduced and/or enhanced by the BSA, the BSA also allows prosecution of offences under it and significant liabilities are attached to such offences:

Offence	Relevant provision	Penalty/Liability
Providing of false or misleading information to regulator	BSA, S24	If tried in Magistrate's Court: <ul style="list-style-type: none"> imprisonment not exceeding 12 months; and /or unlimited fine. If tried in Crown Court <ul style="list-style-type: none"> imprisonment not exceeding two years; and /or unlimited fine.
Contravening building regulations	BA, S35 (as amended by S39 of the BSA)	As above. In addition, a further fine (£200 per day) for each day of the contravention continues after the initial conviction.
Failure to comply with a compliance notice (see section 4 for detail)	BA, S35B (as amended by S38 of the BSA)	
Failure to comply with a stop notice (see section 4 for detail)	BA, S35C (as amended by S38 of the BSA)	
Removal or alteration of offending work (see section 4 for detail)	BA, S36	Notice to: <ul style="list-style-type: none"> pull down or remove the contravening works; or otherwise, effect alterations in it as may be necessary to make it comply with the regulations, within 28 days.

Importantly, time-limits for enforcement are also increased by the BSA. Prior to the BSA the relevant period to take an enforcement action (e.g. giving notice requiring removal or alteration of non-compliant work) was 12 months. **This is now increased significantly to ten years** from the date of completion of the works in question as per S36(4) of the BA.

In addition, if there is a contravention of building regulations (e.g. **BA, S35**), there is no longer a time limit for prosecution.

6. How will the enforcement authorities approach enforcement?

Evident from the EPS is that enforcement will be targeted towards those who are responsible for, and best placed to, control risks and ensure compliance (e.g. clients, designers and, contractors). If appropriate, more than one duty-holder may be held responsible for a contravention.

The BSR outlined that all enforcement actions will be taken proportionately to the risk with five overarching principles in mind:

- Proportionality in applying the law and securing compliance;
- Targeting enforcement action;
- Consistency in enforcement actions;
- Transparency about how the BSR operates and what can be expected; and
- Accountability for its actions.

Enforcement authorities will exercise discretion in commencing enforcement actions, having regard to the level of non-compliance, seriousness of the breach, attitude and competence of management, incident history, previous enforcement action and functional impact of the action being considered, amongst others.

Therefore, we can expect that the building control authorities approach to enforcement will focus on offences with serious actual or potential harm or which may give rise to significant risk, and probably offenders with repeated breaches. However, it is important to note that a sliding scale of tools (as outlined in sections 3 and 4) will be

employed to address any actual or potential contravention of building regulations, proportionate to the risk and harm.

7. Can individuals be personally liable for contraventions of the BSA?

Yes, individuals complicit in breaches may now be found liable for such contraventions in addition to a body corporate.

Under **S112A of the BA** (as amended by **S40 of the BSA**), where an offence is committed by a body corporate, individuals within that organisation (e.g. directors, managers, secretary and similar officers) may also be prosecuted for an offence where the breach was committed with their consent or connivance or as a result of their neglect.

The EPS outlines that enforcement authorities will consider management arrangements and the role played by individual directors and managers in relation to an offence.

Therefore, **individuals cannot hide behind the corporate veil and must be aware that they can be held responsible for their actions or inactions.**

8. Conclusion: What does this mean for those involved in the construction phase?

The enforcement regime introduced by the BSA is designed to have “real teeth, so that it can drive the right behaviours” with the aim to secure the safety of people in and around buildings and to improve building standards.

It is intended to act as a deterrent for all involved in the construction phase, whether clients, designers or contractors, body corporate or individuals, to ensure greater compliance with building safety requirements during the in-construction phase. A stronger enforcement regime is just one facet of the changes introduced by the BSA to drive a cultural change in the construction sector more generally.

Therefore, **it is crucial that all involved in the construction phase, at both an organisational and individual level, are aware of their obligations under the BSA and comply with such obligations.**

JCT Construct

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JCT Construct is a contract drafting system with advanced editing features, enabling you to create and amend your JCT contracts in a secure, flexible, and easy to use online environment.

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