

‘Building Safety continued: developments and what you need to know’ with IWFM Midlands Region

12pm, Wednesday 30 March 2022

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WEBINAR SERIES

Navigating turbulent times



Panellists



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Building and Fire Safety Changes on the horizon

Building Safety Bill

[AS AMENDED IN GRAND COMMITTEE]

CONTENTS

PART 1

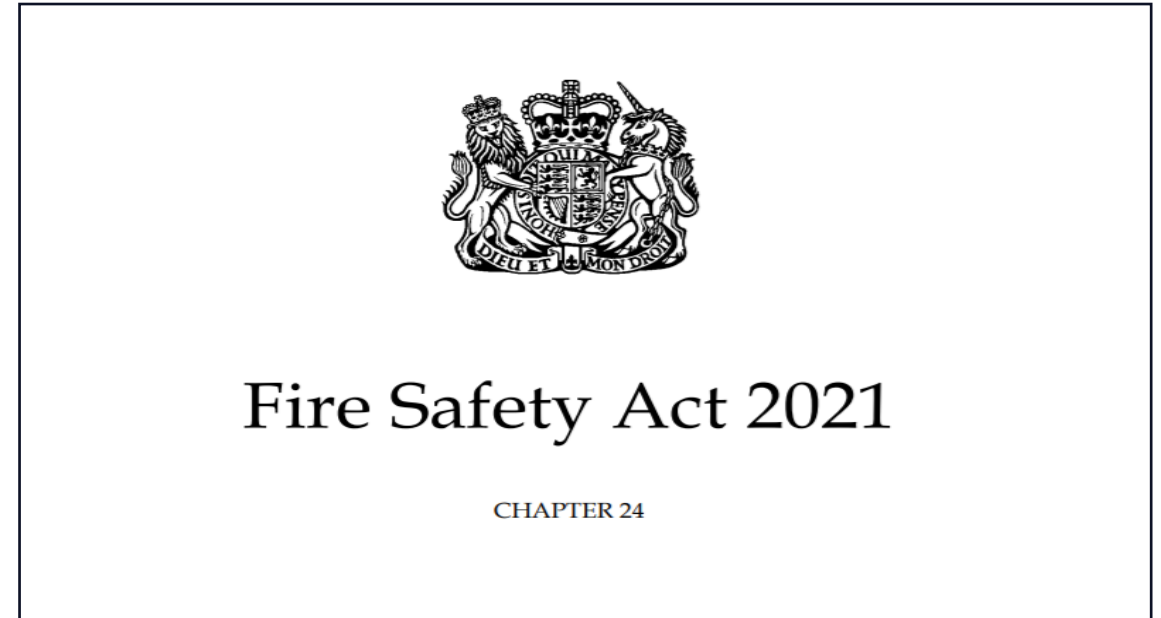
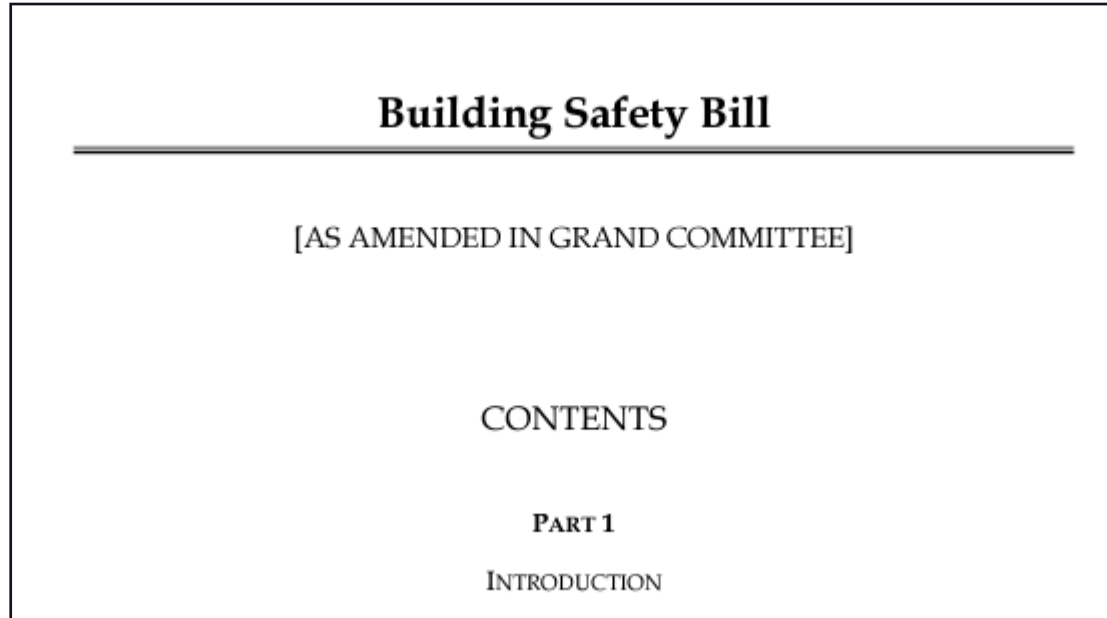
INTRODUCTION



Fire Safety Act 2021

CHAPTER 24

Building and Fire Safety Changes – timetable



- BSB tabled in Parliament on 5th July 2021
- 29th March 2022 – report stage in Lords
- BSB Royal Assent (RA) anticipated – July 2022 ???
- Secondary legislation needed for implementation
- RA + 18 months for first requirements:
 - New duties on Accountable Person
 - Mandatory occurrence reporting commences
 - Golden thread of information
 - Mandatory registration of occupied high-rise residential buildings in scope with the Building

- Fire Safety Act 2021 (FSA) Royal Assent: 29 April 2021
- Secondary legislation from October 2021 (Wales)
- Regulatory Reforms (Fire Safety) Order 2005 (FSO) changes due to be made once BSB RA + 12 months

Fire Safety Act (FSA) scope

- Expands Regulatory Reform (Fire Safety) Order 2005 (FSO) scope and applies to all multi-occupied residential and commercial buildings containing two or more sets of domestic premises
- Building's structure includes:
 - Structure and **external walls** and any common parts; including cladding, insulation, fixings, windows, external doors and balconies
 - All doors between domestic premises and common parts e.g., **flat entrance doors**

Premises to which the Fire Safety Order applies

In article 6 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) (application to premises)—

- (a) in paragraph (1)(a) (excluded premises), after "except to the extent mentioned in" insert " paragraph (1A) or ";
- (b) after paragraph (1) insert—

"(1A) Where a building contains two or more sets of domestic premises, the things to which this order applies include—

- (a) the building's structure and external walls and any common parts;
- (b) all doors between the domestic premises and common parts (so far as not falling within sub-paragraph (a)).

(1B) The reference to external walls includes—

- (a) doors or windows in those walls, and
- (b) anything attached to the exterior of those walls (including balconies).";

FSA Powers

- Power to change what buildings the FSO applies to in the future
- Changes to Article 50 to make guidance risk based and proof of failure to comply/proof of compliance with such guidance can be relied on as tending to establish such contravention/compliance
- Secondary legislation will amend Fire Safety Order 2005 relating to Phase 1 Grenfell recommendations - Pending

Risk based guidance about the discharge of duties under the Fire Safety Order

- (1) Article 50 of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) (guidance) is amended as follows.
- (2) After paragraph (1) insert—
 - (1A) Where in any proceedings it is alleged that a person has contravened a provision of articles 8 to 22 or of regulations made under article 24 in relation to a relevant building (or part of the building)—
 - (a) proof of a failure to comply with any applicable risk based guidance may be relied on as tending to establish that there was such a contravention, and
 - (b) proof of compliance with any applicable risk based guidance may be relied on as tending to establish that there was no such contravention.”
- (3) After paragraph (2) insert—
 - (2A) Before revising or withdrawing any risk based guidance in relation to relevant buildings the Secretary of State must consult such persons as the Secretary of State considers appropriate.”
- (4) After paragraph (3) insert—
 - (4) In this article—
 - “relevant building” means a building in England containing two or more sets of domestic premises;
 - “risk based guidance” means guidance under paragraph (1) about how a person who is subject to the duties mentioned there in relation to more than one set of premises is to prioritise the discharge of those duties in respect of the different premises by reference to risk.”

FSO Responsible Person (RP) Duties – commercial and residential

A quick recap

- Article 9 – the responsible person must make a suitable and sufficient assessment of the risks to which relevant persons are exposed for the purpose of identifying the general fire precautions he needs to take to comply with the requirements and prohibitions imposed on him by or under this Order
- Article 18 – (1) the responsible person must appoint one or more competent persons to assist him in undertaking the preventive and protective measures.
 - (5) A person is to be regarded as competent where he has sufficient training and experience or knowledge and other qualities to enable him properly to assist in undertaking the preventive and protective measures

Duties under this Order

5.—(1) Where the premises are a workplace, the responsible person must ensure that any duty imposed by articles 8 to 22 or by regulations made under article 24 is complied with in respect of those premises.

(2) Where the premises are not a workplace, the responsible person must ensure that any duty imposed by articles 8 to 22 or by regulations made under article 24 is complied with in respect of those premises, so far as the requirements relate to matters within his control.

(3) Any duty imposed by articles 8 to 22 or by regulations made under article 24 on the responsible person in respect of premises shall also be imposed on every person, other than the responsible person referred to in paragraphs (1) and (2), who has, to any extent, control of those premises so far as the requirements relate to matters within his control.

(4) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to—

- (a) the maintenance or repair of any premises, including anything in or on premises; or
- (b) the safety of any premises,

that person is to be treated, for the purposes of paragraph (3), as being a person who has control of the premises to the extent that his obligation so extends.

(5) Articles 8 to 22 and any regulations made under article 24 only require the taking or observance of general fire precautions in respect of relevant persons.

What is yet to expect following the Fire Safety Consultation?

Fire Safety Consultation Government Response

- **Competence** - require that, where the RP appoints a person to make or review the fire risk assessment that they must be competent, and the name of the individual/organisation undertaking the FRA must be recorded (via Building Safety Bill)
- **Records** - require that all RPs must record their completed fire risk assessment and that all RPs must record (and as necessary update) their contact information, including a UK based address (via BSB)
- **RP/Dutyholder** - require that all RPs must take reasonable steps to identify themselves to all other RPs (and where applicable Accountable Persons under the BSB) where they share or have duties in respect of the same premises (Co-operation and co-ordination) (via BSB)
- **Info Sharing** - require that departing RPs must first take reasonable steps to share all relevant fire safety information with incoming RPs (Via BSB)
- **Premises Information Boxes (PIBs)** – will be required in all new blocks of flats with storeys above 11 metres in height (Approved document B will be amended to that effect)
- **Supporting (operational) guidance** – will be important to support the legislative changes

What is yet to expect following the Fire Safety Consultation?

[Fire Safety Consultation Government Response](#)

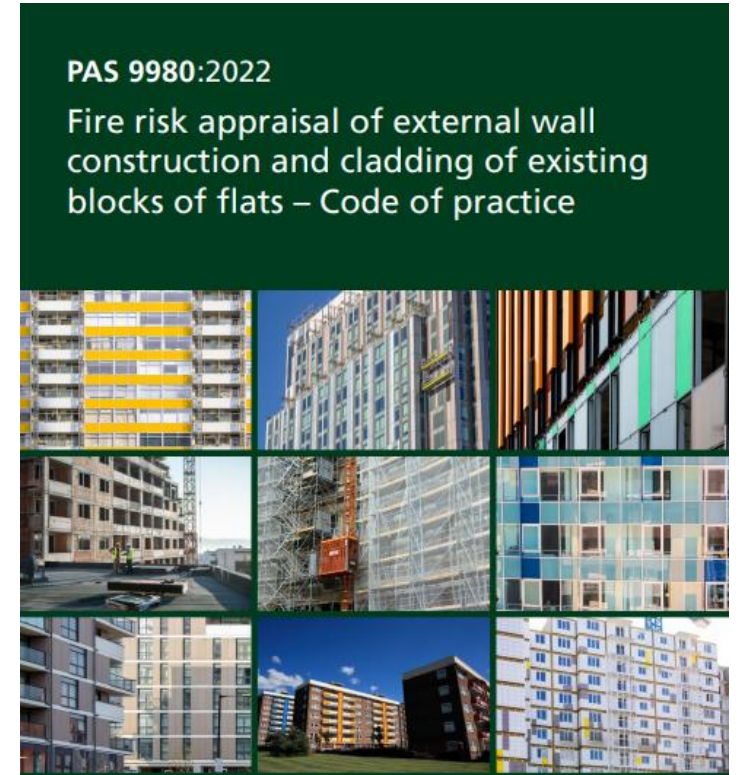
More work is still needed to further policy in following areas:

- fees and charges
- false fire alarms
- maintenance
- the provision of information to residents (some elements already in BSB)
- higher-risk workplace buildings
- Policy approach to PIBs in existing buildings and to define what should be stored in them
- PEEPs (a consultation ran June-July 2021, Government is still considering its response – IWFM fed into consultation)

FSO remit spotlight: External Walls

- *“The owner and manager of every high-rise residential building be required by law to provide their local fire and rescue service with information about the design of its external walls together with details of the materials of which they are constructed and to inform the fire and rescue service of any material changes made to them.” recommendation 33.10a Grenfell Tower Inquiry Phase 1 Recommendations*
- Insurance provision in relation to cladding
- PAS 9980 recently published (free download) replaces previous Advice for building owners (risk-based model)

<https://www.bsigroup.com/en-GB/standards/pas-9980/>



Other spotlight areas to consider

The [Grenfell Inquiry Phase 1 report](#) list a number of other building safety measures that building owners and manager should be taking forward, in addition to review of external wall systems.

Key areas to consider are:

- Fire risk assessment:
 - *External wall cladding and fire resistance*
 - Fire doors (fire resistant and self-closing?)
 - Flat front doors!!
- Fire fighting facilities, incl. monthly testing of lifts and not less than three monthly checks on fire doors (will be regulated via Article 24 FSO)
- Emergency fire procedures:
 - Incl. personal emergency evacuation plans
 - Provision for evacuation signals
 - Ensure clearly marked floor levels + flat signs

- Smoke control systems
- Keep fire service informed of relevant information and changes:
 - *Details of external walls and materials, and flat entrance doors*
 - Location of Premises Information Box (equip every high rise building) via Article 24 FSO/SI
 - Paper and electronic plans
 - Evacuation plans

Building Safety Bill – Context – Dame Hackitt

Key recommendations

- Clear model of risk ownership- defined roles (AP & BSM!) and new regulator
- Simpler and effective outcomes based regulatory framework
- Buildings as a system approach
- Risk-based approach to regulatory oversight- safety case
- Transparency of information and audit trail throughout lifecycle of building
- Giving residents a stronger voice
- Culture change through competence based approach – formal expectations and certification

Building Safety Bill

[AS AMENDED IN GRAND COMMITTEE]



Key concepts in BSB – occupation phase

61 Meaning of “building safety risk”

- (1) In this Part “building safety risk” means a risk to the safety of people in or about a building arising from any of the following occurring as regards the building—
 - (a) the spread of fire;
 - (b) structural failure;
 - (c) any other prescribed matter.

64 Meaning of “higher-risk building” etc

- (1) In this Part “higher-risk building” means a building in England that—
 - (a) is at least 18 metres in height or has at least 7 storeys, and
 - (b) contains at least 2 residential units.

71 Meaning of “accountable person”

- (1) In this Part an “accountable person” for a higher-risk building is—
 - (a) a person who holds a legal estate in possession in any part of the common parts (subject to subsection (2)), or
 - (b) a person who does not hold a legal estate in any part of the building but who is under a relevant repairing obligation in relation to any part of the common parts.

72 Meaning of “principal accountable person”

- (1) In this Part the “principal accountable person” for a higher-risk building is—
 - (a) in relation to a building with one accountable person, that person;
 - (b) in relation to a building with more than one accountable person, the accountable person who—
 - (i) holds a legal estate in possession in the relevant parts of the structure and exterior of the building, or
 - (ii) is within section 71(1)(b) because of a relevant repairing obligation (within the meaning of that section) in relation to the relevant parts of the structure and exterior of the building.

Duties of the (principal) accountable person – as of 29 March 2022??

Registration and certificates:

- 75 Requirement for completion certificate before occupation (AP)
- 76 Occupation: registration requirement (PAP)
- 77 Registration of higher-risk buildings (PAP)
- 78 Occupied building: duty to apply for building assessment certificate
- 79 Applications for building assessment certificates (PAP)
- 80 Building assessment certificates (PAP)
- 81 Duty to display building assessment certificate etc (PAP)

Duties relating to building safety risks:

- 87 Assessment of building safety risks
- 88 Management of building safety risks
- 89 Safety case report
- 90 Notification and provision of report to the regulator

Duties relating to information and documents:

- 91 Mandatory reporting requirements
- 92 Keeping information about higher-risk buildings
- 93 Provision of information etc to the regulator, residents and other persons
- 94 Provision of information etc on change in accountable person

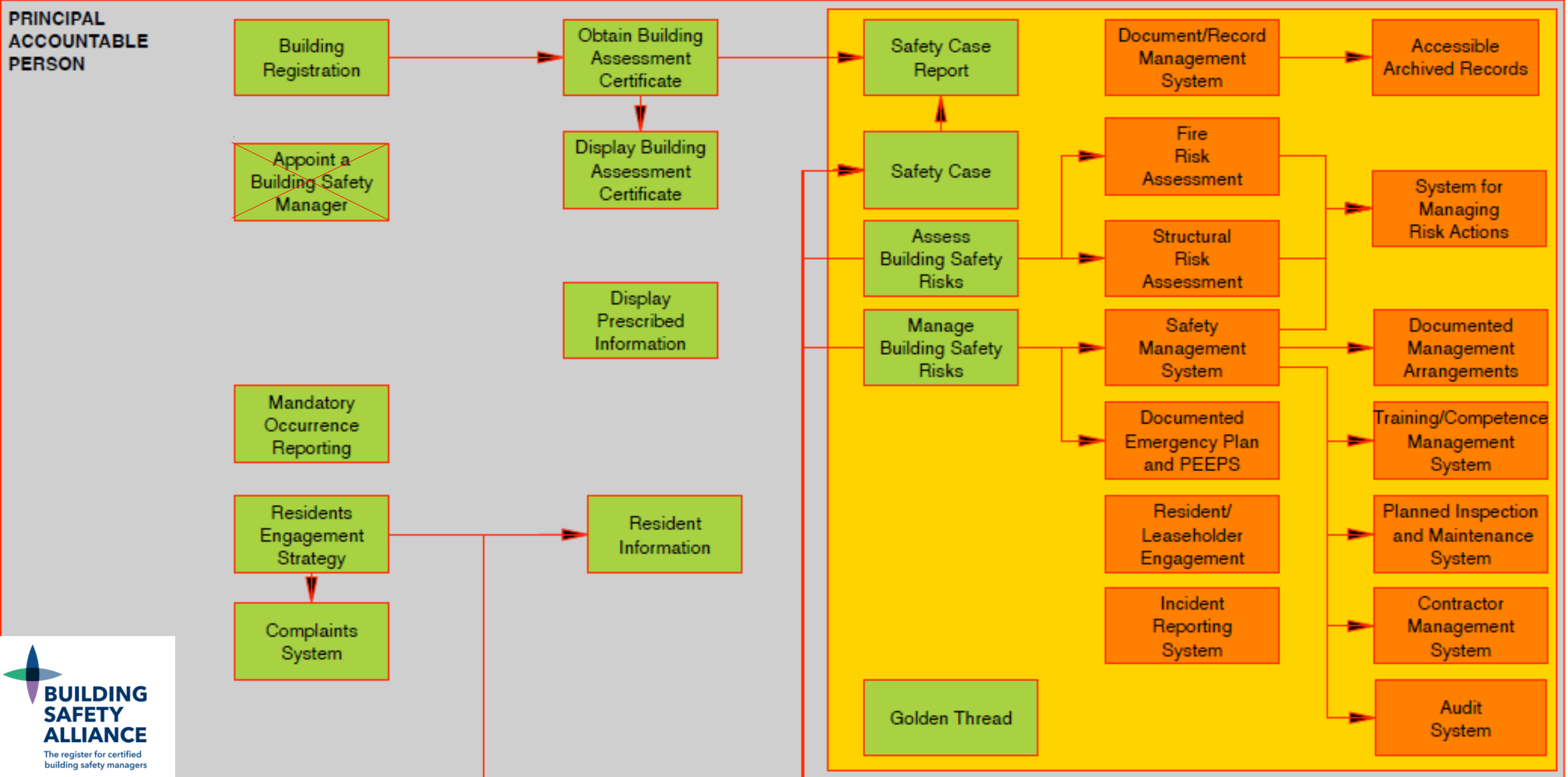
Engagement with residents etc:

- 95 Residents' engagement strategy
- 96 Requests for further information
- 97 Complaints procedure operated by principal accountable person
- 98 Complaints procedure operated by the regulator

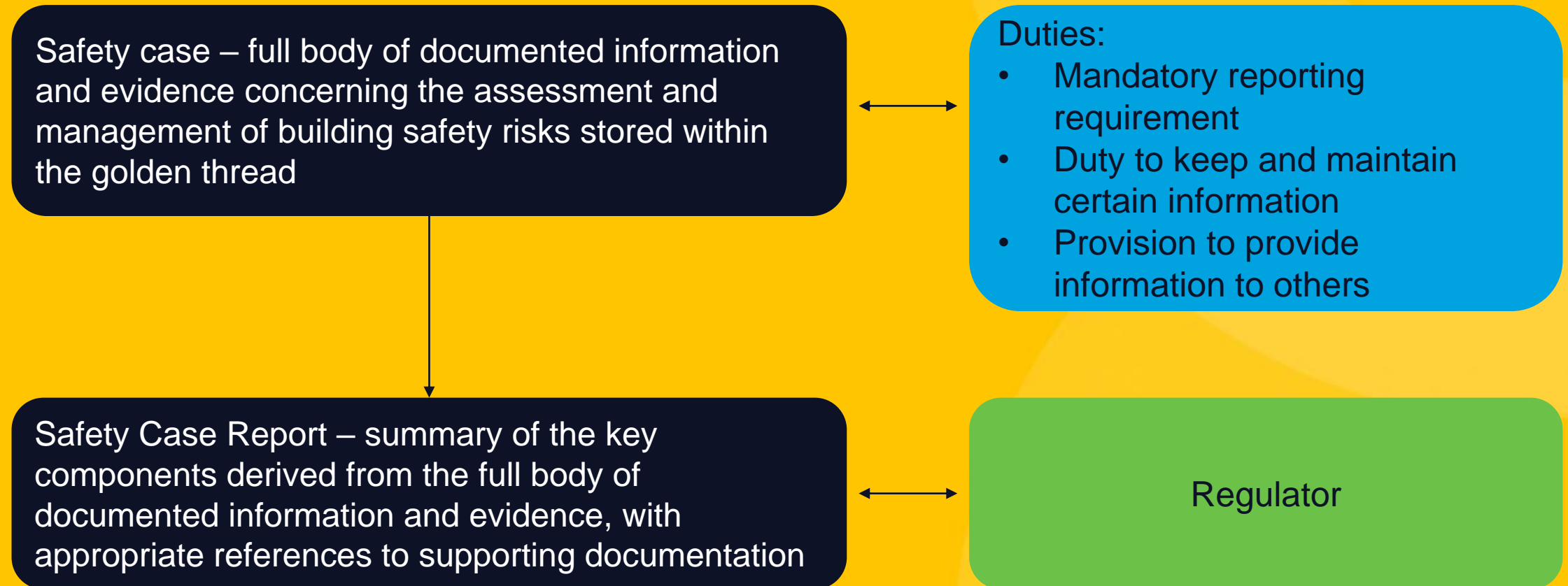
Building safety managers:

- 82 Duty to appoint building safety manager
- 83 Appointment of building safety manager where multiple accountable persons
- 84 Terms of appointment of building safety manager
- 85 Exception from duty to appoint building safety manager
- 86 Section 85: further provision where multiple accountable persons

Competences needed to support the delivery of the PAP/AP duties Credit Mark Snelling



Fundamental principle - Golden thread of prescribed information



Engagement with Residents etc

Resident engagement

- Resident engagement strategy
- Resident request for further information to (P)AP
- Complaints procedure by the PAP
- Complaints procedure by the regulator:
 - a building safety risk as regards an occupied higher-risk building
 - the performance by an accountable person for an occupied higher-risk building of any duty under, or under regulations made under, this Part, or
 - the performance by a special measures manager of any function conferred on the manager by a special measures order

Residents' duties

- Duties on residents/owners:
 - They must not act in a way that creates a significant risk of a building safety risk materialising
 - They must not interfere with a relevant safety item
 - They must comply with a request, made by the appropriate accountable person, for information reasonably required for the purposes of a building safety risk duty
- Access to dwellings
 - AP written request seeking permission
 - Escalation to County Court
 - For order to allow the AP access

HSE guidance

The screenshot shows the HSE website header with the logo and navigation menu. The main content area features a sidebar with 'Building safety' links and a main heading 'Safety cases and safety case reports' with a sub-heading 'Learn about safety cases and safety case reports for high-rise residential buildings'. A video player is visible with the title 'Building Safety - Safety Cases' and a 'Safety case' graphic.

Health and Safety Executive

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HSE > Guidance > Building safety > Safety cases and safety case reports

Building safety

- Building Safety Regulator
- What we're doing to prepare
- New roles and responsibilities
- How you can prepare
- Building control and the Building Safety Bill →

Safety cases and safety case reports

Learn about safety cases and safety case reports for high-rise residential buildings

Building Safety - Safety Cases

Watch Later Share

Safety case

<https://www.hse.gov.uk/building-safety/safety-cases-reports.htm>

Building Safety Manager Role and Functions – evolution of concept (before 29th March)

DJH:

- a. the BSM being responsible for the day-to-day management of the building; and
- b. acting as the point of contact for residents.

The BSM would need to have the right skills, knowledge, experience and behaviours (SKEB) to take on the role, which would need to contribute to holistic, whole building safety for higher risk buildings.

1 person per building



Consultations and draft Building Safety Bill:

- Statutory role with statutory duties
- Three key functions for the role:
 - Manage the building in accordance with its safety case report
 - Establish where necessary and operate a mandatory occurrence reporting system
 - Implement a resident engagement strategy

Ratio - 1 person for more buildings (how many never formally determined)



Building Safety Bill:

- Statutory requirement to have a BSM/NI/Individual in place = Statutory role but no statutory duties
- BSM Duties = “such duties relating to the planning, managing and monitoring of Part 4 functions as may be specified in the appointment” (by the principal accountable person).

The contract will determine which accountable person’s functions the BSM will support and help implement, while legally ensuring accountability remains with the accountable person.

Organisation with nominated person for many buildings

Person/organisation?

Core competences - descriptors – WG8 > PAS 8673 framework for competence ofanyone who will deliver on the AP duties

Building Systems - Evaluating the performance and safe operation of the building in use to identify the implications on building and life safety, fire strategy, residents, occupant and users.

Operating Environment - Explaining the key principles of good governance, the legal and contractual environment the building operates within and any safety management or information management requirements.

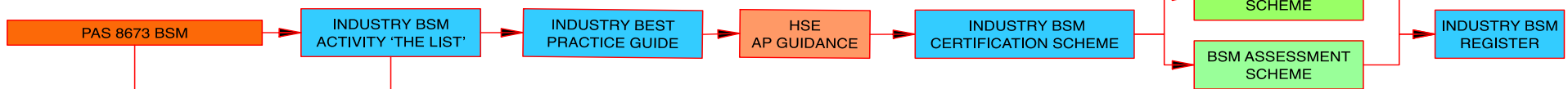
Risk Management - Applying the key principles of risk management and explain how that relates to the building and life safety.

Leadership, teamwork and resources - Demonstrating personal leadership and commitment to ethics and professional standards, alongside the design of a robust system that provides adequate oversight of building and life safety risks which provides assurance to residents and others.

Operational Practice - Test for and evaluate the effectiveness of the delivery of safety, communications, resident and stakeholder engagement and the maintenance of accurate information systems.

Monitoring and Control of Work - Determining what needs to be measured and when, to oversee actions, managing change, tracking progress, reporting, providing feedback and learning from experiences.

PAS 8673
will provide an answer on the competences for management of buildings



Knowledge	Topic	Feature / Document / System / Requirement / Topic	BSC	BSB Risk	Level A	Bloom's Taxonomy	Level B	Bloom's Taxonomy
BSB	Fire	Fire hazard in buildings	NO	Relates to BSRisks	YES	Level 5: Evaluating	YES	Level 5: Evaluating
BSB	Fire	Behaviours of fire and smoke in buildings	NO	Relates to BSRisks	YES	Level 4: Analysing	YES	Level 3: Applying
BSB	Fire	Impact of fire on building safety	NO	Relates to BSRisks	YES	Level 5: Evaluating	YES	Level 5: Evaluating
BSB	Fire	Fire Design Strategy - Level A Building	NO	Relates to BSRisks	YES	Level 5: Evaluating	NO	Level 2: Comprehending
BSB	Fire	Fire Design Strategy - Level B Building	NO	Relates to BSRisks	YES	Level 5: Evaluating	YES	Level 5: Evaluating
BSB	Fire	BS 7974 Application of fire safety engineering principles to the design of buildings	NO	Relates to BSRisks	YES	Level 4: Analysing	NO	Level 2: Comprehending
BSB	Fire	BS 9991:2015 Fire safety in the design, management and use of residential buildings	NO	Relates to BSRisks	YES	Level 4: Analysing	YES	Level 4: Analysing
BSB	Fire	Approved Document B - Fire Safety (England Only)	NO	Relates to BSRisks	YES	Level 4: Analysing	YES	Level 4: Analysing
BSB	Fire	Fire safety requirements of the Building Regulations applicable to the jurisdiction	NO	Relates to BSRisks	YES	Level 4: Analysing	YES	Level 4: Analysing
BSB	Fire	Fire safety requirements of the Building Regulations Codes / Guidance applicable to the jurisdiction	NO	Relevant to BSRisks	YES	Level 4: Analysing	YES	Level 4: Analysing
BSB	Fire	Fire safety information - Building Regulations - Regulation 38	NO	Relevant to BSRisks	YES	Level 5: Evaluating	YES	Level 5: Evaluating
BSB	Fire	RISCAuthority Design Guide for the Fire Protection of Buildings	NO	Relevant to BSRisks	YES	Level 4: Analysing	YES	Level 4: Analysing
BSB	Fire	Fire Evacuation Strategy	NO	PAP Duties	YES	Level 4: Analysing	YES	Level 4: Analysing
BSB	Fire	Duty Holder Details - All Responsible Persons and Accountable Persons	NO	PAP Duties	YES	Level 3: Applying	YES	Level 3: Applying

Role Descriptor and Key Purpose (3.1.3)
Individual responsible for managing building and life safety and oversight of the systems and processes in place for this purpose / individual or entity appointed to support the duty holder in the management of building and life safety risks and any relevant statutory requirements.

- Section 6 Competencies**
- Building Systems
 - Building Operations
 - Risk Management
 - Leadership and Planning
 - Operational Practice
 - Monitoring and Control

6.2 A Building Safety Manager shall in the following competence areas demonstrate effective performance by:

- Building Systems** - Evaluating the performance and safe operation of the building in use to identify the implications on building and life safety, fire strategy, residents, occupant and users

Section 7 Performance Criteria

- Building Systems

A Building Safety Manager shall possess the competences for building systems shown in Table 1:

Table 1

Function
Building design and construction: to explain the principles of building design, compartmentation, means of escape and measures to limit the spread of smoke and fire, including the impact of human behaviour.
Building structure, fabric and materials: to explain the principles of structural design and maintenance, appraise the general condition of the building and to recognize where circumstances warrant intervention by specialists.
Interaction of systems and components: to describe the building as a system and how this affects performance and impacts building safety and to understand the purpose of configuration management.
Building safety and protection: to define the principles affecting building safety and primary causes of failure of safety systems and to appraise the effectiveness of preventive and protective measures.
Fire management and systems: to interpret and apply the principles and benefits of a fire management strategy, relevant evacuation strategies and to develop and apply requirements for testing and maintaining fire prevention and protection systems.

Section 8 Levels and Complexity

Levels	Scope	
	Building Safety	Life safety
Building designed to fire engineering first principals	Level A1	Level A2
Building designed to statutory code	Level B1	Level B2

Level A – Able to manage a building designed in accordance with fire safety engineering principles, or with significant features that have been designed in accordance with fire safety engineering principles or where the fire design strategy for the building is not understood.

Examples of fire safety engineering principles can be found in BS 7974 Application of fire safety engineering principles to the design of buildings

Level B – Able to manage a building designed in accordance with a recognised design code without significant variation in compliance with the code.

Examples of recognised design codes are Approved Document B, Scottish Technical Handbook, Welsh ADB and BS 9991:2015 Fire safety in the design, management and use of residential buildings without significant variation.

- Building design and construction**
- Building design and construction explain the principles of building design, including modern methods of construction, the key components of the building and their implications for maintenance;
 - define the principle of compartmentation and its impact on the design, construction, management, maintenance, operation and use of the building;
 - understand the importance of firestopping of all penetrations to compartments and the requirements relating to all work on such penetrations;
 - explain the design features of the building that support safe and orderly evacuation by all people;
 - explain the features of the building that are designed to prevent structural failure and limit the spread of fire and smoke;

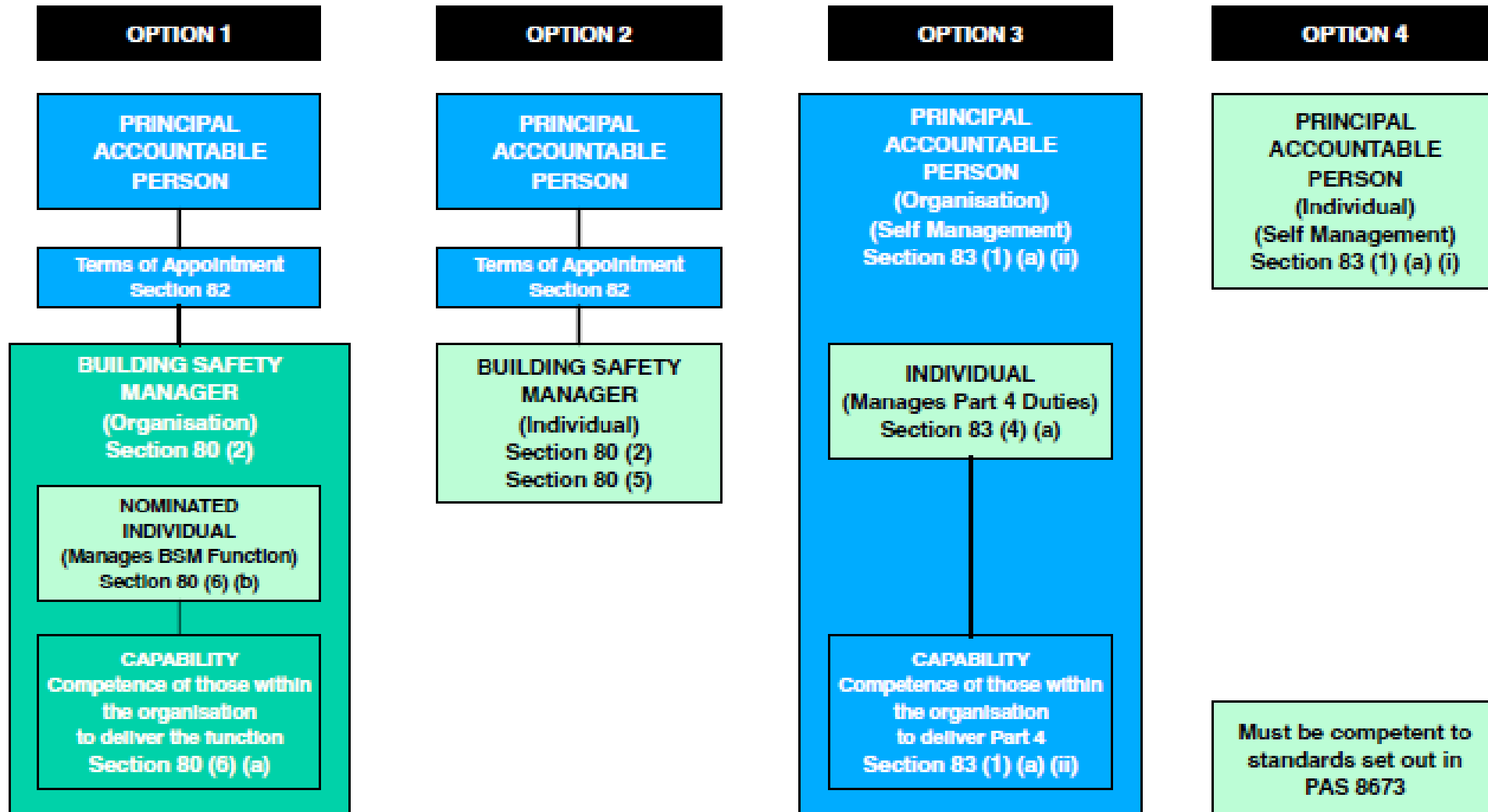
Annexe E Specific Competencies

- Building Systems





APPOINTMENT OPTIONS UNDER THE BUILDING SAFETY BILL



BUT



Your questions



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Key take aways from discussion?



- Right roles – AP – PAP – RP – AP delivery?
- Competence
- Resources and funding
- Upskilling
- Training and awareness course
- Resident engagement

- In scope new regime?
- Review safety and remediate where necessary

- Safety Case
- Golden thread
- Residency engagement
- Premises information box

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