

Working Group 7 – Designers including architects

WG7_S01

Built Environment – Framework for competence of designers
in England – Standard V1

DRAFT FOR CONSULTATION

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Foreword

Publishing Information

This Standard was developed by Working Group 7 (Designers including Architects) of the Competence Steering Group (CSG) established by the Industry Response Group (IRG). It came into effect on [Date to be confirmed] 2022.

Acknowledgement is given to the following organisations who contributed to the development of this standard:

- Architects Registration Board (ARB)
- Chartered Association of Building Engineers (CABE)
- Chartered Institute of Architectural Technologists (CIAT)
- Chartered Institute of Building (CIOB)
- Chartered Institute of Building Service Engineers (CIBSE)
- Construction Products Association (CPA)
- Engineering Council
- Royal Institute of British Architects (RIBA)
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Relationship with other publications

This standard has been specifically written to align with *PAS 8671 – Built Environment – Framework for competence of individual Principal Designers and designated individuals working under the Organization Principal Designer – Specification*.

NOTE: This standard is not intended to replace existing contextualised competence frameworks or qualification pathways for specific disciplines. As a result it does not align comprehensively with the requirements of FLEX 8670 - Built environment – Core criteria for building safety in competence frameworks – Code of Practice, which should be addressed by contextualised competence frameworks.

This standard is intended to be complimentary to the suite of documents published by the British Standards institution comprising:

- BSI Flex 8670, Built environment – Core criteria for building safety in competence frameworks – Code of practice;
- PAS 8671, Built environment – Framework for competence of Individual Principal Designers and Designated individuals working under the organization Principal Designer – Specification;
- PAS 8672, Built environment – Framework for competence of Individual Principal Contractors and Designated Individuals working under Organizational Principal Contractors – Specification;

- PAS 8673, Built environment – Competence requirements for the management of safety in residential buildings – Specification

Information about this document

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Where websites and webpages have been cited, they are provided for ease of reference and are correct at the time of publication. The location of a webpage or website, or its contents, cannot be guaranteed.

Use of this document

It has been assumed in the preparation of this Standard that the execution of its provisions will be entrusted to appropriately qualified and experienced people, for whose use it has been produced.

Presentational conventions

The provisions of this standard align with those for a PAS and are presented in roman (i.e. upright) type. Its requirements are expressed in sentences in which the principal auxiliary verb is “shall”.

Commentary, explanation and general informative material is presented in smaller italic type and does not constitute a normative element.

Where words have alternative spellings, the preferred spelling of the Shorter Oxford English Dictionary is used (e.g. “organization”, not “organisation”).

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Compliance with this standard and legal obligations

Compliance with this standard cannot confer immunity from legal obligations. Particular attention is drawn to the following specific regulations and draft regulations:

- CDM Regulations 2015 (as amended) [1]
- Building Act 1984 (as amended)
- Building Regulations 2010 (as amended)
- Building Safety Act 2022
- Draft Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations [3]

- Draft Building (Higher-Risk Buildings) (England) Regulations
- Draft Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations.

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0 Introduction

This standard has been developed by an industry consensus group to establish core competence criteria for designers working in the built environment industries. Further information on the meaning of 'Designer' in this context is provided in ***Informative Annex A – What is a designer?***

The objective of this standard is to support improvement in industry competence as recommended in Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety following the Grenfell Tower Fire of June 14th 2017.

Improvements in designer competence will support better compliance with building regulations with a particular focus on ensuring that buildings are safe throughout their lifecycle.

0.1 The Building Safety Act

The Building Safety Act received Royal Assent on 28 April 2022 and will progressively come into force over the following 18-month period. The Act is intended to implement a new regulatory framework for building safety and for compliance with all aspects of the Building Regulations including both technical and procedural requirements.

This includes setting new Dutyholding requirements for people acting in key roles

The act imposes new legal duties and sanctions on persons undertaking building work. It also imposes additional requirements for the construction, maintenance and operation of higher risk buildings.

0.2 Higher risk buildings

The definition of Higher Risk Building is currently set out in the draft Higher-Risk Buildings (descriptions and Supplementary Provision) Regulations 2021 and may be amended over time.

0.3 Dutyholding requirements in the Building Regulations

The Building Safety Act establishes a new regime for Dutyholding responsibilities placing specific responsibilities on a range of persons and organisations involved in the construction, operation and maintenance of buildings.

For all types of building work new duties are imposed on clients, designers, contractors, principal designers and principal contractors by extending the existing Dutyholding model of the Construction Design and Management (CDM) Regulations 2015. Additional duties and requirements are imposed where these dutyholders work on higher risk buildings and in addition duties are imposed on the Accountable Person to undertake certain functions relating to the safe management of the building.

Designers need to understand the relationship between these dutyholders and how to work effectively and collaboratively in meeting those duties.

Anyone acting as a designer also needs to understand how their activities and responsibilities relate to compliance with relevant requirements set out in the Building Act 1984 (as amended) and the Building Safety Act. This includes how the designer needs to act to discharge their duties, as well as ensuring that they, and any people they supervise or appoint, have suitable competence (skills, knowledge, experience and behaviours) to design work that, if built as designed, will comply with relevant requirements of the Building Regulations.

0.4 Competence thresholds

This standard set out two thresholds for competence. The first is for competence requirements for all types and scale of building work where an individual or organisation acts as a designer. The second identifies additional requirements for Higher Risk Buildings.

NOTE: This Standard is intended for use in jurisdictions where designer is a Dutyholding role governed by relevant building regulations.

In both cases the competence requirements of this standard should be contextualised to reflect the role, discipline, activities or tasks against which an individual is being assessed.

0.5 Competence levels

The core competences in this standard are phrased using verbs that relate to the cognitive domain of Blooms Taxonomy.

NOTE Bloom's Taxonomy is a hierarchical model used to classify educational learning objectives into six levels of complexity and specificity. In the cognitive domain, this goes from remembering basic facts to being able to analyse, evaluate, and create new information. Using it is intended to make it easier for assessors to adapt sector-specific competence frameworks, learning objectives and assessment procedures so that they conform to this Standard.

Blooms taxonomy - Verbs to be used

Create – produce new or original work, - design, assemble, construct, develop, author

Evaluate – justify a stand or decision – argue, defend, judge, support, critique

Analyze – Draw connection among ideas – compare, contrast, distinguish, organize, examine.

Apply – Use information in new situations – solve, demonstrate, implement, use, operate.

Understand – explain ideas or concepts – describe, discuss, explain, identify, recognise

Remember – recall facts and basic concepts – define, list, memorize, repeat.

1 Scope

This framework sets out competence requirements for persons acting in any role when undertaking designer duties as set out in the building (Appointment of Persons, Industry competence and Dutyholders) (England) Regulations [2022]. This includes the General Duties described in the regulations.

Whilst the legal framework set out in Section 4.2 is specifically applicable in England, the designer competences set out in section 4.3 to 4.7 are broadly applicable to designers working in any jurisdiction.

Designer is a defined term in legislation. For illustrative purposes the scope of this standard includes (but is not limited to):

- Consultant designers
- Contractor designers
- Sub-contractor designers
- System designers

It specifies requirements relevant to the role, function and tasks of individual designers based on the some of the core criteria set out in Flex 8670 but does not seek to include all of those competencies. Any framework owner seeking to integrate or assess compliance with this framework should separately consider a separate mapping and assessment exercise against Flex 8670.

This standard covers the competence and commitment of individual designers in the following areas:

- a) Comprehension of general duties
- b) Comprehension of requirements to ensure clients are aware of their duties
- c) Ensuring building work is in compliance with relevant requirements of the building regulations and other legislation relevant to Dutyholding responsibilities
- d) Requirements to provide sufficient information about design, construction and maintenance to assist the client, other designers and contractors to comply with relevant requirements of the building regulations
- e) Requirements to report concerns about compliance to principal designer when undertaking only part of the design work
- f) Requirements to advise the principal designer or client if design work being undertaken is higher risk building work.

This standard describes differing categories of competence for the classification of designers relating to individual levels of knowledge, skills, experience and responsibility and indicates pathways between the categories. This includes differentiating competence for work on Higher Risk Buildings, as well as setting requirements for all other types of building work.

This framework does not cover the competence requirements for the role of designer under the Construction (Design and Management) Regulations 2015 (CDM 2015).

This Standard also does not cover:

- a) specific requirements relating to a particular design discipline
- b) prescribed routes for attainment of knowledge and understanding

- c) specific qualifications or levels of architectural, engineering or building design qualifications; or
- d) an organisations management system
- e) organisational competence

2 Normative references

The following documents are referred to in the text in such a way that some or all of their content constitutes provisions of this Standard. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

The Building Act 1984

The Building Regulations 2010 (as amended)

The Building (Appointment of Persons, Industry competence and Dutyholders) (England) Regulations 2022.

The Building Safety Act 2022

3 Terms, definitions and abbreviations

The following definitions have been copied from PAS 8671 and will be updated post consultation subject to agreement with the British Standards Institute.

3.1 Terms and definitions

For the purposes of this document, the terms and definitions given in BSI Flex 8670 and the following apply.

3.1.1 accreditation

formal recognition by a regulated body that an organization engaged in assessment and certification activities is operating according to a prescribed standard

3.1.2 building safety

any matter relevant to protecting the safety of people in and around buildings (including but not limited to fire safety, structural safety, public health and public safety) and pertaining to the specification, design, manufacture, procurement, construction, inspection, assessment, management, operation, maintenance, refurbishment and demolition of buildings [SOURCE: BSI Flex 8670:2021, 3.2 adapted]

3.1.3 building safety risks

risks that are inherent in the project brief and that arise during the design phase that have the potential to threaten compliance with the building regulations

3.1.4 candidate

individual undergoing competence assessment to undertake the Principal Designer role

3.1.5 competence(s)

combination of skills, knowledge, experience and behaviour that enable an individual to make decisions on an informed basis that results in safe outcomes for defined functions [SOURCE: BSI Flex 8670:2021, 3.4 adapted]

3.1.6 competence assessment

Evaluating and documenting evidence of an individual's performance against competence requirements [SOURCE: BSI Flex 8670:2021, 3.5]

3.1.7 competence framework

procedures and requirements for the assessment and maintenance of a set of agreed skills, knowledge, experience and behaviours required for an individual undertaking a role, function, activity or task in order to perform their work to predetermined standards and expectations and maintain or improve their performance over time [SOURCE: BSI Flex 8670:2021, 3.6 adapted]

3.1.8 competency/competencies

task level description of skills, knowledge, experience and behaviours required to undertake a defined task effectively

3.1.9 compliance

fact of being in accord with the requirements of legislation and statutory regulations

3.1.10 continuing professional development (CPD)

activities undertaken by individuals to maintain and develop competence, including formal and informal learning, self-assessment, obtaining feedback and identifying areas for improvement [SOURCE: BSI Flex 8670:2021, 3.9] 13 PAS 8671 Draft v.2.9 for public consultation © The British Standards Institution 2021 3.1.11 duty obligation imposed by law on a natural person or organization

3.1.12 dutyholder

individual or organization fulfilling a role with a duty or duties prescribed under the BSB and related regulations [SOURCE: BSI Flex 8670:2021, 3.10 adapted]

3.1.13 experience

knowledge or skill acquired by a period of practical experience of something, especially that gained in a particular profession, discipline, role or function [SOURCE: BSI Flex 8670:2021, 3.11 adapted]

3.1.14 gateway process

three key stages in design and construction, introducing new requirements during construction, that apply to higher-risk buildings:

- planning Gateway one – at the planning application stage (which is covered under planning legislation);
- gateway two – before building work starts; and
- gateway three – when building work is completed. NOTE Gateways two and three are covered under the BSB and are stop/go decision points that are passed before a development can proceed to the next stage.

3.1.15 golden thread of information

information that allows the understanding of a building and the steps needed to keep both the building and people safe, now and in the future [SOURCE: Building Regulations Advisory Committee: Golden thread report.]

3.1.16 higher risk buildings

buildings subject to enhanced regulatory requirements in scope of the new, more stringent regulatory regime, as defined in the draft Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations, 2021 [SOURCE: BSI Flex 8670:2021, 3.15 adapted]

3.1.17 prescribed information

information and documents set out in the draft The Building (Higher-Risk Buildings) (England) Regulations that form most of the content in the golden thread of information NOTE This information is required in:

- building control applications that must be submitted to the Building Safety Regulator before building work starts;
- change control applications when deviations to original plans are proposed; and

- completion certificate applications that must be submitted to the Building Safety Regulator when building work is complete.

3.1.18 prior learning

formal or informal learning that can be used as evidence by candidates to demonstrate their eligibility to undergo assessment or their competence to undertake a specific role [SOURCE: BSI Flex 8670:2021, 3.20 adapted] 14 PAS 8671 Draft v.2.9 for public consultation © The British Standards Institution 2021.

3.1.19 relevant requirement

means, to the extent relevant to the building work or design work in question, the requirements of regulations 4, 6, 7, 8, 22, 23, 25B, 26, 26A, 28, 36, 41(2)(a), 42(2)(a) and 43(2)(a) of, and Schedule 1 to, the Building Regulations 2010.

3.1.20 risk profile

nature and level of threat in building safety risks in building work and/or a building

3.2 Abbreviated terms

For the purposes of this document, the following abbreviations apply.

APICD	Draft Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations
BSB	Building Safety Bill
CCEA	Council for the Curriculum Examinations and Assessment
CDM	Construction (Design and Management) Regulations 2015
CDM	PD Principal Designer under CDM
CPD	continuing professional development
CQFW	Credit and Qualifications Framework for Wales
FHEQ	Frameworks for Higher Education Qualifications of UK degree-awarding bodies
HRB	higher-risk building
Ofqual	Office of Qualifications and Examinations Regulation
RQF	Regulated Qualifications Framework
SCQF	Scottish Credit and Qualifications Framework
SQA	Scottish Qualifications Authority

4 Designer core competences

The primary aim of this competence framework is to improve compliance with the building regulations and other relevant legal requirements so that buildings are safe for their users throughout the lifetime of a building and its immediate environment.

Designers duties are primarily to be competent to comply with building regulations and other relevant requirements to the extent required by their domain-specific competence. The competence requirements set out in this framework are intended to reflect the key Skills, Knowledge and Behaviours which, when combined with suitable experience, enable designers to undertake tasks effectively and consistently.

Many of these competences will be deployed concurrently and need to be combined with appropriate behaviours to deliver a safe outcome.

Designers shall demonstrate suitable competence by meeting the requirements set out in sections 4.1 – 4.7 of this standard including the competence to achieve compliance with ‘relevant requirements’ as set out in Section 4.7

NOTE: Informative Annex B provides a more literal read out of the requirements imposed by the Draft Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations.

4.1 Appropriate behaviours

Any person acting as a designer shall:

- a) Act ethically and behave in a way that contributes to safe outcomes.
 - i) Understand and apply key ethical principles.
 - ii) Comply with any relevant codes or standards of conduct
 - iii) Demonstrate commitment to a strong safety culture
 - iv) Understand duty of care owed to residents, occupants, co-workers, first responders and people in and around buildings
- b) Demonstrate personal and collective responsibility and accountability:
 - i) Understand and take responsibility for their own actions and those of organisations of which they are part
 - ii) Anticipate, identify and challenge inappropriate or unsafe behaviours and escalate concerns
 - iii) Identify and provide feedback on unsafe process, equipment, procedures, systems standards or quality.
 - iv) Contribute to developing and maintaining a strong safety culture
- c) Manage their own competence
 - i) Act within the limits of their own competence.
 - ii) Refuse to undertake design work if at any time this exceeds their limits of competence.
 - iii) Manage, maintain and develop their competence through undertaking self-assessment and development activities.
 - iv) Retain records of development activities.

4.2 Understanding of duty-holding roles, general duties, Designer duties and links with role of Principal Designer

4.2.1 Dutyholding roles

Any person acting as a Designer shall:

- a) Be aware of key legislation relating to the role of a designer and update their understanding as and when that legislation changes.

NOTE: For the purposes of this standard the key legislation is referenced as normative in section 3.

- b) Understand how the role of the designer relates to other key dutyholders and their agents including the Client, Principal Designer, Principal Contractor, Designers, Contractors, and (for higher risk Buildings) the Accountable Person fulfilling their legal duties to manage building safety.

NOTE: The Accountable Person may employ others to fulfil their duties in terms of building safety management all of which will have important interactions with designers where work is being undertaken on higher risk buildings in occupation. Designers working on occupied buildings should therefore clearly understand the role of the Accountable Person and their appointees..

- c) Understand the legal framework underpinning their general duties.
- d) Understand the legal framework underpinning duties specific to acting as a designer set out in section 4.2.2 to 4.2.8.
- e) Understand the Role of the Principal Designer.

4.2.2 Understanding Client Duties

Designers need to be aware of how the client's duties relate to the work they undertake, and what the client is obliged to do to support designers in undertaking design work. Designers also need to act to obtain reassurance that clients are aware of their duties and continue to act in accordance with those requirements.

Designers shall demonstrate understanding:

- a) of client duties and how to communicate these requirements, including seeking further assurance or information as necessary.
- b) that designers must not commence work until they satisfy themselves that clients are aware of these duties imposed in relation to building work, specifically client duties to:
 - i) provide adequate time and resource for the project in compliance with building regulations and relevant requirements.
 - ii) ensure the design as agreed and approved is compliant with relevant requirements
 - iii) enable designers and contractors to collaborate with each other to ensure compliance with all relevant requirements
 - iv) undertake periodic review of design work to ensure that the designer works in accordance with requirements relevant to the building where it is or becomes a higher risk building.
 - v) reviewing compliance with relevant requirements periodically
 - vi) Providing relevant information to every building designer as soon as it is available
 - vii) Cooperate with persons involved in design work to enable them to comply with their duties as designers
 - viii) providing all necessary information for the designer to determine if the project is a higher risk building.
 - ix) keeping records of all actions taken.

4.2.3 Designer and Principal Designer Duties for Domestic clients

Designers need to understand that if they are a sole designer on a domestic project and the client does not separately appoint a principal designer that they assume the role of principal designer.

Designers shall:

a) demonstrate understanding of how a principal designer is appointed, and how (if no principal designer is appointed) designers working on the project will be required to comply with one of the following:

- i) where there is only one designer, assume the responsibilities of the principal designer; or
- ii) where there is more than one designer agree in writing which designer will act as principal designer

4.2.4 Requirements before a designer carries out work

Designers should demonstrate an understanding of relevant requirements which need to be met prior to commencing design work.

Designers shall demonstrate understanding that:

a) prior to design work commencing the person appointing them as a designer has a duty to assure themselves that:

- i) the designer has general competence to undertake the design work.
- ii) the designer is competent to undertake general duties to plan, manage and monitor work.

b) designers must not accept an appointment to undertake work if they cannot meet requirements for general competence set out in clause 4.2.5.

NOTE: Designers must be able to demonstrate these competences, and how to maintain or develop these general levels of competence over time.

4.2.5 General competence requirement

Designers (as individuals and organisations) shall demonstrate understanding that they have a duty to:

- a) undertake design work so that if the design is built it will comply with all relevant requirements; and
- b) where a person is being trained as a designer, provide adequate oversight and supervision

4.2.6 Failing to maintain Competence

Designers must understand that if at any time they cease to be competent as a designer that they are legally required to inform one or more of the client, the person who asked them to undertake the design work or the principal designer that this is the case.

Designers shall

- a) demonstrate understanding of how to assess and work within limits of their [or their organisations] competence; and

b) demonstrate understanding of duties to inform relevant persons if at any time they are no longer competent to undertake the design work.

4.2.7 Designers working within organisations

Designers working within organisations must understand requirements for organisational capability and implied duties on individuals within the organisation to act responsibly in relation to undertaking, or refusing to undertake, design work.

Designers shall demonstrate understanding of duties to ensure that:

- a) Persons undertaking design work are competent to do so
- b) Persons undertaking design work comply with any relevant requirements, which would include:
 - i) refusing to undertake design work if it relates to work which cannot be carried out in accordance with relevant requirements;
 - ii) cooperating with other person in relation to the work; and
 - iii) refusing to carry out work which is beyond the limits of their competence
- c) Persons undertaking building work, such as contractors must refuse to undertake work which does not comply with relevant requirements.

4.2.8 General Duty to Plan Manage and Monitor

Designers undertaking design work must take reasonable steps such that design work carried out by them (or persons under their control) is planned, managed and monitored so that the design if built complies with all relevant requirements. This includes duties to cooperate with others.

Designers shall demonstrate understanding of their duties to:

- a) plan, manage and monitor work so that the design, if built as designed, complies with all relevant requirements
- b) cooperate with clients, other designers and contractors so the design, if built as designed, complies with all relevant requirements.

4.2.9 Additional duties of designers

Any person acting as a designer shall demonstrate understanding of the additional duties placed on designers, specifically:

- a) that designers must not start work unless they are sure that the client understands their duties as a designer
- b) when undertaking design work, to ensure that the design if built complies with all relevant requirements (see section 4.7).
- c) to provide sufficient information about the design, construction and maintenance of the building to the client, other designers and contractors to assist them to comply with all relevant requirements.
- d) where only undertaking part of the design, to consider other aspects of design and report any concerns in relation to compliance to the principal designer
- e) if requested, to provide advice to the client or principal designer as to whether the work is higher risk building work.

f) To keep records of all actions taken.

4.3 Competence to Plan, manage and monitor work including requirements for adequate supervision

Designers need to take all reasonable steps to plan, manage and monitor design such that, if built as designed, the building work to which the design relates would comply with relevant requirements.

Any person acting as a designer shall:

- a) Understand and demonstrate the ability to apply project planning and project management good practice to;
 - i) allow sufficient time for design work to be competently undertaken and coordinated with other elements of design.
 - ii) identify key project stages and put in place procedures for coordination, checking and sign off of design work to support compliance with relevant requirements.
 - iii) identify procedural requirements and put in place processes and procedures such that compliance with those requirements is planned, actively managed and audited.
- b) Manage the competence of those undertaking design work.
- c) Identify and put in place adequate resource and procedures for the supervision and oversight of designers work, including those who are in training.
- d) Demonstrate understanding of the roles, responsibilities and interactions with other designers, project team members, dutyholders, regulators and clients necessary to support compliance with relevant requirements.

4.4 Information management including golden thread of information

Designers should maintain accurate records and share information effectively with clients, the Principal Designer, the Principal Contractor, regulators and other members of the design and construction team.

Any person acting as a designer shall:

- a) Understand statutory requirements to record and share information on the design work they undertake.
- b) Understand and apply information management systems and practices to record and share information in a manner proportionate to the complexity of the design work being undertaken.
- c) Co-ordinate the production of design information in a manner which enable it to be shared effectively with;
 - i) for all building work, clients, Principal Designers, Principal Contractors, Designers, Contractors; and
 - ii) in addition for higher risk buildings, the Accountable Person and any persons appointed by the Accountable Person to manage the buildings safety.
- d) For Higher Risk Buildings;

- i) understand and comply with requirements to maintain a Golden Thread of information including the production, monitoring and communication of prescribed information.
- ii) understand and comply with mandatory occurrence reporting systems

4.5 Communication, cooperation and collaboration

Design work needs to be developed in collaboration with other design and project teams members, clients and regulators. To do this requires an understanding of cooperative behaviours and practice and the ability to communicate clearly and effectively.

Any person acting as a designer shall:

- a) Understand and demonstrate the ability to comply with statutory requirements for communication, cooperation and collaboration including:
 - i) contribute to information sharing between client, designers and contractors including principal designer and principal contractor.
 - ii) demonstrate understanding of legal duties for cooperation
 - iii) demonstrate understanding of requirements to identify and raise risks and how to escalate concerns through whistleblowing and mandatory reporting procedures.
 - iv) For Higher Risk Buildings, Understand and demonstrate the ability to comply with procedures to notify and communicate with Regulators at key Gateway Stages and to obtain certifications.
- b) Demonstrate the ability to communicate clearly using oral, written, graphic and digital techniques.
- c) Understand relevant good practice in managing and sharing information and apply these in practice to manage the communication of information within and between organisations.
 - i) For Higher Risk Buildings this must include understanding what and how information needs to be shared to maintain the Golden Thread of Information.
- d) Understand effective collaborative practice and behaviours and apply these in practice.

4.6 Design risk assessment and management

Designers should demonstrate a suitable awareness, understanding and the ability to apply risk assessment and risk management techniques relevant to the design work they undertake.

All designers should:

- a) Understand the general principles of risk analysis and risk management sufficient to identify, monitor, avoid or mitigate risks in the coordination and production of design work.
- b) Understand common hazards in existing and new buildings that arise when undertaking design and building work including physical and systemic risks to fire safety, structural safety and public health and;
 - i) understand how these differ in Higher Risk Buildings and the implications for compliance of design work with relevant requirements.

- c) Contribute to risk assessment activities to eliminate, avoid, reduce, mitigate and control building safety risks to help achieve compliance with relevant building regulations and;
 - i) understand how these differ in Higher Risk Buildings and what additional measures are required to achieve compliance with the relevant requirements of the Building Regulations.
 - ii) Understand and apply processes for mandatory reporting.

4.7 Competence for compliance with the building regulations relevant requirements

Designers must undertake design work in such a way that the design, if built as designed, complies with all relevant requirements of the Building Regulations. This requires understanding of procedural and technical legislation, and adequate technical competence to undertake the design work consistently and to the right standard.

The following competence requirements should be demonstrated relevant to the type and scope of design work being carried out and taking into account interfaces with other roles or disciplines.

NOTE: Relevant requirements are listed in Informative Annex C

i) these requirements are accurate at the time of publication but are subject to periodic change and should not be solely relied upon in determining legal compliance.

Designers shall demonstrate suitable competence by meeting all of the requirements set out in section 4.7.1 and 4.7.2.

4.7.1 Understanding of Relevant Requirements

Designers shall;

- a) Demonstrate an understanding of the meaning of relevant requirement
- b) Demonstrate understanding of how the relevant requirements relate to the design work they undertake.

4.7.2 Designer competence to comply with relevant requirements

Any person acting as a designer shall:

- a) Demonstrate suitable technical competence to execute design work consistently, to the appropriate standards, and relevant to the complexity of the building work under design, such that, if built as designed, the work will comply with all relevant requirements of the Building Regulations.
- b) Demonstrate awareness and understanding of primary legislation, secondary legislation and statutory guidance relevant to complying with the building regulations
 - i) for all types of building work; and
 - ii) where applicable additional requirements for higher risk buildings.
- c) Demonstrate understanding of, and the ability to comply with applicable procedural requirements of the building regulations;
 - i) for all types of building work; and

- ii) where applicable additional requirements for higher risk buildings
- d) Demonstrate the ability to Identify, understand and comply with any relevant technical requirements of the building regulations including .
- e) Demonstrate suitable competence in undertaking (as appropriate) inspection, assessment or oversight of testing of the conformity and performance of building work to achieve compliance with relevant requirements of the Building Regulations.
- f) Understand and demonstrate the ability to use construction product and/or system testing, certification and manufacturers information to inform design decisions to achieve compliance with relevant requirements of the Building Regulations.
- g) Demonstrate the ability to identify the limits of their competence in undertaking design work and seek support or more expert advice where necessary to achieve compliance with relevant requirements of the Building Regulations.

ANNEX A

Informative Annex - What is a designer?

NOTE: The following information should not be relied on in determining whether the duties of a designer apply to any given individual or organisation. If in doubt, further advice should be sought from the Building Control Body inspecting the work or the Building Safety Regulator (for Higher Risk Buildings).

Definition of design and designers for the Built Environment

Design is the realisation of a concept, idea or theory that ultimately allows a series of objectives to be achieved or resolved. In terms of construction, design is the process of creating a solution to a project brief (or part of a project brief) and then preparing instructions allowing that solution to be constructed.

A designer is an organisation or an individual who prepares or modifies designs for construction projects. Or it is someone who arranges for, or instructs, others to do this. The Draft Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations define a designer as follows:

“designer” means any person (including a client, contractor or other person referred to in these Regulations) who in the course of a business— (a) carries out any design work; or (b) arranges for, or instructs, any person under their control to do so;

Who can be designers?

As a result of this definition the role of the designer is not determined by a persons recognised ‘profession’ or discipline alone. Designers can be Architects, engineers and surveyors but they can also be anyone else who specifies and alters designs as part of their work.

They can also include a very wide group that carry out design work, such as contractors, manufacturers, suppliers and tradespeople.

Increasingly design is complex and may require many specialist designers to contribute to a project. For example any of the following may be considered a designer, particularly if their work impacts on compliance with relevant requirements of the Building Regulations (this list is illustrative and not intended to be comprehensive):

- Acoustic consultant
- Contractor with design responsibility
- Ecologist
- Environmental consultant
- Facilities management consultant
- Fire engineering consultant
- Health and safety consultant
- Inclusive Design (Access) consultant
- Interior designer
- Information and communications technology consultant
- Landscape consultant
- Lighting designer
- Master planners

- Public health consultant
- Product manufacturers
- Security consultant
- Specialist sub-contractors
- Sub-contractors
- System suppliers or manufacturers
- Transport / traffic engineer
- Utility providers / network operators

What information is related to design?

The Draft Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations define design as follows:

“design” includes drawings, design details, specifications and bills of quantities (including specification of articles or substances) relating to a building, and calculations prepared for the purpose of a design;

It is therefore reasonable to argue that designs include:

- drawings
- design details
- specifications
- bills of quantity
- design calculations
- physical models
- BIM models
- virtual models
- visualisations

ANNEX B

Informative Annex - Overview of legal requirements for designers

NOTE: This Annex is provided for consultation only and it is the authors intention to remove this annex post consultation. It is provided here to help explain the legal objectives and obligations being proposed in the draft regulations. Once the draft regulation become law, it would be inappropriate to continue to offer a legal interpretation – it will be for the owners of competence frameworks, assessment or accreditation processes and training providers to ensure alignment with legal requirements.

The following informative annex is intended to provide an overview of the general and specific duties imposed by legislation on designers under the Building Safety Act 202X once in force. These requirements are set out in primary legislation (the *Building Safety Act 202X*) and in secondary legislation (The Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations [202X]).

This annex should not be relied on as a source of legal guidance. The Annex is split into three parts:

- Part 1 Designer competence
- Part 2 Text relating to designer competence from the Building Safety Act
- Part 3 Key terms in legislation

Part 1 - Designer Competence

The Building Safety Bill when enacted will impose requirements on industry through amendments to the Building Act 1984. There are two specific duties relevant to designers – the general duty imposed on all dutyholders, and specific duties imposed on designers. Text from the Bill is provided at Part 2 of this Annex.

The remainder of the detail is contained in the draft regulations.

Key terms and definitions

Key terms for the draft regulations are Attached in Part 3 of this Annex.

R3 Clients Duties

Designers will need to understand duties imposed on clients in Section 3 of the regulations (suitable arrangements to ensure compliance with requirements etc) as under Clause 14.1 designers must not start design work unless satisfied that clients are aware of duties imposed in relation to building work.

They should also be aware of how the client's duties in Section 3 relate to the work they undertake, and what the client is obliged to do to support designers in undertaking design work. This includes (for example)

- Clients providing adequate time and resource for the project
- Ensuring the design, as agreed and approved, is compliant with relevant requirements
- Enabling designers and contractors to collaborate with each other to ensure compliance with all relevant requirements
- Undertaking periodic review of design work to ensure that the designer works to the requirements relevant to the building i.e. whether it is a higher risk building or not.

- Reviewing these requirements periodically to ensure they are being maintained.
- Providing relevant information to every building designer as soon as it is available
- Ensuring that clients cooperate with those persons involved in design work to enable them to comply with their duties as a designer
- Requiring clients under Section 4 to provide all the necessary information for the designer to determine if the project is a higher risk building.
- Keeping records of all actions taken.

R5 Domestic clients

Designers need to understand that if they are a sole designer on a domestic project and the client does not separately appoint a principal designer that they assume the role of principal designer.

R6 Principal Designer

Designer must understand how a principal designer is appointed, and how (if no principal designer is appointed) designers working on the project will either

- where there is only one designer assume the responsibilities of the principal designer; or
- where there is more than one designer agree in writing which designer will act as principal designer

R7 Considerations before a person carries out work

Designers will need to understand that;

- the person appointing them as a designer has a duty to assure themselves that they as the designer has general competence as set out in Regulations 8 (1) (2) to undertake design work
- the client must also satisfy themselves that they as the designer is competent to undertake general duties to plan, manage and monitor work set out in Regulation 13.
- they must not accept an appointment to undertake work if they cannot meet requirements in Regulation 8 for general competence

Designers must be able to demonstrate these competences, and how to maintain or develop these general levels of competence over time.

R8 Competence: General requirement

Designers must understand duties imposed on individuals or organisations:

- to ensure that they have the right skills, knowledge, experience and behaviours; to
- undertake design work so that if the design is built it will comply with all relevant requirements; and
- where a person is being trained as a designer to provide adequate oversight and supervision

R11 Failing to maintain Competence

Designers must understand that if at any time they cease to be competent as a designer that they are legally required to inform one or more of the client, person who asked them to undertake the design work or principal designer that this is the case.

R12 Interpretation of Part 4 (Competence)

Designers working within organisations must understand requirements for organisational capability set out in Regulation 12, and in particular implied duties on individuals within the organisation to ensure that:

- Persons undertaking design work are competent to do so
- Persons undertaking design work comply with any relevant requirements, which would include refusing to undertake design work if it relates to work which cannot be carried out in accordance with relevant requirements; cooperating with other person in relation to the work; and refusing to carry out work which is beyond the limits of their competence
- Persons undertaking building work, such as contractors must refuse to undertake work which does not comply with relevant requirements.

R13 General Duty to Plan Manage and Monitor

Designers undertaking design work must take reasonable steps to ensure:

- Any design work carried out by them (or persons under their control) is planned, managed and monitored so that the design if built complies with all relevant requirements.
- Cooperation with client, designers and contractors so the design if built complies with all relevant requirements.

R14 Additional duties of designers

Designers must:

- not start work unless they are sure that the client understands their duties as a designer
- when undertaking design work, ensure that the design if built complies with all relevant requirements.
- provide sufficient information about the design, construction and maintenance of the building to the client, other designers and contractors to assist them to comply with all relevant requirements.
- where only undertaking part of the design, consider other aspects of design and report any concerns in relation to compliance to the principal designer
- If requested provide advice to client or principal designer as to whether the work is higher risk building work.
- Keep records of all actions taken.

ANNEX C (informative)

Informative Annex - Relevant requirements in England

Note: These requirements are correct at the time of publication as far as it has been reasonable practical to ascertain but should not be relied on for legal purposes or in determining compliance.

C1.1 Definition of Relevant requirements

Draft Building (Appointment of Persons, Industry Competence and Dutyholders) (England) Regulations are primarily focused on creating a clear set of expectations on those parties involved in undertaking building work that the resultant will achieve compliance with the relevant requirements of the Building Regulations in England.

Relevant requirements are defined as follows:

Relevant requirement means, to the extent relevant to the building work or design work in question, the requirements of regulations 4, 6, 7, 8, 22, 23, 25B, 26, 26A, 28, 36, 41(2)(a), 42(2)(a) and 43(2)(a) of, and Schedule 1 to, the Building Regulations 2010.

It should be seen from the list below that the focus of relevant requirements are primarily in determining what building work is subject to the requirements of the building regulations (Regulations 4, 6, 7 and 8) with the remainder relating to matters of what might be referred to as 'technical compliance'.

NOTE: Designers should also be aware of the procedural requirements of the building control system even though these are not listed as relevant requirements in the draft regulations.

C1.2 Relevant Requirements (other than Schedule 1)

Expanded headings for each of these relevant requirements is provided below:

Regulation 4 – Requirements relating to Building Work

Regulation 6 – Requirements relating to material change of use

Regulation 7 – Materials and Workmanship

Regulation 8 – Limitation on Requirements

Regulation 22 – Requirements relating to change in energy status

Regulation 23 – Requirements relating to thermal elements

Regulation 25B – Nearly Zero-energy Requirements

Regulation 26 – CO₂ emission rate calculations

Regulation 26A – Fabric Performance values for new dwellings

Regulation 28 – Consequential improvements to energy performance

Regulation 36 – Water efficiency of new dwellings

Regulation 41(2)(a) – Sound insulation testing

Regulation 42(2)(a) – Mechanical ventilation air flow testing

Regulation 43(2)(a) – Pressure testing

C1.3 Relevant requirements in Schedule 1

Part A - Structure

Part B – Fire Safety

Part C – Site preparation and resistance to contaminants and moisture

Part D – Toxic Substances

Part E – Resistance to the passage of sound

Part F - Ventilation

Part G – Sanitation, hot water safety and water efficiency

Part H – Drainage and waste disposal

Part J – Combustions devices and fuel storage systems

Part K – Protection from falling, collision and impact

Part L – Conservation of fuel and power

Part M – Access to and use of buildings

Part O – Overheating (proposed)

Part P – Electrical safety

Part Q – Domestic security

Part R – Physical infrastructure for high-speed telecommunications infrastructure

Part S – Infrastructure for charging electric vehicles

ANNEX D

Informative Annex - Guidance to assessment and awarding bodies or schemes.

D1.1 Conformity with this Standard

This standard is targeted at those organisations in the Built Environment industries who hold, manage or plan to develop competence frameworks for individuals or organisations likely to undertake the role of a designer either as an individual or as an organisation.

It is intended to provide a consistent set of criterium against which frameworks, qualifications , training and on-going professional development can be measured, with the aim of delivering a consistent level of competence for designers relative to the complexity of the design work they undertake.

Competence frameworks or syllabuses that conform to this standard will provide confidence that where designers assessed against these requirements they are likely to have suitable competence to undertake the specific design tasks and activities covered by those frameworks.

D1.2 Contextualisation and level of competence

It is intended that this standard is adapted to the needs and context of the wide range of potential designers who will need to demonstrate legal conformity to the regulator (as well as insurers, clients, accountable persons, principal designers and principal contractors etc).

All those working as designers, or supervising the work of other designers, should understand and be able to apply all of the requirements set out in section 4 at an appropriate level.

It is recognised that many designers have very discrete functions in relation to conformity with the requirements set out in Section 5. It is not intended that this standard will impose an inappropriate or disproportionate burden in terms of technical and legal compliance. As a result it is recognised that framework owners may focus on specific regulations and parts covered by the definition of Relevant Requirements in the Draft Regulations. In order to ensure that frameworks contribute to holistic and joined up outcomes, framework owners should.

- a) Identify any directly relevant procedural or technical requirements and contextualise competence requirements at the level of competence required for the roles or disciplines covered by their frameworks.
- b) Set levels and expectations of competence in a way which is proportionate to the complexity of the design work being undertaken taking into account the likelihood and possible consequences of any associated risks arising from that design work.

In addition they should:

- c) Map competence requirements at the boundaries and interfaces of activity with associated disciplines, trades or roles and establish suitable competence requirements such that that responsibilities at these interfaces are clearly understood and managed.

D1.3 Quality assurance

Bodies attesting that the competence of individuals or organisations are in accordance with the requirements of this standards should put in place robust quality control, monitoring, and feedback structures to provide assurance that the standards of competence are appropriate.

In line with the recommendations of the Competence Steering Group report 'Setting the Bar' third party oversight of process and standards is recommended. This may be through licensing by the Engineering Council, Accreditation by UKAS (as recommended) but at the very least, training and qualification pathways should be aligned with national qualifications frameworks in terms of level, and preferably delivered by an organisations that is either third party accredited or subject to examination by a recognised awarding body.

NOTE 2 The national statutory regulators are Ofqual in England and Northern Ireland, Qualifications Wales in Wales, Scottish Qualifications Authority (SQA) in Scotland, and CCEA in Northern Ireland.

Bibliography