

# Do your campus buildings comply with the latest legislation?

30 January 2024

There are a range of building codes and safety standards with which university buildings need to comply, including fire safety regulations and health and safety regulations. Failure to do so can pose a risk to students, staff and the general public.

If you're developing your campus estate then you'll need to comply with the latest building safety legislation, which is borne out of the Grenfell enquiry and introduced by the Building Safety Act 2022.

The requirements of this Act are continually evolving as more legislation is put in place, but currently there is one question which would need to be considered when carrying out new construction projects:

## Is your new building either over 18 metres or 7 storeys tall?

The answer to this question will determine to what extent the new legislation will apply to your project.

### If the answer is no

The Building Safety Act requirements we set out below will, on the most part, not apply, but the Building Safety Act will still extend the limitation period in relation to cladding products and under the Defective Premises Act. You should still be aware of other regulations and standards that govern building safety and need to be complied with.

### If the answer is yes

You should ensure you take steps to comply with new legislation. Under the Building Safety Act, if a structure is considered a higher-risk building' then additional requirements apply to the design, construction and maintenance phases of the project.

1. The Building Safety Act extends the limitation period in relation to cladding products and under the Defective Premises Act. The limitation period is the period in which you will be able to commence a claim for any defects in the works. You may want to include clauses that, for the avoidance of doubt, clarify the contractual limitation periods will be extended where necessary by the operation of this legislation and extend insurance obligations to be consistent with the potential new limitation periods.
2. The Building Safety Act introduces Building Liability Orders under which the Health and Safety Executive (HSE) can issue orders indicating where a building is not compliant with the Building Safety Act. You may want to include obligations in the contract which mean the contractor is responsible for carrying out rectification works at no additional cost if recommended by a Building Liability Order. However, we should be clear that the Building Safety Act also introduces provisions in relation to the winding-up of corporate entities and special purpose vehicles after completion of a project and you should be mindful that this will make you, as the building owner, responsible regardless of whether you are able to recover from your contractor.
3. One of the major changes in the Building Safety Act is to establish a new division of the HSE as the new Building Safety Regulator (Regulator). The functions of the Regulator include implementing the new regulatory regime for higher-risk buildings and acting as the building control body for work relating to higher-risk buildings. In addition to the new Regulator, the Building Safety Act also introduces two new regimes which apply to during the design and construction of higher-risk buildings:

- 3.1. the duty-holder regime; and
- 3.2. the gateway regime.

Both of these regimes have a common requirement which is the maintenance of the “golden thread of information”. This refers to “the information that allows you to understand a building and the steps needed to keep both the building and people safe, now and in the future”.

## New duty-holder roles

These new regimes will likely continue to be expanded within subsequent secondary legislation. However, it is known that the Building Safety Act creates various new duty-holder roles for the construction phase as well as the ‘accountable person’ for when a higher-risk building is occupied.

This ‘accountable person’ is any entity with the ultimate responsibility for repairing the whole (or part of) any occupied higher-risk building. In contrast, the “gateway regime” introduced by the Building Safety Act focuses only on new buildings.

In broad terms, this requires building control approval to be obtained from the Regulator before any building work starts and it must demonstrate how:

1. the proposed works comply with Building Regulations; and
2. the new duty-holder competence, golden thread and mandatory occurrence reporting requirements will be met in relation to the work.

We are aware that the additional requirements of the Building Safety Act are having an impact on campus estates and more broadly throughout the construction industry. Both our construction and regulatory teams will be able to assist you if you have any questions or if you are unsure of your obligations in relation to the Building Safety Act and associated legislation when developing your campus.

## Contact

Scott Mounfield

Partner

scott.mounfield@brownejacobson.com

+44 (0)330 045 2813

Felicity Zakers

Associate

Felicity.Zakers@brownejacobson.com

+44 (0)330 045 2947

---

## Related expertise

Higher education property management and real estate development

Property and estates in higher education