

## Guide to Dutyholders: Designer

From 1 October 2023, significant changes to the Building Regulations 2010 will come into effect. The introduction of Part 2A provides specific requirements to all key parties involved, on their roles and responsibilities for the planning, managing and monitoring of all construction projects.

A building regulations designer can be an individual or an organisation. They are a designer in control of the design work, and can be, for example:

- an architect
- an engineer (structural and others)
- a surveyor

Where appointed in writing by a domestic client to undertake the duties outlined in the regulations, a designer's responsibilities include: -

- Making suitable arrangements for planning, managing and monitoring a project (including allocation of sufficient time and other resources) to ensure compliance with all relevant requirements.
- Ensuring that the design work complies with all relevant requirements.
- ensure the building work is carried out in accordance with all relevant requirements.
- They enable cooperation between the designers and contractors, to ensure compliance with all relevant requirements.
- They provide for periodic review of the building work (and the design work) included or to be included in the project to identify whether it is <sup>1</sup>higher-risk building work.

### Appointment of principal designer

- Where there is more than one designer, or it is reasonably foreseeable that more than one designer will be working on a project, the client must appoint in writing a designer with control over the design work as the principal designer for these Regulations.

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<sup>1</sup> "Higher Risk" as defined in Section 65 of the Building Safety Act 2022: -

(a) is at least 18 metres in height or has at least 7 storeys, and

(b) contains at least 2 residential units.

Some exemptions include care homes, hospitals, hotels and military premises.

- The client may wish to appoint a principal designer already nominated as part of the requirements of The Construction (Design and Management) Regulations 2015, this will need to be agreed upon in writing informing all parties.
- Where there is only one designer, or it is reasonably foreseeable that there will be only one designer working on a project, that designer must fulfil the duties of the principal designer set out in these Regulations.
- Within an organisation, there may be more than one designer, or it is reasonably foreseeable that there will be more than one designer working on a project at any time: -
  - the designers must agree in writing which designer is to fulfil the duties of the principal designer set out in these Regulations (“the lead designer”).
  - the lead designer must give a copy of the agreement to the client.

## **Considerations before a person carries out work.**

Where appointed by a domestic client to undertake the duties on their behalf, a designer’s responsibilities include: -

- Ensuring that those carrying out building or design work (individual or organisation) have the relevant skills, knowledge, experience and behaviours necessary to satisfy the relevant requirements.
- Ensure the work carried out by them (and by any workers under their control) is planned, managed and monitored to comply with all relevant requirements.
- Obtain information regarding serious sanctions or misconduct where work relates to higher risk building and consider the suitability for appointment.

## **Competence**

To satisfy the requirements and carry out any design work as the designer or principal designer, a person or organisation must: -

- Have the relevant skills, knowledge, experience and behaviours necessary to undertake the function.
- Carry out the design work in accordance with all relevant requirements.
- Provide adequate supervision to those in training within the design role whilst carrying out the work and ensure that those under supervision are not appointed as principal designers.
- Consider that an individual wishing to designate themselves as a principal designer within an organisation must take all reasonable steps to satisfy themselves that they have the skills, knowledge, experience and behaviours necessary to manage the function of principal designer.

## How designers can demonstrate and identify competence

The HSE have provided guidance on how principal designers can demonstrate competence within their role and provided a framework to assist clients in selecting appropriate designation for proposed projects - [Building Safety Competence Information for Principal Contractors and Principal Designers](#)

These include: -

- Having high levels of personal integrity, honesty about the limits of their competence and refusing to carry out work which is beyond this. They should never accept non-compliant design or building work.
- Be able to plan, manage monitor design work, and cooperate, coordinate and communicate to ensure the design work, if built, complies with building regulations.
- Being an integral part of the design team and not a third party without any influence over important design decisions.
- The ability to coordinate the design team. It may help the principal designer to keep a record of designers and their responsibilities across a project.
- Supporting others, for example, in being able to pass on necessary information to contractors and explain to them how to demonstrate that elements are built properly.
- Understanding the law (role and competency requirements set out in the Building Regulations) as this will enable the principal designer to understand their role.
- Managing other designers and reaching a consensus that design work is compliant with building regulations. Monitor identified compliance risks and assess gaps in other designers' competencies.
- Liaising with principal contractors about design work compliance
- Monitoring progress against the plan through to the end of the design phase

*A principal designer is not expected to be an expert in every design specialism, but they are expected to know enough about the building regulations to assess whether a building design will comply with all relevant regulations.*

## **Ceasing to be competent: notification**

Where at any time the appointed persons cease to be competent and able to fulfil the relevant requirements they must: -

- Notify the client, where the appointed person is the principal designer.
- Notify the principal designer and those who instructed them to carry out the design work, where the appointed person is the designer.
- If there is no principal designer, then notification to the client must proceed.

In circumstances where the principal designer's appointment ends, they must give the client a document explaining the arrangements they had in place to fulfil their duties, no later than 28 days after the end of the appointment.

Where a replacement principal designer is appointed, they must review the arrangements that the previous principal designer put in place for fulfilling the duties and ensure that all reasonable steps are taken to ensure that the designs, if built will be compliant with all relevant requirements moving forward.

## **Additional duties of designers**

- To plan manage and monitor the design work during the design phase and effectively coordinate any matters that arise, to ensure compliance with all relevant requirements.
- To ensure coordination between all parties involved such as the client, designers and contractors, to cooperate, ensuring compliance with all relevant requirements.
- Liaise with the principal contractor, sharing information relevant to the planning, management and monitoring of the building work, and the coordination of building work and design work to ensure compliance with all relevant requirements.

*It is essential that all duty holders exhibit "necessary behaviours", which the Regulations specify as the following:*

- *Compliance with relevant requirements, including refusing to carry out:*
  - *any building work which is not in compliance with any relevant requirement.*
  - *any design work if the building work to which the design relates cannot be carried out in compliance with all relevant requirements.*
- *Cooperation with other persons in relation to the work.*
- *Refusing to carry out work which is beyond their skills, knowledge or experience, and asking for the assistance of other persons where necessary.*