

Navigating the Building Safety Act's position of Principal Designer

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As expectations mount for architects to shoulder the new role of Principal Designer, Paul Jolly analyses the differences with the old regime and considers the pros and cons of taking on this newly introduced responsibility.



On domestic projects, where the client has not appointed a Principal Designer that role falls to the designer of the design phase. Credit: Envelop's De Beauvoir Square photographed by Helen Leech


On 1 October the Building etc (Amendment) (England) Regulations 2023¹ came into force, providing further clarity on how the government intends to implement the new regulatory regime introduced under the Building Safety Act 2022², Any project requiring a new Building Regulations application, from domestic house

¹ The Building etc. (Amendment) (England) Regulations 2023, SI 2023 No.911.

² Building Safety Act 2022, 2022 Chapter 30.

Are you ready to be a Principal Designer?

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extensions to higher-risk buildings (HRBs), will now require two 'principal duty holders' to be appointed: the Principal Designer and the Principal Contractor.

Architects will be familiar with these duty holder titles which were first introduced under the Construction (Design and Management) Regulations 2015³. But the duties and responsibilities for the Principal Designer under CDM (secondary legislation made under the Health and Safety at Work etc. Act 1974)⁴ are markedly different to those now required of the Principal Designer under the Building Regulations (secondary legislation made under the Building Act 1984⁵ and the Building Safety Act 2022).

What are the key differences?

Under CDM, the primary duty of the Principal Designer is to plan, manage and monitor the pre-construction phase of a project and to co-ordinate matters relating to health and safety⁶. This is to ensure, so far as is reasonably practicable, that construction projects are designed and managed without risks to the health or safety of those who build, use, and maintain them.

Under the Building Regulations, the Principal Designer is required to 'plan, manage and monitor the design work during the design phase'⁷ and to 'co-ordinate matters relating to the design work comprised in the project so that all reasonable steps are taken to ensure that the design is such that if the building work to which the design relates were built in accordance with that design the building work would be in compliance with all relevant requirements'⁸. These relevant requirements are defined, and include those listed in Schedule 1 to the Building Regulations 2010⁹, from Part A – Structure, through to Part S – Infrastructure for the Charging of Electric Vehicles, as well as Regulation 7¹⁰, governing materials and workmanship. Materials must be appropriate for the circumstances in which they are used, so as to adequately perform the functions for which they are designed.

In other words, the new Principal Designer duty holder must take 'all reasonable steps' to ensure the design work on a project is co-ordinated to demonstrate compliance with the Building Regulations. This reinforces Dame Judith Hackitt's call for a more 'robust ownership of accountability' under her Building a Safer Future¹¹ review, to regulate what was seen as an increasingly fragmented industry with design responsibilities split across multiple parties. Although individual designers remain responsible for the compliance of their own design work, the new Principal Designer will have overall responsibility for co-ordinating the design and must only accept commissions where they have the 'skills, knowledge, experience, and behaviours necessary to fulfil their duties'¹².

Extra roles and responsibilities

The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023¹³ contain additional requirements, including the need for a 'competence declaration' and a 'Building Regulations compliance statement' to be provided as part of an HRB Building Control approval application. The Principal Designer must also ensure an 'appropriate frequency of inspections' is planned and carried out during the construction phase to ensure the works are built in accordance with the compliant design.

³ The Construction (Design and Management) Regulations 2015, SI 2015 No.51

⁴ Health and Safety at Work etc. Act 1974, 1974 Chapter 37.

⁵ Building Act 1984, 1984 Chapter 55.

⁶ Duties of a principal designer in relation to health and safety at the pre-construction phase, paragraph 11.(1).

⁷ Additional duties of a principal designer, paragraph 11M.(1)(a).

⁸ Additional duties of a principal designer, paragraph 11M.(1)(b).


⁹ The Building Regulations 2010, Schedule 1, SI 2010 No. 2214 (as amended 2023-09-21).

¹⁰ The Building Regulations 2010, Regulation 7 (Materials and workmanship), SI 2010 No. 2214 (as amended 2023-06-05).

¹¹ Independent Review of Building Regulations and Fire Safety: final report, Cm 9607, May 2018, Dame Judith Hackitt DBE FREng.

¹² Competence: principal designer, paragraph 11G.(1).

¹³ The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023, SI 2023 No.909.



The RIBA has described this secondary legislation as forming part of arguably the most important regulatory change in the industry since the 1980s¹⁴. While the new Principal Designer role will attract increased liabilities and tougher sanctions, as was the case with CDM in 2015, the amended regime is seen as an opportunity for the profession to ‘step up’ and reassert control over the design phase. The RIBA considers that in the main, architects who are already competent in performing the role of lead designer should be well placed to discharge these new duties and add a further service to their portfolio.

But are architects ready to take on these additional roles and responsibilities? One of the key objectives of the CDM 2015 reforms was to replace the previous CDM Co-ordinator role with that of the Principal Designer, with duties to be performed by ‘an active designer’ with control over the pre-construction phase. The Health and Safety Executive’s declared intention was to place matters relating to health and safety at the heart of the design process and away from the preserve of peripheral Health and Safety Consultants. The lead designer, typically the architect, was seen as being best placed to perform this role. However, uptake in the profession has been limited.

An HSE research report published in June 2023¹⁵ found that those parties most commonly undertaking the CDM Principal Designer role were health and safety consultants, client advisors and project managers. RIBA members accounted for only 18% of the survey respondents, with the general feedback suggesting that ‘designers and architects did not want to take on the PD role’, seeing health and safety as the contractor’s responsibility. Is it possible we will see similar trends emerging for the new Building Regulations duty holder?

“The government does not expect ‘duplicate duty holders’, and the intention is for both Principal Designer roles to be performed by the same entity to avoid confusion...there is very likely to be increased demand for architects, as lead designers, to also act as the Principal Designer”.

The government has stated, under its recently published Consultation Outcome into the new Building Control Regime, that the parties procuring and undertaking the work in compliance with CDM should be the same as those considering compliance with the Building Regulations.¹⁶ It does not expect ‘duplicate duty holders’, and the intention is for both Principal Designer roles to be performed by the same entity to avoid confusion. In this scenario, a ‘non-active designer’ such as a health and safety consultant, would not be suitably qualified to plan, manage, monitor and co-ordinate design work to demonstrate compliance with the Building Regulations. As a consequence, there is very likely to be an increased demand in professional appointments for architects, as lead designers, to also act as the Principal Designer.


Architects must ensure they fully understand their duties and wider obligations before entering into any such agreements. It is also important to understand, as has been the case with CDM, that in instances where a domestic client fails to appoint a Principal Designer, the designer in control of the design phase (most likely an architect) will automatically assume the Principal Designer role¹⁷. The Principal Designer will not have to declare that the project has been designed and built in accordance with the Building Regulations, as

¹⁴ Building Safety Act: What architects need to know about new secondary legislation, RIBA, 23 August 2023 (www.architecture.com)

¹⁵ Implementation of the Principal Designer Role within CDM 2015, RR1198 (2023) Research Report prepared by MPW R&R Ltd for the HSE.

¹⁶ Consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings, updated 17 August 2023, response 2.7 (www.gov.uk).

¹⁷ Domestic Clients, paragraph 11C.(2).



previously published under (now removed) draft regulations from 2021, but they will have to make a declaration at completion (or partial completion) that they fulfilled their duties as a Principal Designer. The duties to plan, manage, monitor, and coordinate design work will cover all design disciplines and the designs of all elements. On domestic projects, this could include designs for foundations, basement waterproofing, heating systems, drainage, acoustics, and fire alarm systems. On more complex larger developments, the extent of design could extend across multiple designers and specialists.

Larger complex projects and HRBs are more likely to be viable for multi-disciplinary companies, where a broader spread of specialist design knowledge will already be provided in-house. While new technologies and expanding portfolios present opportunities for emerging practices or those looking to expand or diversify into alternative sectors, smaller companies will need to ensure their development plans allow for the requisite growth in competence before accepting new appointments.

Insurance challenges

Obtaining appropriate professional indemnity insurance cover under the current market conditions remains a significant, albeit lessening, challenge. The government has recognised this, and its original intention to impose strict liabilities on designers to ensure compliance have been tempered under the amendments to require 'all reasonable steps' to be taken¹⁸. While insurance remains a concern across the industry, the government has said it does intend to introduce strict liability duties on designers in the future, subject to consultation with the construction and insurance industries¹⁹. The government is also seeking to shake up the prevailing culture of design and build, in promoting alternative procurement models that use integrated projects insurance (IPI) to encourage collaborative behaviour across project teams²⁰.

The RIBA has launched a 'Principal Designer Register' for architects to demonstrate their competence to perform the roles required under both the Building Regulations and CDM, with a separate tier for those parties competent to perform the more demanding roles required for HRB projects²¹. It will be interesting to see over the coming months whether the register promotes a faster uptake for architects becoming Principal Designers than has been experienced to date under CDM. This is a significant opportunity for the profession: if architects remain reluctant to take on these increased responsibilities to lead the design process, no doubt someone else will.

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¹⁸ Consultation outcome as above, response 3.97.

¹⁹ Government response to the consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings, clause 1.27

²⁰ Collaborative procurement guidance for design and construction to support building safety, published 10 January 2022 (www.gov.uk).

²¹ RIBA Principal Designer Register Competence Criteria, RIBA, 25 April 2023



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