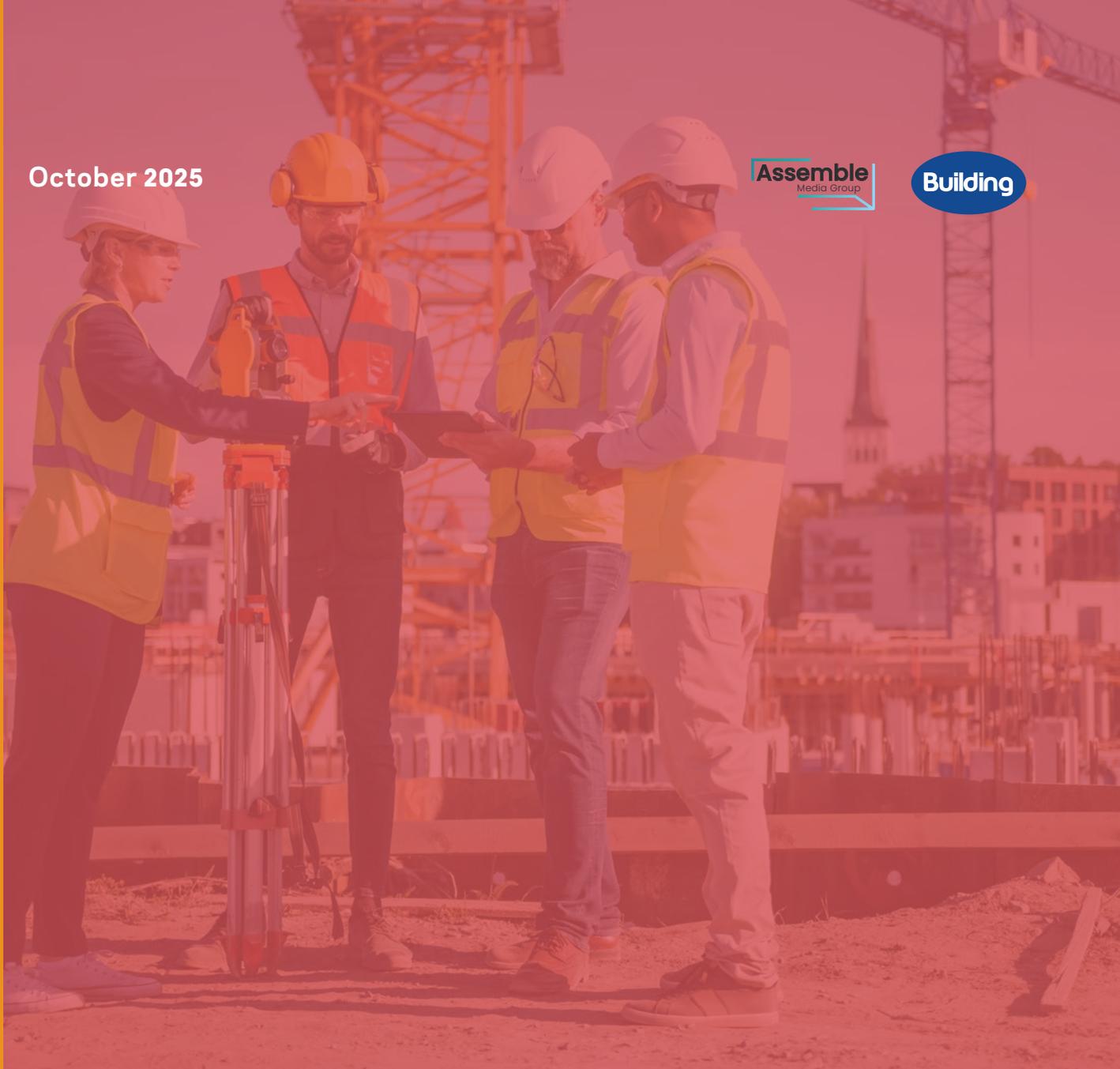


October 2025

Assemble
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Building



Mitigating risk driven by the building safety agenda



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Methodology

This research, conducted by Building in conjunction with Fenwick Elliott, was carried out via group and individual interviews with experts in the field from across the sector and the answers to a selection of qualitative questions.

The research was conducted in spring and summer of 2025. Interviews were conducted by Building special projects editor Jordan

Marshall, and the report was produced by Jordan Marshall.

The feedback from interviews and surveys all contributed to the conclusions and recommendations. However, the views expressed in the report are those of the Building the Future Think Tank, and participants cannot be assumed to have endorsed the final findings.



After the success of the Building the Future Commission in 2023, Building established its own editorial research hub, the Building the Future Think Tank, which is dedicated to producing more in-depth research and reports on behalf of the industry.

The think tank's programme has produced a variety of reports on topics including immigration, net zero, building safety and the changing workplace.

Acknowledgments

We thank the following companies, organisations and individuals for their involvement in the Building the Future Think Tank:

- David Bebb, partner, Fenwick Elliott
- Ben Smith, partner, Fenwick Elliott
- Simon Tolson, partner, Fenwick Elliott
- Paul Woodhams, executive director for

regeneration - including building safety and refurbishment, McLaren

- Various participants at the roundtable on unpacking the ongoing impact of the Building Safety Act on housing and construction in the Midlands

Participants cannot be assumed to have endorsed the final findings.

Executive summary

The introduction of the Building Safety Act 2022 (BSA) and the creation of the Building Safety Regulator (BSR) represent the most significant overhaul of building regulation in a generation. The reforms followed the Grenfell Tower tragedy of 2017, which exposed systemic failures in governance, design, construction and oversight. In response, the BSA has created a more stringent regulatory framework centred on accountability, transparency and resident safety.

While the industry is broadly supportive of these objectives, the transition is proving highly disruptive. This report, drawing on think tank roundtables, interviews and desk research, examines the impacts of the new safety regime on procurement and policy, project timelines and budgets, liability and claims, and supply chain capacity. It highlights both opportunities and risks as firms adapt to the new regime.

Key findings include:

- **Procurement pressures:** The requirement for a fully detailed design at gateway 2 has disrupted established models, straining design-and-build and encouraging two-stage tendering.
- **Financial front-loading:** Developers are having to commit greater investment at earlier stages, while banks are reluctant to release funds until construction is visible. This creates a financing gap.

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Delivering safer buildings without paralysing housing supply requires transparency, consistency and co-ordinated action between government, regulators and industry

- **Project delays:** Gateway 2 approvals can take 16-24 weeks, far exceeding the target of eight to 12 weeks. Gateway 3 remains largely untested but may add further delays.

- **Cost rigidity:** Once designs are approved, opportunities for value engineering diminish, reducing flexibility to control costs.

- **Legal exposure:** Clearer lines of accountability make claims easier to pursue. Directors face personal liability for proceeding without approval.

- **Insurance challenges:** Professional indemnity cover is harder to secure, more expensive and often excludes fire safety and cladding.

- **Supply chain risks:** Shortages in testing capacity, subcontractor fragility and labour pressures threaten delivery.

- **Regulator capacity:** The BSR has recruited only around 250 staff against a target of 1,500, undermining its ability to manage demand.

Recommendations focus on enhancing regulator resources, clarifying guidance, enabling staged approvals, supporting financial models, investing in skills and strengthening supply chain resilience.

The sector faces a balancing act: delivering safer buildings without paralysing housing supply. Achieving this requires transparency, consistency and co-ordinated action between government, regulators and industry.



Part 1: Procurement and policy



Evolving procurement requirements

The Building Safety Act has fundamentally reconfigured procurement strategies across the UK construction sector. At the heart of this change lies gateway 2, the critical approval stage that requires a fully developed design to be submitted and accepted by the Building Safety Regulator before any physical construction begins. While on paper this requirement seems a logical safeguard - ensuring that risky high-rise projects are fully thought through before ground is broken - it challenges decades of established procurement practice.

Traditionally, the design-and-build model allowed contractors to carry a project from concept to delivery, with a degree of iterative refinement along the way. Developers would appoint a contractor early, agree broad design principles, and then rely on value engineering during construction to balance cost, aesthetics and buildability. The BSA has disrupted this dynamic. By demanding a locked-in design at gateway 2, the new regime removes the flexibility to make late-stage changes and forces all parties to commit resources at a much earlier point.

As one senior contributor described during the think tank discussions, “the obligation to secure approval with a fully detailed design has made procurement more complex under design-and-build. It front-loads risk and cost into the pre-construction phase, and you need a much higher level of confidence in the design before you can even think about mobilising on site.”

This shift is triggering a migration toward two-stage tendering and pre-construction service agreements (PCSAs). In a two-stage tender, a contractor is appointed on a

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preliminary basis to support design development before a final price is fixed. This arrangement allows for early contractor input into buildability and sequencing while recognising that the final design cannot yet be tendered competitively. PCSAs, meanwhile, are being used to compensate contractors for their pre-construction involvement, but interviewees consistently noted that these fees are often nominal and fail to reflect the true overhead of maintaining large design teams for many months before a full construction contract is signed.

The consequences are profound. Bargaining power has subtly shifted toward contractors, who are now indispensable during the early design stages but are wary of taking on approval risk. Developers, needing contractor expertise to progress designs through gateway 2, find themselves negotiating complex risk-sharing arrangements. This has led to prolonged pre-contract negotiations, delayed appointments and higher overall costs. For projects funded on thin margins or by smaller developers, these changes can be existential.

Internal policy frameworks for compliance

The BSA is also reshaping internal governance within firms. Large contractors, major developers and sophisticated consultants have responded by creating dedicated building safety teams responsible for the “golden thread” of



Bargaining power has subtly shifted toward contractors, who are now indispensable during the early design stages

information, mandatory reporting and ongoing competence assessments. These teams act as internal regulators, ensuring every design decision is traceable and that dutyholder obligations are clearly understood.

However, for small and medium-sized enterprises (SMEs), these new demands are disproportionately onerous. A regional architect interviewed for this report explained that “training staff, implementing record-keeping systems and engaging external consultants adds costs that simply don’t scale for a five-person practice. For a small firm, the overhead of compliance can wipe out the

profit on a modest residential scheme.”

Compounding these pressures is a lack of consistency in regulatory feedback. Gateway officers, still grappling with the new system themselves, can offer divergent interpretations of what constitutes an acceptable submission. Two nearly identical projects can receive markedly different feedback, creating uncertainty for design teams. This inconsistency has forced firms to over-prepare, submitting voluminous details and reports to avoid the risk of rejection. Several contributors called for the BSR to publish exemplar gateway 2 submissions, akin to planning validation checklists, to provide clearer benchmarks and reduce wasted effort.

Balancing cost and responsibility

The BSA also raises fundamental questions about cost allocation and responsibility. Under the previous regime, contractors bore primary responsibility for safe delivery, but clients retained flexibility to release funds as construction progressed. Now, with designs needing to be complete and approved before works commence, developers must commit significant funding upfront.

One housing association representative summed up the dilemma: “Contractors always had to deliver safely. What has changed is that clients must now secure advanced funding before work begins, increasing pressure on financial models.”

This front-loading of expenditure clashes with traditional financing practices. Many lenders remain unwilling to release development finance until construction is visibly under way. Yet by that point, a developer may have already spent millions on design, consultant fees and regulatory submissions. This creates a financing gap that is particularly acute for smaller developers and housing associations, whose balance sheets cannot easily absorb extended pre-construction costs. Without innovation in lending models – such as recognising pre-construction expenditure as a fundable milestone – these players risk being squeezed out of the market for higher-risk buildings, potentially undermining housing delivery targets.

In summary, procurement under the BSA demands greater planning, stronger governance and more sophisticated financial engineering. Firms that fail to adapt risk not only regulatory non-compliance but also commercial obsolescence.



Part 2: Project timelines and budget



Gateway delays and delivery risks

Perhaps the most immediate and visible consequence of the BSA is its impact on programme duration. Gateway 2 approvals, which are supposed to be determined within a statutory 12-week period, are routinely taking 16-24 weeks, with some interviewees reporting even longer timelines for complex high-rise schemes. With gateway 3 - the final completion sign-off - still largely untested, fears are mounting that total development programmes could be extended by 9-12 months compared with pre-BSA norms.

These delays cascade through the project ecosystem. Contractors are unwilling to guarantee approvals as part of a fixed-price offer, given the unpredictability of regulator turnaround times. As one major contractor bluntly put it: “No one is going to promise to get a scheme through gateway 2 at a fixed price. To do so would be commercial suicide.”

Architects and engineers are also feeling the strain. Many professional services contracts tie payment milestones to RIBA stage 4 (technical design), which now coincides with gateway 2 approval. When approval waits drag on, design teams face deferred payments, sometimes for many months, creating acute cash-flow pressures. Contractors, meanwhile, must keep pre-construction teams mobilised without corresponding revenue, burning through overheads at unsustainable rates. Developers are left holding land and servicing debt without the comfort of visible progress on site.

The cumulative effect is a sector-wide liquidity squeeze, particularly for SMEs. Smaller

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architectural practices report having to rely on personal credit lines to pay staff during extended approval periods. Subcontractors, often operating on thin margins, face even greater risk, as their engagement is delayed and their pipeline becomes unpredictable.

Cost implications and inflationary pressures

The financial implications of the BSA are not limited to delays. By demanding fully detailed designs before construction can commence, the BSA requires a higher level of consultant input upfront. Engineers, fire specialists and compliance consultants must be engaged earlier and more intensively, inflating pre-construction budgets. Contractors must also commit significant staff resources to design development, further increasing overheads.

At the same time, the requirement for approved, locked-in designs curtails the traditional practice of value engineering. Once gateway 2 approval is secured, opportunities to substitute materials, adjust specifications or simplify detailing are severely limited.

While this rigidity enhances safety by reducing the risk of cost-driven compromises, it also restricts the ability to respond to market fluctuations in material or labour prices. A developer that secures approval based on a particular facade system may be forced to

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By demanding fully detailed designs before construction can commence, the BSA requires a higher level of consultant input upfront

absorb cost increases if that product later becomes more expensive or scarce.

Participants expressed concern that these dynamics could trigger a new wave of inflationary pressures. As one quantity surveyor observed, “If all contractors are chasing the same handful of BSR-approved products, prices will rise. We could see another round of materials and labour inflation similar to the post-covid spike.” In a market already grappling with high interest rates and tight credit conditions, such inflation threatens project viability and housing affordability.

Risk management and staged approvals

Despite these challenges, some industry voices see silver linings in the front-loaded design requirements. Greater early investment in design can reduce surprises during construction, lowering the incidence of costly variations and disputes. Detailed specifications provide clearer scope for contractors, potentially improving build quality and reducing latent defects.

To balance these benefits with the need for flexibility, many contributors advocated for staged approvals. Under this approach, developers could obtain regulatory clearance for discrete elements of a project – such as groundworks, core structures or podium levels – while later design packages continue through the approval process. Staged approvals would enable earlier site mobilisation, improving cash flow and reducing inflationary exposure.

However, the BSR has so far been cautious in allowing such approaches, citing concerns about maintaining oversight of the building as a whole. Industry groups are lobbying for formalised guidance that would permit staged approvals under clearly defined conditions. Without such flexibility, there is a real risk that the very safety regime designed to accelerate improvements in building quality could inadvertently slow the delivery of desperately needed housing and infrastructure.

Part 3: Liability and claims



Clearer accountability, greater exposure

The BSA introduces a new framework of dutyholder roles – clients, principal designers and principal contractors – intended to ensure that responsibility for building safety is clearly allocated. Each dutyholder must not only discharge their obligations but also maintain detailed records demonstrating compliance, creating a robust evidential “golden thread” from concept to occupation.

This clarity, while welcome in principle, brings with it heightened personal and corporate exposure. Directors and senior managers now face potential criminal liability if projects proceed without the necessary approvals. One construction lawyer explained: “Directors are concerned that if they proceed at risk without gateway approval, they could face personal criminal sanctions. This is a step change in accountability compared with the previous regime, where responsibility could be diffused across multiple parties.”

As a result, contractors are becoming more risk-averse, refusing to start enabling works or even demolition until all regulatory hurdles are cleared. While this caution enhances safety, it also compounds the delays and cost pressures described earlier.

Anticipated rise in disputes

Legal practitioners consulted for this report expect a significant increase in disputes arising from BSA implementation. Several factors contribute to this trend:

- Enhanced compliance requirements mean that even minor deviations from approved designs could be actionable.
- Clearer dutyholder roles make it easier to

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Contractors are becoming more risk-averse, refusing to start enabling works or even demolition until all regulatory hurdles are cleared

identify specific parties responsible for defects or non-compliance.

- The golden thread of information creates a detailed evidential record that can be used in litigation.

- New statutory remedies, such as building liability orders, allow claims to be pursued across corporate groups, extending liability to parent companies.

Early judicial commentary suggests that courts will interpret the legislation purposively, prioritising resident safety over commercial expediency. Until a body of case law develops, however, parties are flying blind in assessing their risk exposure.

This uncertainty is likely to encourage a defensive approach to contract negotiation, with parties seeking to push risk downstream wherever possible. Such risk-shifting may, in turn, lead to disputes as contractors and consultants resist onerous terms.

Insurance challenges

The insurance market has reacted sharply to the new environment. Professional indemnity (PI) cover, particularly for architects, fire engineers and facade specialists, has become more expensive, more restrictive – and, in some cases, simply unavailable. Many policies now include broad exclusions for fire safety, cladding or building envelope design, leaving consultants exposed. Some insurers have withdrawn from the sector altogether, further constricting supply and driving up premiums.

Smaller firms are especially vulnerable. Without affordable PI insurance, they cannot take on high-risk projects, even if they possess the necessary expertise. This threatens to reduce competition and drive consolidation, potentially limiting innovation and increasing costs across the sector.

Mitigation strategies

In response to these heightened risks, firms are adopting a range of risk management measures:

- **Contractual protections:** Negotiating clauses that allocate responsibility for gateway delays, regulatory changes and insurance gaps.

- **Training and competence:** Investing in staff education to ensure dutyholders fully understand their obligations and can maintain the golden thread of compliance.

- **Quality assurance systems:** Implementing rigorous internal checks to minimise design errors and demonstrate due diligence.

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- **Early engagement with insurers:** Working with brokers and underwriters to secure tailored cover and avoid last-minute surprises.

- **Alternative dispute resolution:** Exploring mediation and adjudication as faster, less adversarial mechanisms for resolving claims.

These strategies require significant time, expertise and financial investment – resources that may be scarce for smaller organisations. Nevertheless, without proactive risk management, firms face escalating exposure in an increasingly litigious environment.

Product testing and certification bottlenecks

One of the more unexpected but critical consequences of the Building Safety Act has been its effect on the construction product supply chain. The BSA demands a higher level of verification for building components, particularly those relating to fire performance, structural integrity and facade safety. Designers and contractors, keen to minimise the risk of regulatory rejection, are increasingly specifying tried-and-tested materials such as brickwork, precast concrete, natural stone and traditional steel systems.

While this cautious approach reduces approval risk, it has unintended side effects. Limiting specifications to a narrow range of historically approved products drives up demand for those products, putting inflationary pressure on prices and creating longer lead times. For example, facade suppliers have reported order backlogs stretching several months, with some projects forced to delay tender packages while waiting for delivery slots.

The BSA has also brought into sharp focus the capacity constraints in UK product testing laboratories. Under the new regime, critical components – from fire doors and cladding panels to mechanical fixings and insulation





materials – must undergo rigorous testing to demonstrate compliance. The government’s decision to extend the recognition of CE marking beyond 2025 was an important stopgap, but it does not resolve the underlying issue: the UK lacks sufficient accredited facilities to handle the surge in demand for testing and certification.

Manufacturers describe a landscape where testing slots must be booked many months in advance, with some innovative products waiting over a year for a full suite of tests. One facade manufacturer explained during our interviews that “even when we’ve developed a safer and more sustainable system, we can’t get it certified in time to meet project programmes. Developers naturally revert to products with a proven track record, even if they’re not the most innovative or cost-effective.”

This bottleneck stifles innovation, discouraging the development of new products that might otherwise improve sustainability or reduce costs. In the long term, it risks embedding a conservative culture where only the largest manufacturers – those with the capital to maintain testing pipelines – can compete, reducing market diversity.

Subcontractor fragility

Beneath the headline challenges of testing and certification lies a more fundamental risk: the financial fragility of the subcontractor base. The BSA’s requirement for detailed designs at gateway 2 means that subcontractors are often

engaged later and asked to price work packages with little room for subsequent adjustment. Extended pre-construction periods – during which main contractors and consultants refine designs without the certainty of a site start – force specialist subcontractors to commit resources without guaranteed revenue.

This dynamic creates cash-flow risks that are especially acute for specialist trades such as fire stopping, facade installation and mechanical and electrical services. Many of these businesses operate on tight margins and rely on steady project turnover to stay solvent.

One participant warned: “We may end up with contractors relying on subcontractors who may not still be solvent six months later. The longer the pre-construction phase, the

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Insolvencies are already a growing concern in the sector, and the BSA’s front-loaded cost structure threatens to accelerate this trend

more fragile the supply chain becomes.”

Insolvencies are already a growing concern in the wider construction sector, and the BSA’s front-loaded cost structure threatens to accelerate this trend. When a specialist collapses mid-project, the consequences can be severe: programme delays, increased replacement costs, and potential non-compliance if a successor firm is unable to replicate the original design or testing regime. Main contractors may attempt to mitigate this risk by spreading work across multiple subcontractors or requiring robust performance bonds, but these strategies themselves add cost and complexity.

Labour shortages and regulator capacity

The sector’s labour market challenges intersect with these supply chain risks in a way that compounds delays and inflation. Skilled tradespeople – particularly fire safety engineers, facade installers and building control officers – are in short supply. Brexit-related immigration changes, an ageing workforce and competition from infrastructure mega-projects such as HS2 and large-scale renewable energy schemes have all tightened labour availability.

This scarcity is driving up wage rates, especially for trades directly linked to safety-critical work. Some contractors report paying premiums of 15%-20% above pre-BSA rates for experienced fire engineers and compliance managers. While higher wages may attract new entrants in the long term, the short-term effect is to raise project costs and stretch delivery programmes.

The challenge is not confined to the private sector. The Building Safety Regulator (BSR) itself is struggling to recruit and retain the skilled staff needed to administer the new regime. Against an initial target of around 1,500 inspectors and technical specialists, the BSR has reportedly recruited only around 250. Gateway delays, already a critical concern for developers, are directly linked to this resource shortfall. Without sufficient personnel to review submissions, respond to queries and carry out site inspections, approval timelines will remain unpredictable and prolonged.

Private building control bodies – historically a vital part of the regulatory landscape – are facing parallel difficulties. Many have failed to register under the new regime or are grappling with their own staffing shortages. This has caused projects to stall at the building control stage even when gateway approvals are in hand, compounding frustration across the industry.

Skills and competency gaps

Even where staff are available, competency remains a recurring concern. The BSA imposes explicit duties on clients, principal designers and contractors to ensure that those involved in a project are competent for their specific roles. Yet many client organisations, particularly smaller developers and housing associations, lack in-house expertise to interpret the BSA's requirements.

Decision-makers who are unfamiliar with building safety obligations risk inadvertently making non-compliant choices during procurement, design or value engineering.

Several interviewees argued for the introduction of a formal qualification or accreditation for client representatives, similar to professional credentials in project management or health and safety. Such a qualification could ensure that those commissioning higher-risk buildings understand their statutory obligations and can engage intelligently with contractors and regulators.

Within project teams, responsibilities for maintaining the golden thread of information are often poorly defined. Some larger firms have begun appointing dedicated golden thread officers - specialists responsible for ensuring that design decisions, approvals and as-built information are meticulously documented. However, uptake remains limited, and in many cases the role is informally assigned to architects or project managers who may already

“ Contractors must build larger contingencies into their bids to account for potential supply chain failures or regulatory delays

be overstretched. This creates a risk that critical information will be lost or inadequately recorded, exposing dutyholders to regulatory or legal challenge.

Market impacts and potential knock-on effects

The combined pressures of product testing bottlenecks, subcontractor fragility, labour shortages and regulator capacity constraints are reshaping the economics of construction. Developers face longer lead times for key materials, higher wages for skilled trades and greater uncertainty around programme duration. Contractors, meanwhile, must build larger contingencies into their bids to account for potential supply chain failures or regulatory delays, driving up tender prices.

These dynamics threaten to constrain

housing supply, particularly in the high-rise residential sector most directly affected by the BSA. Smaller developers, unable to absorb long pre-construction periods or secure funding for early-stage design, may exit the market altogether. Larger developers and contractors, while better resourced, may prioritise lower-risk projects such as low-rise housing or commercial refurbishments, reducing the pipeline of new high-density housing at precisely the moment when demand remains acute.

Local authorities and housing associations - already grappling with budget constraints - face difficult choices. Some may delay or downsize projects to remain within budget, while others may accept longer delivery times in exchange for safety assurance. Either way, the result is likely to be fewer completions and slower regeneration, with direct implications for government housing targets.

Emerging industry responses

Despite these formidable challenges, the industry is beginning to adapt. Several proactive strategies are gaining traction:

- **Early engagement with testing houses:** Developers and manufacturers are reserving laboratory slots at the earliest stages of design to secure a place in the testing queue, even before products are finalised.
- **Collaborative procurement frameworks:** Main contractors are working more closely with key subcontractors to share risk and provide financial support during long pre-construction phases. Some are experimenting with cost-plus arrangements to protect subcontractor cash flow.
- **Investment in training and recruitment:** Forward-looking firms are launching internal training programmes and partnering with universities to develop a new generation of building safety specialists, fire engineers and compliance officers.
- **Digital tools for the golden thread:** BIM platforms are being enhanced to capture and maintain the data required for regulatory compliance, reducing reliance on manual record keeping.

These responses, while encouraging, require significant upfront investment and may not be accessible to all market participants. Without targeted government support - such as subsidies for testing facilities, funding for training programmes or guarantees for small subcontractors - market adaptation will remain uneven across the industry.



Recommendations



SHORT-TERM RECOMMENDATIONS

1. Boost regulator resources

Immediate and significant investment is required in staffing and training for the BSR. Without additional inspectors and technical specialists, gateway delays will continue to undermine programmes and erode confidence. Secondments from industry and targeted recruitment campaigns could provide short-term relief.

2. Publish exemplar submissions

The absence of clear benchmarks for gateway 2 and 3 submissions is generating wasted effort and inconsistency. Publishing anonymised exemplar submissions would help to standardise expectations and shorten lead-in times, much like validation requirements in planning.

3. Enable staged approvals

A clear and transparent mechanism for staged approvals would allow projects to progress while maintaining safety oversight. For example, approval of groundworks and podium structures could be separated from later phases such as facades or internal layouts. This would improve cash flow, reduce inflationary pressures and give greater certainty to lenders and investors.

4. Support financing models

Financial institutions must adapt to the new reality of front-loaded costs. Government could encourage lenders to recognise pre-construction expenditure as fundable, potentially backed by partial guarantees. This would allow smaller developers and housing associations to remain active in the higher-risk building market.

5. Strengthen payment practices

To prevent architects, engineers and contractors from bearing the brunt of extended pre-construction phases, payment structures should be revised. Interim payment milestones aligned to design progression, rather than gateway approval, could protect cash flow and reduce insolvency risk.

LONG-TERM RECOMMENDATIONS

1. Invest in skills

The new regime requires a pipeline of professionals competent in regulatory compliance, building safety management and golden thread requirements. Long-term investment in apprenticeships, university programmes and continuing professional development will be essential. Partnerships between industry and higher education can embed these skills.

2. Expand testing capacity

The UK must increase its accredited product testing facilities to avoid bottlenecks and

support innovation. Without expansion, reliance on overseas testing will continue to delay approvals. Government incentives or public-private partnerships could stimulate investment in new laboratories.

3. Support subcontractors

The resilience of the subcontractor base is critical. Prompt payment codes should be enforced and credit facilities made more accessible to smaller firms. Consideration could be given to government-backed supply chain finance to support liquidity in key trades.

4. Promote client competency

A recognised qualification in building safety for client representatives would raise awareness of statutory obligations and improve decision-making. This would help to ensure that projects are not compromised by uninformed choices at the earliest stages.

5. Enhance dispute resolution

The development of specialist tribunals or expert panels to hear building safety disputes

would provide quicker, more consistent outcomes than traditional litigation. This would give clarity to all parties, reduce legal costs and foster a culture of compliance rather than confrontation.

Final reflections

The challenge for the industry is to embed safety as a non-negotiable baseline while also preserving the financial and operational viability of projects.

This balancing act requires robust policies, adequate resources and collaborative approaches across the ecosystem of developers, contractors, designers, regulators and financiers.

The ultimate success of the BSA will be measured not solely in the prevention of tragedies but also in the sector's ability to deliver the housing, schools and infrastructure the country urgently needs. If the lessons of early implementation are heeded, the UK has an opportunity to establish a world-leading safety regime that both protects residents and sustains a thriving construction industry.





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