



Vertical Buildings: What Asset Owners and Contractors Need to Know about Britain's New Building Safety Regulator

Mark Coates, International Director of Public Policy and Advocacy, Bentley Systems

Nigel Eatough, Regional Director – Northern Europe, Bentley Systems

Many watched the horrors of the Grenfell Tower fire in 2017. Many also watched the court case that followed, which revealed years of poor accountability and neglect.

Many also read about the leasehold scandal and large-scale housebuilders trapping buyers into rising ground rents, fees, and ongoing maintenance costs.

The government's reaction to these events, which was five years in the making and finally achieved royal assent in April, was the drafting of the Building Safety Act. It also created the job of a building safety regulator, led by Peter Baker, the chief inspector of buildings at the Health and Safety Regulator.

Ahead of his appointment, Baker warned that the public had ["lost complete confidence in the construction industry's ability to build safe and good-quality buildings."](#)

While the full impact of the act and the creation of the regulator will be felt over the coming months and years, there are some immediate changes that will come into force when the act is legally in effect in October 2023. Infrastructure professionals need to pay attention to these changes.

For example, the creation of the building safety regulator, sitting within the Health & Safety Executive, has huge connotations. The regulator will have three main functions: overseeing the safety and standards of all buildings, helping and encouraging the built environment industry and building control professionals to improve their competence, and leading the implementation of the new regulatory framework for high-rise buildings.

The regulator will have a very active role in the approval of residential projects of more than 18 metres or seven storeys. Designs will have to be put before the regulator at various points throughout the process, with the regulator having the power to hit the pause button should he or she believe that safety isn't at a good enough level. This isn't the end for a project, but challenging a decision will involve a lengthy, and probably costly, appeal to the secretary of state.



Keeping a detailed digital audit trail will also become particularly important to parties involved in a project if they are named as the "accountable person" on a scheme. This person could be the asset owner, contractor, consultant, or the architect, and they will be responsible for maintaining a detailed record of their processes, as well as justifying how decisions were taken.

Digital twins are the ultimate form of this audit trail.

As my colleague Steve Cockerell, Bentley's industry marketing director for rail and transit, [wrote earlier this year](#): "Cross River Rail's CEO Graeme Newton expects that in comparison to the benefits digital twins provide, the cost of creating and maintaining them is insignificant, and that investment in digital twin technology will just become the norm. Newton believes future owner-operators will ask: 'What have been the (data) inputs into all of these things? How are you maintaining the standard you said you would? How do we know that safety is paramount? The digital twin means it is forever captured and it is forever represented and it is forever traceable.'"

As a result of the new building safety regulations when it comes to the ongoing cladding remediation, the leaseholders will now be the very last in line expected to pay out to fix it, behind developers, cladding manufacturers, and then existing property owners.

Any asset owners looking to increase rents in future years will need to ensure that everything about the building is in ship shape. The act creates a legal requirement to give building safety information to tenants alongside any rent demands, as well as involving tenants in any building safety decisions. Should anything go wrong, and the asset manager must pay for remediation or legal costs, these costs are not allowed to be passed to tenants in the form of service charges.

The time period for any defects is also extended from six years to 30 years, covering both refurbishments and new builds. It could be poor design, shoddy workmanship, or inappropriate materials, but if it has happened in the last 30 years and impacts the habitability of a property, the original developer or current asset manager is responsible for the cost. Therefore, businesses could end up paying out for work that it was involved in long before the current team was on the scene. For new-build projects, the claims period is 15 years.

The requirement for robust information management in the built environment is nothing new, according to Nigel Eatough, Bentley's regional director for Northern Europe. Firms have been doing it for years to help defend against claims, but today's open-source digital twin technology makes it easier to connect all information together. Open data is fundamental, given the time scales that information needs to be maintained, but so is an open mindset to take advantage of the insights that digital twins will bring.

The creation of the act also brings with it a new wave of council building inspectors, as well as private sector building control inspectors, tasked with looking over work relating to safety.

For many parts of the residential sector, this increase in scrutiny is much needed, and much welcomed. While added layers of analysis and bureaucracy may seem like an additional headache, those interested in making a true and lasting impact to an area should have less to fear—as long as they have a strong digital audit trail of the work they carried out and the materials used.

If implemented properly, when the act is fully in place by October 2023, the new rules and processes should ensure a higher standard of development that will positively impact contractors, consultants, asset owners, and residents alike.