



# Building Safety Act 2022 - open forum

25 May 2022

# Ask questions via Slido



Or via [sli.do #913221](https://sli.do/join/913221)

// there is a need for a radical rethink of the whole system and how it works. This is most definitely not just a question of the specification of cladding systems, but of an industry that has not reflected and learned for itself, nor looked to other sectors

Dame Judith Hackitt, Building a Safer Future - Independent Review of Building Regulations and Fire Safety, May 2018

# Agenda

An Introduction to the Get it Right Initiative	1
The Impact of the Building Safety Act Upon Cladding Remedial Costs and Litigation	2
An Overview by the Regulator	3
A Contractor's High Level Perspective	4



**GIRI/ Kennedys**

**Building Safety Act 2022 –  
Open Forum  
25<sup>th</sup> May 2022**

**Cliff Smith**    GIRI Executive Director

Working together to eliminate error,  
by industry, for industry.



Initial research report:  
**Strategy for Change**

# Get It Right Initiative

Improving value by eliminating error

A Strategy For Change



Supported by  
**ice**  
Institute of Civil Engineers

# GIRI



## Wasted spend on error

### Direct costs of error (5%)

resources used in correcting an error

### Indirect costs of error (7%)

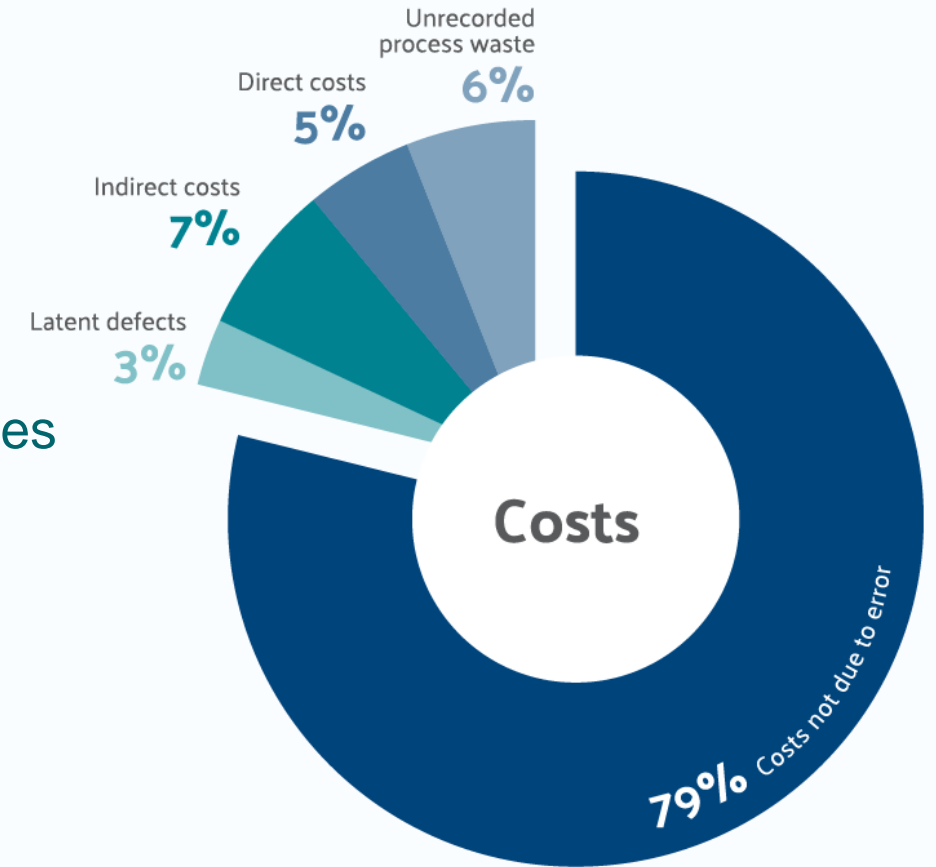
Resources used in follow on work and costs to other parties

### Unrecorded process waste (6%)

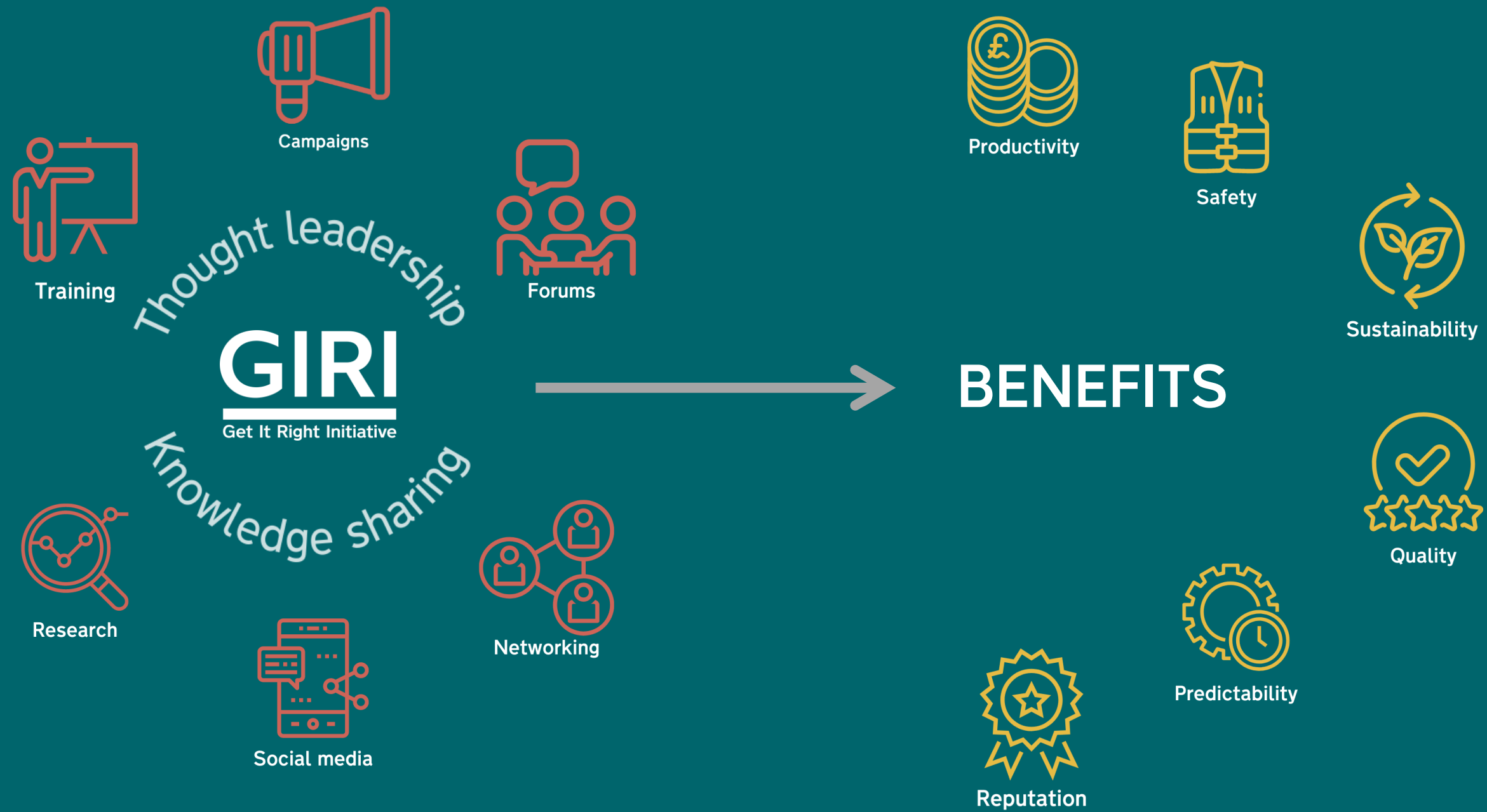
Errors occur, are identified and corrected without being recorded

### Latent defects (3%)

remain in place after client acceptance and any 'defects liability period' has passed



# GIRI







# The Building Safety Act

Angela Roberts

Kennedys



# Agenda

The Gateway Principle	1
Who's paying for remedial costs	2
Limitation	3
The Corporate Veil	4





# The gateway principle

# The Gateway Principle

- The Gateway Principle
  - A rigorous inspection of regulatory requirements to help ensure building safety risks are considered during planning, design and construction
- The Golden Thread
  - Building information which must be created and updated throughout a building's lifecycle.



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## Who's paying - cladding remedial costs

Developers

Landlords

Manufacturers

Contractors, Consultants and Others

Kennedys

# Who's paying?

## Leaseholders

- Leaseholders will not pay for Remediation of Certain Defects
- Leases - entered into before 14 February 2022
- Defect - arises out of anything done or not done, used or not used, which causes a building safety risk
- Building Safety Risk - risk to the safety of people arising from spread of fire or collapse of the building



# Who's paying?

## Developers

- Developers will be subject to Remediation Orders
- Buildings - at least 11 metres high and 5 storeys
- Defect - arises out of anything done or not done, used or not used, which causes a building safety risk
- Building Safety Risk - risk to the safety of people arising from spread of fire or collapse of the building
- Must remedy within a specified time

# Who's paying?

## S.148 BSA

- Liable to pay damages if:
- Failure to comply, in relation to any cladding product, with a cladding product requirement applicable at that time or
- Misleading marketing or
- Manufactures a product inherently defective and
- Product is installed in relevant building and
- Building unfit for habitation



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## **Limitation**

30 year retrospective

15 year prospective

# Limitation

## Extensions to time under the DPA and s.38 Building Act

- DPA
- Dwelling must be fit for habitation
- Claim for defective work can be made by anyone with legal or equitable interest against anyone responsible for the defective works
- Strict liability? - no negligence needed
- S.38 BA - claims for physical damage - excludes purely economic loss



# Limitation

## Extensions to time under the DPA and s.38 Building Act

- If the right of action accrues before commencement date - 30 years
- If the right of action accrues after commencement date - 15 years
- Protections
  - Breaches of human rights will result in dismissal
  - Claims already dismissed or otherwise concluded will not be reopened

# Limitation

## Legal action against manufacturers of defective cladding products

- Failure to comply with construction product regulations of the BSB - 15 years
- In relation to cladding products:
- If the right of action accrues before commencement date - 30 years
- If the right of action accrues after commencement date - 15 years





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# Lifting the corporate veil

Building Liability Orders

Remediation Contribution Orders

# Building Liability Orders

## Liability for organisations / associated persons behind the corporate veil

- An order that the liability of one organisation is also the liability of one or more other organisations - Joint and several
- Can be made in relation to organisations which have been dissolved and will continue to have effect upon subsequent dissolution
- Liabilities arising under:
  - DPA
  - S.38 Building Act
  - Building Safety Risk under BSB

# Remediation Contribution Orders

## Associated persons of landlords

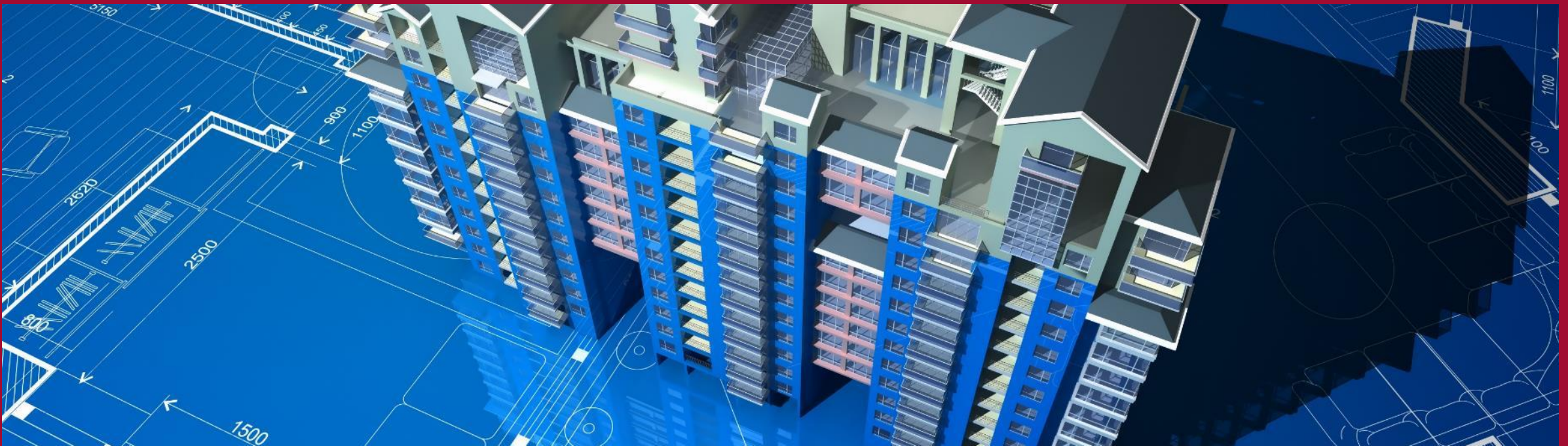
- An associate of a landlord can be required to contribute towards the costs of Remediation Orders
- Associated person:
  - Directors or
  - Organisations with a controlling interest





# Building Safety Regulator

Annette Hall



# Building Safety Act

The Act sets up a Building Safety Regulator. Its three main functions will be:

1. Lead the delivery of the new, more stringent regulatory regime for buildings in scope
2. Promote competence for all buildings, including industry and professionals working on buildings, and building control bodies
3. Provide oversight for all buildings focused on using evidence to better manage risks



# BSR aims

- A robust, proportionate, evidence-led regulatory regime that is fit for purpose and places residents at its heart
- Provide independent, risk-based assurance of the design, construction and occupation of higher risk buildings
- Promote competence across the industry and regulators, including building control, to raise standards in design, construction and the management of buildings
- Re-establish confidence in the system so that residents are safe – and feel safe – in their homes





# Building Safety Regulator

## Summary Delivery Plan

- BSR Prog set up in HSE.
- HSE becomes statutory consultee at Planning Gateway One.

2021

### ROYAL ASSENT

HSE starts to prepare Strategic Plan

March 2022

End of  
Discovery  
Phase

May 2022

September 2022

Digital Delivery  
& development  
starts

Statutory  
Residents'  
Panel  
launched

December 2022

April 2023

October 2023

April 2024

BSR reaches  
business as usual;  
Programme closure

March 2025

- **High-Risk Buildings:** Register of High-Rise Residential Buildings opens; Accountable Persons have 6 months to register and prepare.
- **Oversight:** HSE expected to take on lead responsibility for technical building standards and launch Building Advisory Committee.
- **Competence:** HSE launches statutory Industry Competence Committee and publishes the final standards building control will be required to work to in future.

- **Occupied higher-risk buildings:** New duties on Accountable Person for safety and resident complaints & engagement come into force.
- **Design and construction of higher-risk buildings:** BSR becomes Building Control Authority, inspecting building work.
- **Oversight and competence of building control:** Registers for building control inspectors and building control approvers open; 6 months registration period.

- **Occupied higher-risk buildings:** BSR starts assessing safety case reports, issuing Building Assessment Certificates.
- **Oversight and competence of building control:** new regimes for competence of building control inspectors and performance of local building control bodies come fully into force and are enforced by BSR.

## Oversight

- Duty to keep safety and standard of buildings under review
- Applies to buildings across the whole built environment
- Broad horizon scanning role
- Oversight of the performance of Building Control Bodies
- DLUHC will retain policy responsibility for the Building Safety Legislation



# Competence

- We will promote competence among industry professionals and regulators to raise standards in design, construction and the management of buildings
- Competence includes the competence of regulators, such as Building Control
- We are working with organisations, including the BSI, to design the competence framework
- We have recruited an interim independent competence committee.



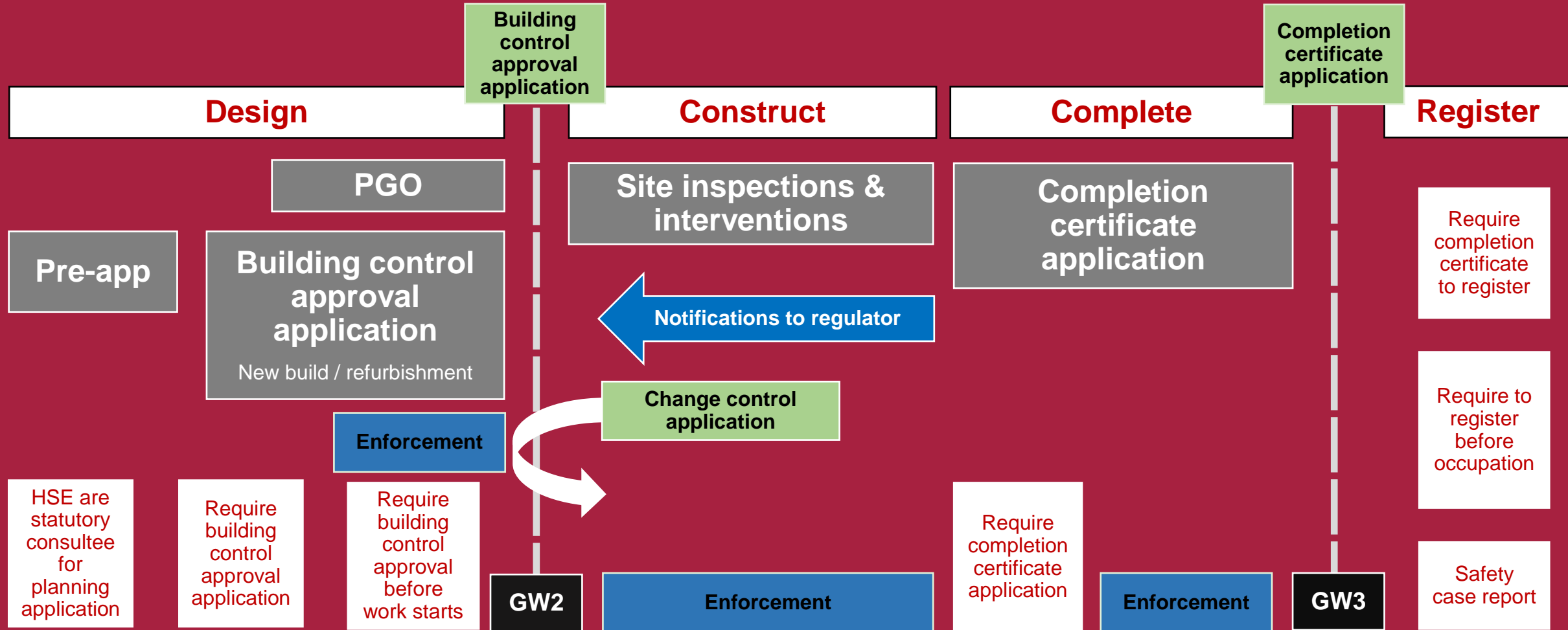


# New Regulatory Regime – High-Rise Buildings

- Buildings at least 18 metres in height, or at least 7 storeys, which contain at least two residential units.
- The BSR will be the Building Control Authority. There will be hard stop ‘Gateway’ points throughout Design and Construction.
- Sufficient evidence submitted to the BSR before it approves work to progress through gateways.
- An Accountable Person will be responsible for managing the safety of the building once occupied. They must demonstrate this to the BSR through a Safety Case/certification process.



# HRB Building control process



## Planning gateway one – so far

- HSE raises concerns to prevent poor design getting “baked in” at the planning stage.
- HSE raised concerns on 47% of cases in the first 6 months.
- Actively challenging industry’s view that fire safety should only be dealt with at the building regs stage.
- HSE comments are published on the LPAs planning register as a matter of public record.
- HSE substantive responses provide advice for local planning authorities, and applicants. Changes have been made to designs.
- LPAs give due weight to HSEs planning advice and are reluctant to determine planning applications with outstanding PGO planning concerns.
- HSE advice will provide a strong basis for engagement with developers once the BSR is established.





# What can you do to prepare?

- Get ready for the new system by beginning to understand your own role in the new system.
- Consider whether you have the right skills, knowledge, experience and behaviours required.
- Share experiences and good practice in building design, development and management.
- Understand draft regulations and fact sheets published on the Parliament website.
- Contribute to Consultations planned for 2022.



## Keep up to date

HSE are producing an e-Bulletin which contains regular updates on all things BSR please visit HSE's webpages and search for building safety.

[Sign up to get the latest news and alerts on the building safety reforms](#)



## Rollout of new regime

- HRBs will have to register with BSR
- Roll out of assessment of existing HRBs in tranches.
- BSR will follow a risk-based approach to prioritise assessment of HRBs and each Safety Cases within each tranche.
- This will be targeted and evidence based
- Local authorities and fire & rescue services will play a role as part of Multi-Disciplinary Teams
- Industry should begin to prepare for the changes.





# Explanation of an accountable person

- In most cases the AP will be the freeholder, head lessee or a management company
- The AP will be legally responsible for ensuring they understand fire and structural risks in their buildings
- Take appropriate steps and actions to mitigate and manage these fire and structural risks on an ongoing basis
- The AP will appoint a competent Building Safety manager approved under a system agreed by the BSR



# Safety Cases

To meet these new requirements you will need to demonstrate:

- how you are keeping your building safe
- why you believe the measures you have in place to prevent and limit the consequences of a major accident in your building are sufficient and effective, and
- that you have a robust approach to the ongoing management of the building to make sure those measures remain effective.

This requires you to think about your building holistically - to think of it as a system



# The Building Safety Act

## A Contractors High Level Perspective

GIRI presentation 25<sup>th</sup> May 2022

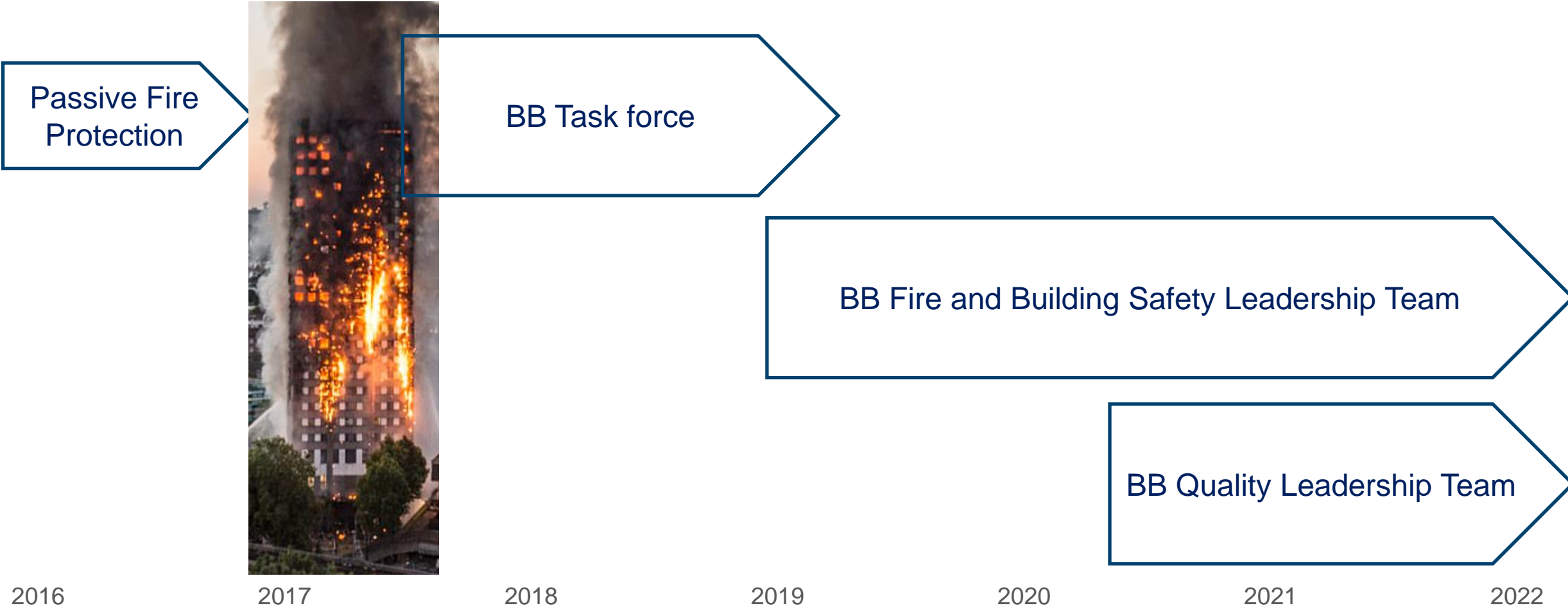
Ian Mills – BB UK Head of Quality

Martin Adie – UKCS England and Wales Head of Quality





# Our Journey



# Our Quality Culture and our Strategic Priorities

A graphic with a blue background. At the top, a white arrow points right. Below it, the text 'To deliver Right First Time, every time, I will always...' is written in white. The word 'First' is highlighted in a black box. Below the text is a black box containing a numbered list of four items: 1. Understand what is required, 2. Have the right skills and knowledge, 3. Use the correct materials and tools, 4. Carry out, check, document and handover the completed work. To the right of the list is a photo of a woman in a yellow safety vest and white hard hat, smiling. Below the photo is a QR code and the Balfour Beatty logo.

To deliver  
**Right First Time,**  
every time,  
I will always...

1. Understand what is required
2. Have the right skills and knowledge
3. Use the correct materials and tools
4. Carry out, check, document and handover the completed work

Balfour Beatty

1. Balfour Beatty Quality Standards
2. Quality Competencies
3. Golden Thread
4. Quality Metrics
5. Quality Governance

# Our Quality Culture and our Strategic Priorities



1. Balfour Beatty Quality Standards

**2. Quality Competencies**

**3. Golden Thread**

4. Quality Metrics

**5. Quality Governance**

# Fire & Building Safety Leadership Team 2021 -2025

## OUR PURPOSE

To lead, Improve and sustain our fire and building safety culture

## OUR VISION

We will have inspired and empowered our people and partners to deliver world class fire safe buildings and structures where occupants can feel safe.

## OUR FOCUS

Ensuring we deliver and can provide assurance on the fire strategy for every asset we build.

## WHO WE ARE

[Click here to see the F&BSLT](#)  
[Click here to find out more](#)

## FIRE AND BUILDING SAFETY PROGRAMME OUTCOMES

### GOVERNANCE

Through digital collaboration, we will review the way in which we assure the operational build process and manage fire and building safety.

### GOLDEN THREAD

We will develop consistent end to end processes, expectations and requirements on all of our projects to ensure that each component part is traceable and recorded and that each part can come together to form a systematic whole.

### COMPETENCE

People who are skilled competent and experienced in fire and building safety embedded in our business and supply chain as an essential element in our future success

### COMMUNICATION

We will publicise internally and with our business partners to ensure they feel empowered energised to deliver fire safe buildings

## DELIVERABLE ACTIONS

1. Define the technical gates
2. Develop and enhance the monthly project review process
3. Enhance and refocus our design management processes
4. Develop a performance and monitoring dashboard
5. Develop controls for ensuring time, cost and resources are appropriate for the delivery of a projects fire strategy
6. Confirm the fire safety management expectations

1. Develop a golden thread process map
2. Confirm business wide expectations for all parties
3. Understand and publish the requirements of the fire strategies
4. Update BMS with appropriate training for our bid and project teams
5. Identify the cost benefits to the business

1. Establish min standards for fire and building safety related roles
2. Review job families
3. Develop suite of competencies
4. Develop a suitable place where training is managed and recorded
5. Request fire engineering resource

1. Develop HUB site where our people can access and be signposted to relevant information
2. Offer a series of awareness training sessions for work winning, design teams and project leads and ensure that training is recorded
3. Develop a longer term sustainable comms strategy



# COMPETENCE

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## Current Objectives

1. Align the competency frameworks issued by Government and to our job roles
2. Enhance our technical function to support in specialist area competency gaps
3. Fundamental change in our competence criteria and management of job families as part of re-centring our business



## Current Objectives

1. Ability to demonstrate Compliance with building regulations
2. Focus on 'Compliance Led' procurement, design and delivery
3. Create a digital process and common data management system to collate the right information for the right products at the right time



## Current Objectives

1. Turn off the tap – Focus on de-risking schemes during the pre-construction period
2. Requirements led approach to Monthly Project Reviews on Bid and Live schemes with technical governance structure and clear reporting metrics



# Revisit - Quality Culture and Strategic Priorities



1. Balfour Beatty Quality Standards

**2. Quality Competencies**

**3. Golden Thread**

4. Quality Metrics

**5. Quality Governance**



# Challenges

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## Customers/Building Owners

- Safety Management System
- Asset Information Model
- Building Information Model

## Designers

- Architects
  - 1) Design engagement with CDP's during Stage 4
  - 2) Early selection of products and materials and a systems-based approach
- Services – Design complete for Gateway 2 – huge implications

## Insurers & Lenders

- Risk Assessors with limited sector knowledge

## Legal Advisers

- Retrospective Claims
- Amendments to standard contracts to offset risk, responsibility and accountability

## Supply Chain

- Labour Shortage Material Shortage Inflation
- Legacy clawback element
- Insurance availability
- Multiple Digital Solutions

Please provide your feedback by scanning the QR code:



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