**Building Safety Act: when should a Principal Contractor become a Principal Designer in design and build projects?**

**As RIBA’s Principal Designer practice note is launched, learn more about a topic that being discussed by members.**

28 November 2024

Today (Thursday 28 December 2024), [**RIBA launches a practice note**](https://www.architecture.com/knowledge-and-resources/resources-landing-page/principal-designer-practice-note) that covers the role (and duties) of Principal Designer under the [**Building Regulations**](https://www.legislation.gov.uk/ukpga/2022/30/contents) in England.

The practice note has been produced to set out RIBA’s position on the roles under the two regulatory regimes and to provide best practice guidance for members intending to accept an appointment as Principal Designer under the new regime. It covers contracts, RIBA’s Principal Designer Register, what is meant by the competency, how to help clients understand their duties, distinctions between lead and Principal Designer, and much more.

One aspect that is also explored is whether – and if so, when – a Principal Contractor should to be appointed by the client to undertake Principal Designer duties under the new building safety regime.

The practice note has been produced to set out RIBA’s position on the roles under the two regulatory regimes and to provide best practice guidance for members intending to accept an appointment as Principal Designer under the new regime. (Photo: iStock Photo)

**What happens in a design and build project?**

Under a typical design and build contract, the note recommends that when the design team is novated, the main contractor should be appointed both Principal Designer and Principal Contractor by the client.

The Principal Designer role cannot be novated, due to the legislative requirements for their appointment to be made by the client. RIBA supports architects providing an advisory role to the Principal Contractor as Principal Designer where their professional indemnity insurance extends to this service, noting the Principal Contractor cannot transfer the statutory liability of ‘Principal Designer’ to any consultant or sub-contractor they employ. On projects where the lead designer was the Principal Designer prior to novation this may be the most practical solution, while a well-resourced and experienced design and build contractor may not require such a service.

Confusion has tended to arise on smaller projects or those undertaken for a domestic client where the architect is only appointed to Stage 3 or Stage 4 and is not retained through the construction phase, and the contractor is clearly left with some level of design decision making. This could be overseeing the design work of specialist sub-contractors or product specification.

There have been many discussions on the prospect of the Principal Contractor taking on the Principal Designer role in such circumstances, particularly in respect of design and build procurement, although these concerns may well stem from doubts about the contractor’s competency for the role rather than any technical breach of regulations.

**When and how does competency matter?**

The Building Regulations amendments introduced in 2023 make provision for a change of Principal Designer, and it is the competency of the incoming Principal Designer to perform the role that matters, not the type of organisation they are.

Dieter Bentley-Gockmann, author of the [**RIBA Principal Designer's Guide**](https://www.ribabooks.com/riba-principal-designers-guide_9781915722201), which RIBA strongly recommends to all members seeking to understand the role of Principal Designer under CDM 2015 and the Building Regulations, says that irrespective of procurement, the basic principle to apply is that when the Principal Contractor is the designer with control over design work, they should be appointed Principal Designer, with the proviso that they must be competent to take on the role.

There is no simple answer to the question of when should the Principal Contractor also be the Principal Designer, he argues.

“It depends on the project. Are the architects in control of design work? Is the contractor competent to under Principal Designer duties? Do they have the organisational capacity? It is a multi-stage test to determine whether they are the right organisation for the role,” he says.

It is only when a contractor has a complete set of Stage 4 information that they can directly build from and where they will never need to make design decisions, that the question of whether the contractor needs to be the Principal Designer will not arise but it is rare that this happens, Dieter continues.

[**Learn more about the Principal Designer role with RIBA’s On Demand CPD course**](https://riba-academy.architecture.com/ilp/pages/description.jsf?menuId=1106#/users/@self/catalogues/150435/courses/2847090/description)

The new building safety regime exists to engender a behaviour change across the industry. (Photo: iStock Photo)

**What are the differences between large and small projects?**

The new building safety regime exists to engender a behaviour change across the industry, he argues, where all parties must be competent to fulfil their duties and all designers have to take responsibility for what they design.

“Where a contractor is not competent, it should not be fulfilling the Principal Designer role and arguably should not be fulfilling the Principal Contractor role," he says. "At the smaller end of the supply chain, the industry still has a lot of work to do on behavioural competence so that contractors start saying: we shouldn’t be doing this work because we don’t know what we are doing.”

On larger projects where a contractor is appointed as a design and build contractor or management contractor, they will generally be competent to act as the Principal Designer, or they will understand that they need to bring in resources or support to enable them to perform the role.

At the smaller end of the scale, architects can head off problems of competency further down the line by advising clients at the outset that they should only tender to contractors that are demonstrably capable of doing what they will be asked to do, in terms of both construction and any late-stage design input. Prior to appointment, under the Building Safety Act the architect must in any case explain to the client that they have a duty to ensure that all design work is properly resourced.

“There’s a good argument for members to say to clients, and particularly domestic clients, that the architect should be retained for Stage 5, so they can continue to advise clients on their duties and help to identify, and address, any concerns there might be about the supply chain,” Dieter says.

He also makes the point that projects can also evolve into something different. What starts as a straightforward traditional procurement might change over time as the design team realises that the project needs more specialist input.

The project might then become more of a quasi-design and build where the Principal Contractor has become the designer in control of design work and so needs to be appointed Principal Designer. If the architect is still on board, they can advise the client that their earlier advice has changed in response to new contractual arrangements and so avoid a potential regulatory impasse.

[**Download RIBA’s Principal Designer Practice Note.**](https://www.architecture.com/knowledge-and-resources/resources-landing-page/principal-designer-practice-note)

[**Read all of RIBA’s professional features on the new building regulations regime.**](https://www.architecture.com/campaign/grenfell-tower?srsltid=AfmBOooeHtludNdrgWj5JdQpxWlpfJEqeLq2eonLf3N5VTr8MBCbCeBJ)

**Thanks to Dieter Bentley-Gockmann, Director, EPR Architects Ltd.**

Text by Neal Morris. This is a professional feature edited by the RIBA Practice team. **Send us your feedback and ideas**.

[**RIBA Core Curriculum topic: Legal, regulatory and statutory compliance.**](https://www.architecture.com/education-cpd-and-careers/cpd/cpd-core-curriculum/legal-regulatory-and-statutory-compliance)

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