

# Accountable Persons

## September 2023

You can't keep people safe by simply ticking a box





# ACCOUNTABLE PERSON

## IDENTIFYING ACCOUNTABLE PERSON(S)

The Act defines an accountable person as someone who:

- Holds a legal estate in possession of any part of the common parts; or
- Does not hold a legal estate in any part of the building but who is under a relevant repairing obligation in relation to any part of those common parts

The first part of the test under the Act suggests that the accountable person could be the building owner, which is normally the landlord for higher-risk buildings. However, it is possible that the leaseholders are also the owners of the building if they own a share of the freehold.

Alternatively, the accountable person could be someone who does not own the building but instead has a 'relevant repairing obligation'. This means that the role could be assumed by the:

- Landlord
- Leaseholders (even if they don't have a share of the freehold)
- Building management company
- Developer
- Contractor

It is possible to have a different accountable person for each part of a higher-risk building, and the Act does not seek to impose any limits on how many accountable persons there may be.



## ACCOUNTABLE PERSON

There is no 'one size fits all' approach to identifying who the accountable person(s) is or are, and each higher-risk building will need to be reviewed on a building-by-building basis, considering any contractual agreements and how the building is managed. Key points to consider are whether:

- The contractor or developer has agreed to take on repairing obligations for a defined period after construction and, if so, which parts of the building this covers
- There is a building management company managing the building and, if so, whether its role covers the entire building or just certain parts or sections
- Leaseholders have repairing obligations in their leases

### **OPTION DUTIES AND OBLIGATIONS OF THE ACCOUNTABLE PERSON(S)**

Once you have established that you are an accountable person, there will be several obligations and duties imposed upon you.

Ensuring that a Completion Certificate has been issued prior to occupation

A Completion Certificate would be required if:

- Work has been carried out to construct a new higher-risk building
- Work has resulted in the creation of additional residential units; or
- The work carried out on a building would see it become a higher-risk building

The accountable person would commit a criminal offence if a higher-risk building was occupied without a Completion Certificate. Duties to both assess and manage building safety risks

Accountable persons are responsible for assessing and managing building safety risks for the parts of the building for which they are responsible.

This is to both prevent building safety risks from materialising and, when they arise, to reduce the severity of any incident.



## THE BUILDING SAFETY ACT

### ACCOUNTABLE PERSONS (CONT'D)

#### You will need to:

- Register all new buildings before the occupation
- Prepare a Safety Case for the building (see Safety Case Report in the BSA checklist)
- Regularly assess all building safety risks and take reasonable steps to control them
- Have a clear communication method and plan to keep all stakeholders up to date
- Have a major incident prevention plan
- Duty holders will be required to cooperate with other duty holders, coordinate their work, and communicate and provide information to other duty-holders
- Work with other accountable persons to assist in undertaking and monitoring preventive fire safety measures
- Prepare a Resident's Engagement Strategy and keep it under review
- Ensure routes to emergency exits and the exits are kept clear at all times
- Ensure fire equipment is maintained to the highest quality and is compliant with regulations

#### During design and construction (October 1st, 2023)

Under the Construction (Design and Management) Regulations 2015, duty holders (clients, designers, principal designers, contractors and principal contractors) must:

- plan
- manage
- monitor

their activities (design and building work) in relation to building regulations to ensure compliance.

[Read about the accountable persons here](#)

[WEBINAR - The New Role of the Building Safety Manager](#)

Ligtas support our clients by ensuring they fully understand what it means to be safe and supporting them in identifying gaps and implementing the right measures. We will also review the legislation and share with you what you need to do to remain compliant.



## **ACCOUNTABLE PERSON**

### **COMPLY WITH MANDATORY REPORTING REQUIREMENTS**

This is where the Building Safety Regulator can require that certain information is reported to it as a matter of course, the details of how and when this is required are to be set out by the regulator.

Keeping prescribed information and prescribed standards and keeping that information up to date.

This would involve ensuring that the golden thread of information that has been created before and during the project is both maintained and updated, where appropriate, whilst the building is occupied.

It's important to ensure that any document destruction policies do not see any information deleted. The Act also expects that where an accountable person does not hold information, the accountable person will ask for and obtain it.

### **RESPOND TO RESIDENTS' REQUESTS FOR INFORMATION**

The Act expects there to be more engagement with residents on building safety risks going forward. However, this is not an absolute right, and an accountable person cannot be expected to provide information that would otherwise put them in breach of data protection laws.



## ACCOUNTABLE PERSON

### IDENTIFYING THE PRINCIPAL ACCOUNTABLE PERSON

Unlike the accountable person, there will only be one person who occupies the role of principal accountable person. This role effectively gives someone overall responsibility for ensuring that building safety risks are being managed appropriately and that the various duties and obligations are being complied with. This is reflected in the nature of the duties that come with this role.

Even where another party, such as a managing agent, acts as an accountable person alongside the landlord, the latter will usually retain the principal role as they ultimately control the premises, make decisions on selecting a managing agent, and usually must approve budgets and capital expenditure as well as other decisions regarding the property.

The Act provides that where there is only one accountable person, that person will automatically become the principal accountable person. If a building has different accountable persons for different parts of the building, the Act states that the principal accountable person will be the one responsible for the structure and exterior of the building.

### PRINCIPLE ACCOUNTABLE PERSON

A principal accountable person would be subject to these additional ongoing duties and obligations:

- Register the building – Details of how to apply for registration and what information is required are to be set out in secondary legislation, although this requirement will apply to both new and existing buildings
- Applying for a Building Assessment Certificate – Details of how to apply for registration and what information is required is currently unclear, but this requirement will apply to both new and existing buildings



## Introduction

The Building Safety Act 2022 came into force on 28 June 2022. Ligtas have a separate Building Safety Act checklist which you can download to help property owners, landlords and key people to be aware of what is needed and to prepare for the health and safety changes contained in the Building Safety Act.

The Act covers the implications for new construction and existing buildings. If you are responsible for maintaining a building that falls within scope, you will be aware of the need to address certain actions now and that other actions will require careful planning and resource allocation.

The Act attempts to reduce the risk of residents playing 'piggy-in-the-middle' whilst landlords, building management companies, contractors and developers argue about which party is responsible for resolving any given building safety risk.

This has resulted in the creation of two new, crucial, roles which must be filled for each higher-risk building that has been occupied:

- Accountable person(s); and
- Principal accountable person

It's important to identify at an early stage who is likely to assume these roles. A failure to comply with the duties of an accountable person or principal accountable person could lead to criminal prosecution leading to a custodial sentence.

The stakes are high, and it's important to be prepared to identify whether you hold one of these roles and, if so, understand the duties and obligations that you will be required to discharge



## ACCOUNTABLE PERSON

### PRINCIPLE ACCOUNTABLE PERSON CONT'D

- Applying for a building assessment certificate – This is something that the Building Safety Regulator can require a principal accountable person to apply for, and it's an opportunity for the Building Safety Regulator to satisfy itself that the various duties and obligations are being complied with, which will result in the issuing of a building assessment certificate
- Display building assessment certificate in a prominent location – It would be a criminal offence not to
- Preparation of a safety case report – This is a report that details all the building safety risks identified by the accountable persons in respect of their part and sets out a brief description of what action those accountable persons are taking in relation to those risks
- Establish and operate a mandatory occurrence reporting system – These tie in with the ongoing duty that accountable persons must report prescribed information to the Building Safety Regulator. It will be the principal accountable person's responsibility for establishing and creating a framework through which the accountable persons can make these reports
- Responsibility for preparing a residents' engagement strategy and establishing a complaints procedure

If you have any questions, please contact us.



# THE BUILDING SAFETY ACT

## INFORMATION YOU MIGHT NEED

Every building is different, so you may need other items of information that aren't on this list. Some information will be obvious or easy to find, but you may have to investigate your building, or ask other people or organisations for help.

Some examples of things you'll need to know about your building are:

- The profile of its residents
- When it was built, and the relevant standards at time of construction
- Your building's height, number of storeys, number and type of flats
- Details of common parts and any underground levels
- Details of any shared facilities such as utilities, car parking or access if it's part of a wider development
- Plans of the building as built (if available)
- Details of the building's construction including facade and insulation materials
- Details of any refurbishment or changes to the building since it was built
- Your fire prevention and protection measures
- Information about its structural condition
- Information about services and utilities
- Maintenance and inspection details
- Arrangements for managing and monitoring your building



## **SUGGESTED TRAINING PLAN**

### **GENERAL AWARENESS TRAINING**

- Fire Safety Awareness
- Light First Aid Awareness
- Fire Marshall Awareness
- How To Carry Out A Risk Assessment
- Carry Out a Fire Risk Assessment
- Electrical Safety Awareness

### **NEBOSH COURSES**

- NEBOSH National Diploma in Occupational Health and Safety
- NEBOSH International General Certificate in Occupational Health and Safety
- NEBOSH National General Certificate in Occupational Health and Safety
- NEBOSH Certificate in Fire Safety

### **WEBINARS**

- Fire Safety Legislation Update Webinar
- Fire Doors Webinar
- The Fire Safety Act 2021. Impact on Risk Assessments for Residential Properties

# CONTACT LIGTAS

**Contact us for support with your health and safety needs**

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