

**FINISHES & INTERIORS SECTOR** 

## Welcome to the FIS Regional Meeting

## **HEADLINE SPONSOR**







#### Angela Mansell Mansell Building Solutions FIS Chair North-West Region

Welcome





- Welcome: Angela Mansell, Managing Director Mansell Building Solutions
- Building Safety Act John Miles of Assent Building Control
- Saving Construction, Payments and Resilience Tim Whitehill, Saible, Co-founder, Chief Strategy Officer and Visiting Research Fellow at Liverpool Business School
- FIS contract review service Iain McIlwee and Damian James
- Careers in construction Daniel McDonagh, Class of your own
- Open Discussion on Better Contracting





#### John Miles Assent Building Control

# / Building Safety Act 2022

Overview



#### / Contents

Who We Are

The Building Safety Act 2022

The Regulator

Higher-risk buildings

The Building Act 1984

Changes to building regulations

How do I prepare?



## / Who We Are

# **ASSENT**



























#### / Assent Services



#### **Building Control**

Responsive and knowledgeable building control services for commercial and domestic projects.



Fire Safety Solutions We work with you to develop fire safety solutions that meet both approving authorities and client objectives.



#### Structural Warranties Protect against property defects in the design and build of your construction projects.



#### Seminars & Training

Keep up-to-date with the latest Building Control legislation through our education and training packages.



#### Fire Safety Training

Enhance competence of fire safety professionals with fire safety and fire engineering training, courses, apprenticeships and qualifications - delivered by our subsidiary business Xact.









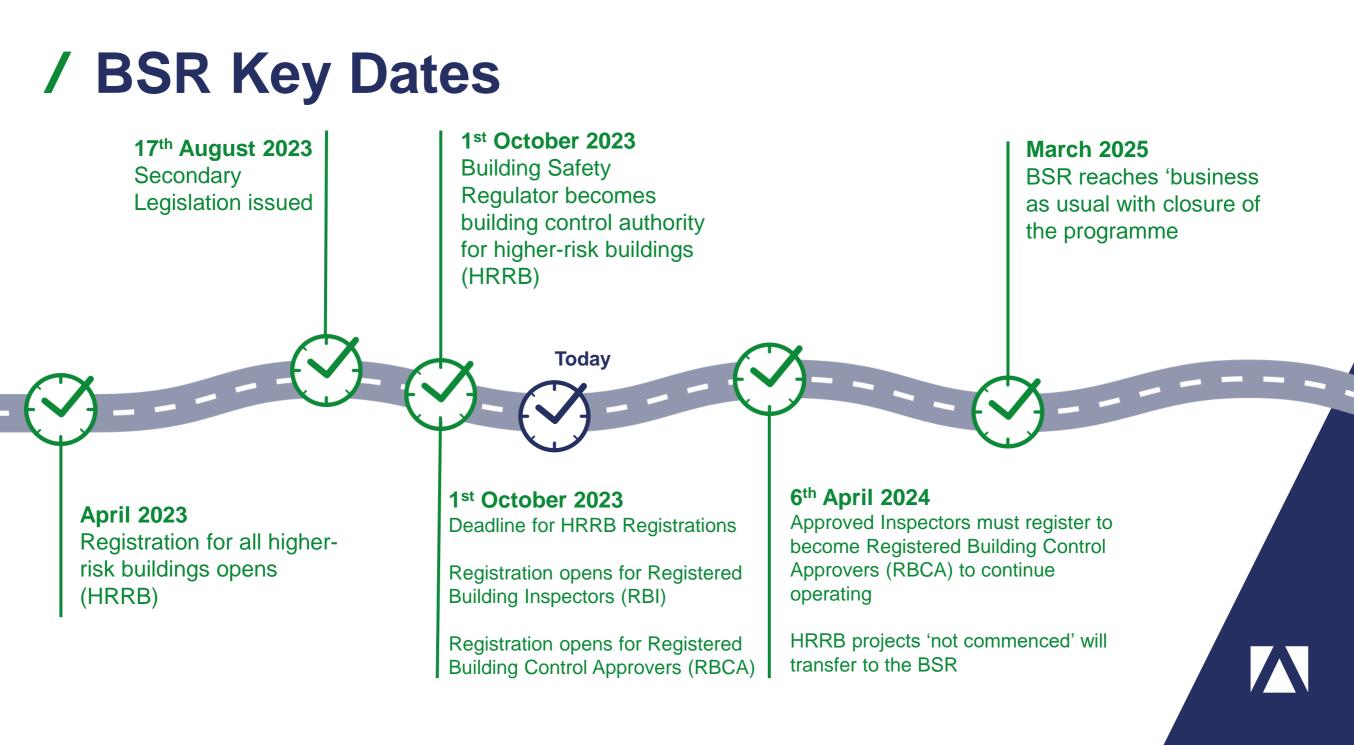




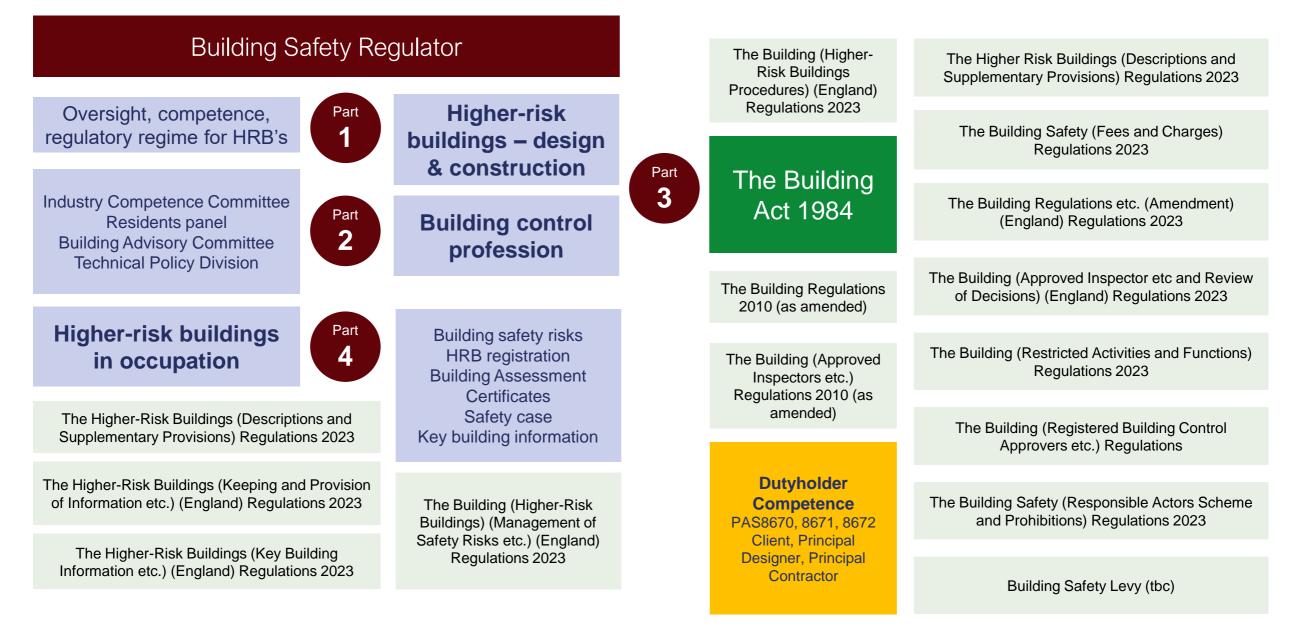
# / The Building Safety Act 2022

John Miles





#### / Building Safety Act 2022



# / The Regulator

### / Building Safety Regulator

Three main functions:

- Oversight of the built environment
- Improve competence of those working on all buildings
- Oversee a new regulatory regime for higher-risk buildings



#### / Building Safety Regulator

What is the role of the regulator?

- General section 5 duty
- Sector role oversight and competence
- Regulator for higher-risk buildings
- Regulator for building control profession
- Enforcement powers are derived from the BSA22 and BA84

# / Higher-risk buildings

Design and construction



#### / Higher Risk Buildings

Design & construction (Part 3 of BSA22)

- A building +18m in height or 7 storeys or more
- Contains at least two residential units

(includes student accommodation)

Hospitals & care homes

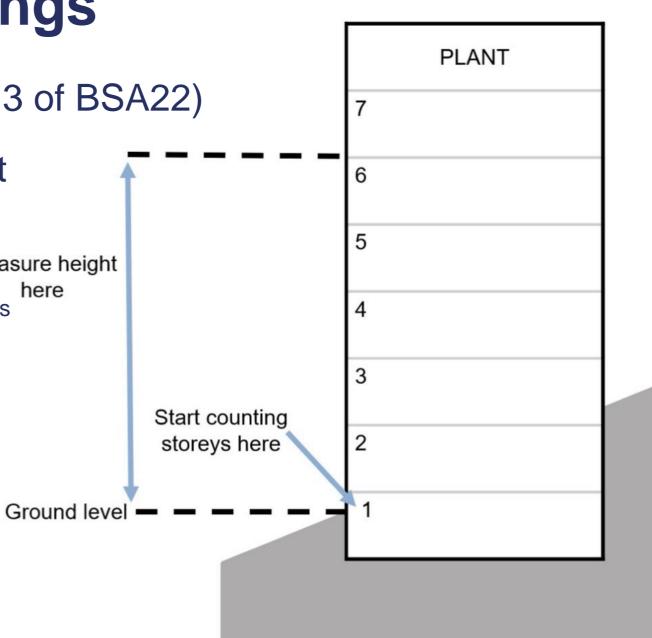
In-occupation (Part 4 of BSA22)

As above – except hospitals and care homes

#### / Higher-risk buildings

Design & construction (Part 3 of BSA22)

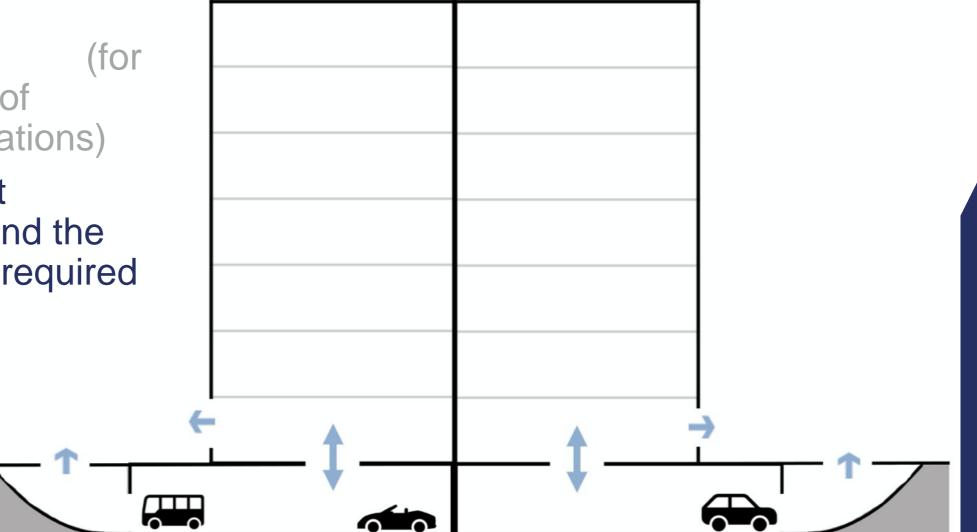
- A building +18m in height or 7 storeys or more
- Contains at least two Measure height residential units (includes student accommodation & short- term letting units)
- Hospitals & care homes



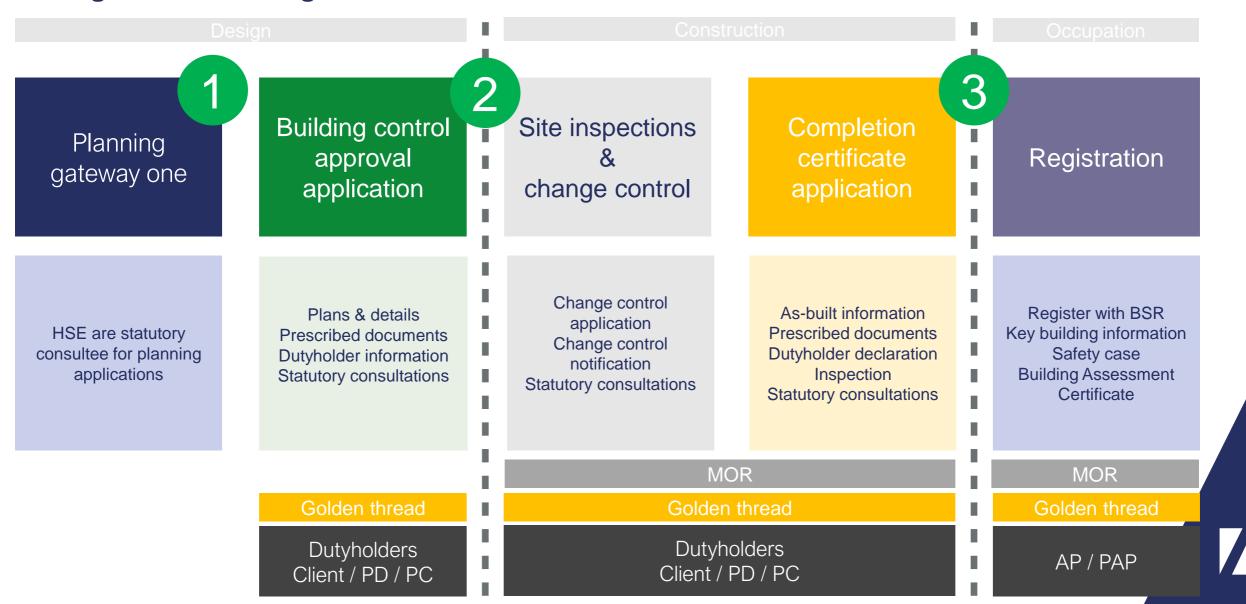
## / Higher-risk buildings

#### Building

- One building (fo the purposes of building regulations)
- This will affect applications and the level of detail required







#### / Planning Gateway 1

- HSE is a statutory consultee for in-scope planning applications
- / Fire statement
- HSE comments on fire safety matters relevant to land use planning

### / Gateway 2 – building control approval

- Must secure approval before commencing work on a higher-risk building
- BSR is the building control authority for higher-risk buildings
- Design information must be comprehensive
- New documents to support the application

#### / Gateway 2-3 – construction phase

- Inspection schedule from BSR includes notification requirements
- I BSR will undertake inspections throughout
- / Change control requirements
- Golden thread the evidence that supports GW3 is collected during construction
- Mandatory occurrence reporting

#### / Gateway 3 – completion certificate

- Must secure completion certificate before you can register a higher-risk building
- As-built information is required
- Golden thread the evidence that supports a submission
- I BSR will undertake an inspection
- New documents to support the application

### / Higher-risk building registration

- Must register building prior to occupation
- Accountable person duties commence at point of occupation
- Building safety risks
- Safety case
- I Building Assessment Certificate
- BSR tranching & forward plan

#### / Golden thread of information

- Must register building prior to occupation
- Accountable person duties commence at point of occupation
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- I Building Assessment Certificate
- BSR tranching & forward plan

# / Higher-risk buildings

In-occupation



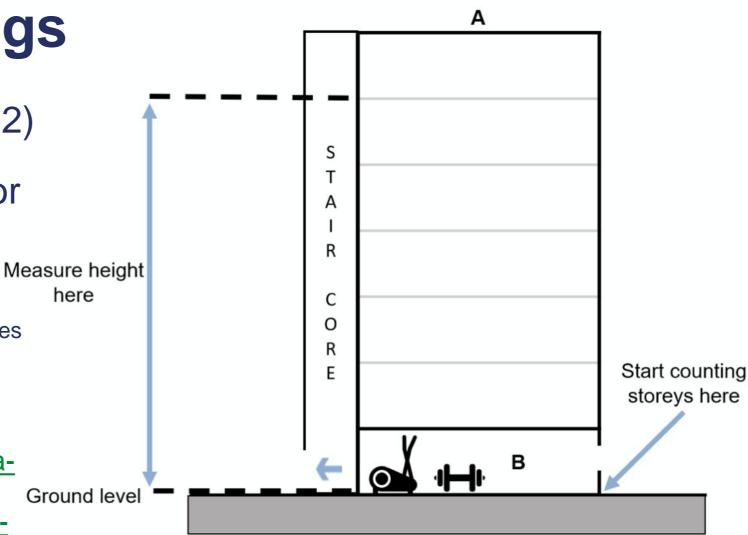


In-occupation (Part 4 of BSA22)

- A building +18m in height or 7 storeys or more
- Contains at least two residential units student accommodation & short term
- (includes

student accommodation & short term letting units)

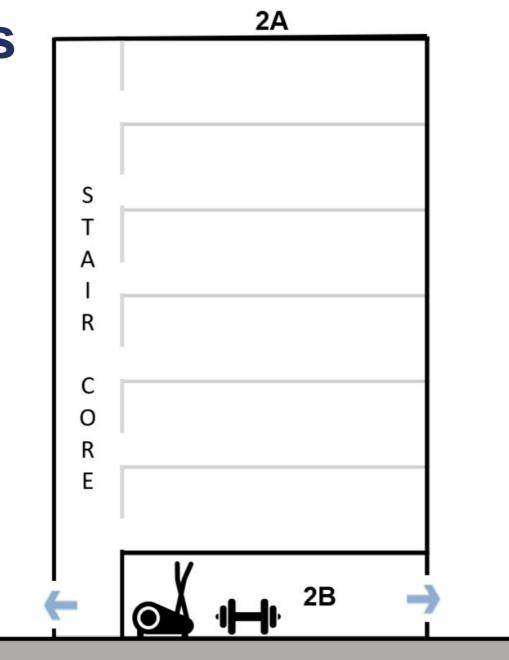
 <u>https://www.gov.uk/guidance/criteria-</u> <u>for-being-a-higher-risk-building-</u> <u>during-the-occupation-phase-of-the-</u> <u>new-higher-risk-regime#counting-</u> <u>storeys-and-measuring-height</u>



## / Higher-risk buildings

Registration

- HRB's must be registered with BSR
- Deadline 1<sup>st</sup> October 2023
- Duty to manage 'building safety risk' for AP / PAP from 1<sup>st</sup> October 2023



#### / Accountable persons

Need to know

- Accountable person
  - Individual or organisation who has a legal obligation to repair common parts – structure, corridors, staircases etc.
- Principal accountable person
  - Individual or organisation commonhold association, local authority, social housing provider

https://www.gov.uk/guidance/safety-in-high-rise-residential-buildingsaccountable-persons



## / Key building information

Need to know

- Fire and smoke controls
- / Fire doors
- Structure, roof, staircases
- External walls
- Building use

https://www.gov.uk/government/publications/giving-bsr-structure-and-firesafety-information-key-building-information/building-safety-regulator-giving-usstructure-and-safety-information-key-building-information

#### / Golden thread of information

Ongoing management of building safety risks

- Building information
- Resident profile
- / Fire prevention and protective measures
- Services and utilities
- Maintenance and inspection
- Health & safety file regulation 38 information

https://www.hse.gov.uk/building-safety/safety-cases/building-info/index.htm



#### / Safety case

All the information you use to manage -

- I The risk of fire spread
- I The risk of structural failure

### / Safety case report

Document that summarises your safety case -

- Identifies major fire and structural hazards
- Shows how you are managing and controlling these risks



# **/** Building Act 1984

Speaker's name



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Changes made by the Building Safety Act 2022

- Enables building regulations secondary legislation
- Sets out the powers of the regulator as a building control authority
- Includes the provisions for a regulated building control profession
- Changes to enforcement of building regulations

Sections 35 & 36 - enforcement

- Compliance notices
- Stop notices
- I Extended periods for enforcement
- Compliance and stop notices can be served at the point of contravention
- Apply to all buildings
- Additional powers for higher-risk buildings
- I Link to competence

**Compliance notices** 

- In the building control authority may give a compliance notice to a person who appears to the authority to have contravened, be contravening or be likely to contravene:
  - I a relevant provision of building regulations, or
  - I a requirement imposed by virtue of such a provision

Stop notices

- In the building control authority may give a stop notice to a person appearing to the authority to be in control of any work if it appears to the authority that:
  - I the carrying out of the work would contravene a provision of building regulations prescribed for the purposes of this paragraph,
  - I a compliance notice relating to the work has been contravened, or
  - I the work contravenes a provision of building regulations or a requirement imposed by virtue of such a provision, and the risk of serious harm condition is met

Risk of serious harm

"The use of the building in question without the contravention having been remedied would be likely to present a risk of serious harm to people in or about the building"

Offence of contravening building regulations

- A person who contravenes a provision of building regulations or a requirement imposed by such a provision, commits an offence
- A person guilty of an offence is liable
  - I on summary conviction, to imprisonment or a fine (or both)
  - I on conviction on indictment, to imprisonment (up to 2 years) or a fine (or both)
- Section 36 notices requiring removal or alteration of noncompliant work – extended to 10 years



# / Building Regulations

Speaker's name



### / Building regulations

Changes made by the Building Act 1984

- Introduces new procedures & requirements for higher-risk buildings
- Introduces dutyholder roles
- Changes consultation process
- Introduces new transitional provisions and definitions for 'commencement'

### / Building regulations

Change for all buildings

- Must confirm dutyholder roles at application stage for higher-risk buildings
- I BSR will expect LA's & RBCA's to undertake enforcement action for contraventions of building regulations
- Insure you comply like nobody is looking
- I Do not rely on a certificate from a building control body as proof of compliance

### / Dutyholders

Applies to all buildings – part of building regulations

## / Client/ Principal/ PrincipalDesignerContractor

Make arrangements to plan, manage & monitor

Appoint a PD and PC

Provide information to every designer and contractor (HRBs)

Cooperate and share information with dutyholders

Plan, manage & monitor

Ensure compliance with building regulations

Ensure co-operation and information sharing between designers

Liaise with PC

Plan, manage & monitor

Ensure compliance with building regulations

Ensure co-operation and information sharing between contractors

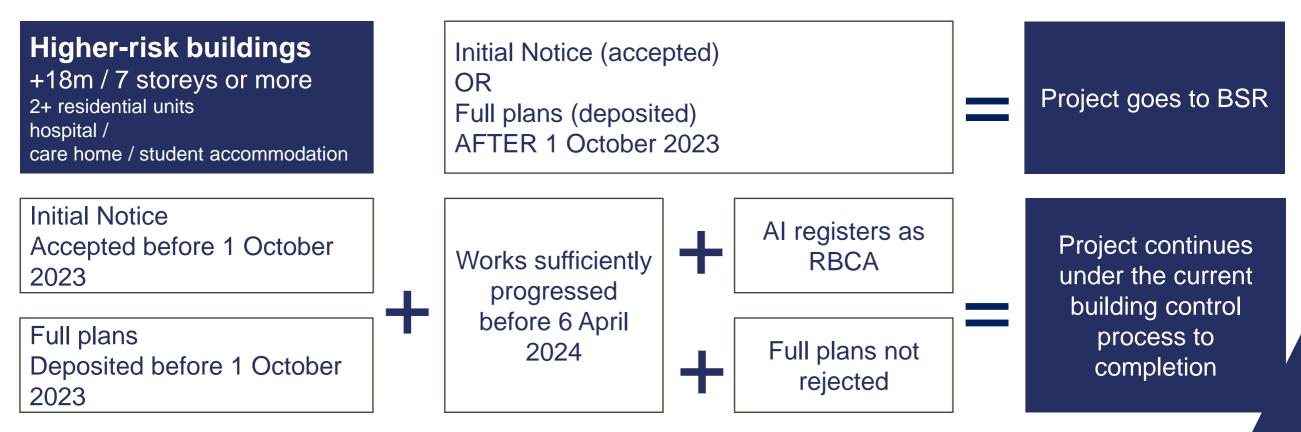
Liaise with PD

### / Building regulations

Commencement of work

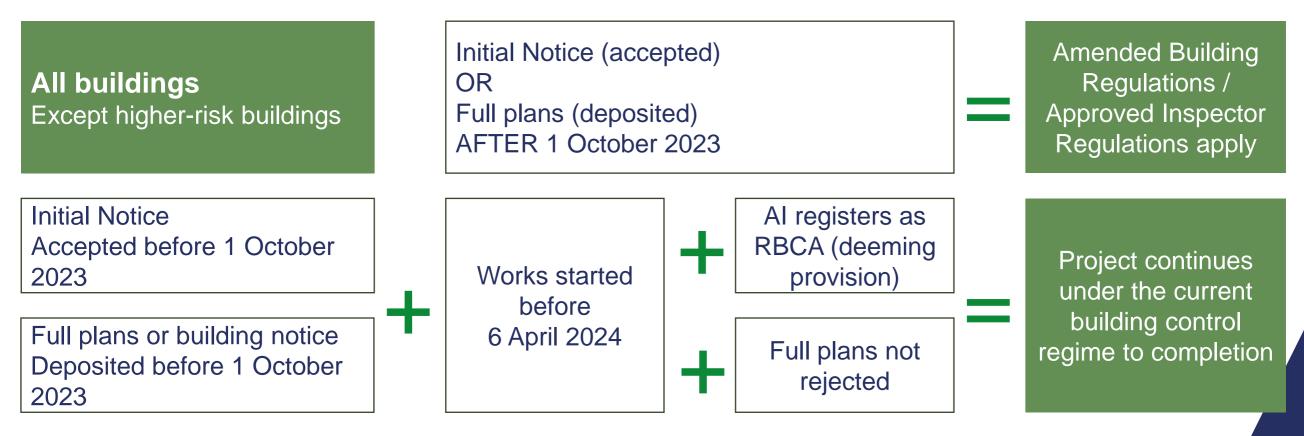
- New definition
- Applies to all buildings
- I Transitional arrangements all buildings
- Transitional arrangements higher-risk buildings
- Section 32 BA84
- It is your duty to confirm via notification
- I Building control body has powers to determine

### / Transitional arrangements



- AI does not register as RBCA project transfers to BSR
- Full plans rejected project transfers to BSR

### / Transitional arrangements



- AI does not register as RBCA deeming provision applies work must complete by 1 October 2024 – if not project transfers to LA or another RBCA
- Full plans rejected project must be re-submitted new regulations apply

### **/** How do I prepare?

Speaker's name



### / How do I prepare?

What are the key considerations?

- / Change
- / Quickly
- Competence
- / Challenge

### / How can we help?

- I Building control services
- Gateway guidance
- ✓ Safety cases and golden thread guidance
- Fire safety consultancy, training & CPD





### / Contact Details

- John Miles
- johnmiles@assentbc.co.uk
- 07467 487461







#### **Tim Whitehill**

Saible, Co-founder, Chief Strategy Officer and Visiting Research Fellow at Liverpool Business School

# Saving construction, payments, and resilience.

By Tim Whitehill FIS Regional Event 28th November 2023



#### 01. Introduction

About me.

#### 02. Saving construction & resilience

The insolvency epidemic in UK construction.

#### 03. Disrupting the payment culture

Introducing the development of a Parallel Payments Platform for construction.

#### 04. Questions and answers

Over to you.

### Presentation

Agenda





#### Consultant

### Academic

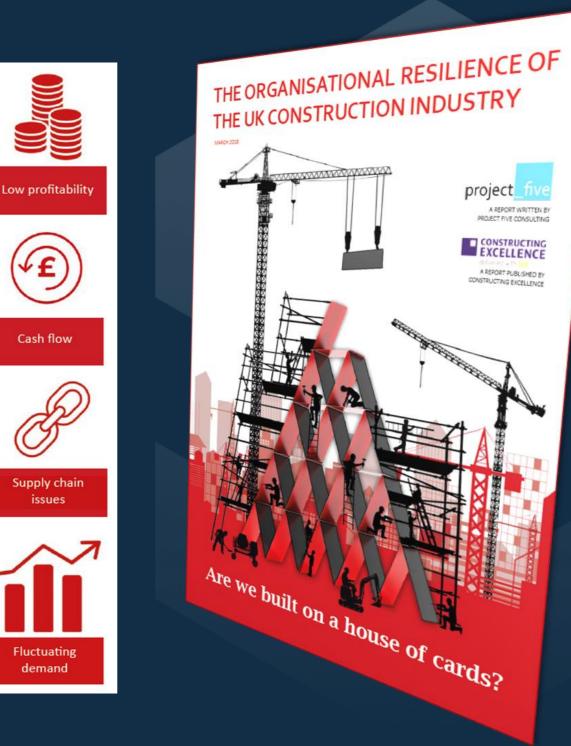
#### Investor

I am devoted to a portfolio of organisations in the construction sector to drive change and make a positive impact.

### Director

Volunteer

- Released March 2018, published by Constructing Excellence.
- Research carried out in 2017, ahead of Carillion collapse.
- Identified symptoms of low levels of organisational resilience.
- Research recommendations that included "a sector-based approach to building resilience".





#### The Insolvency Service

6. Insolvencies increased in accommodation and food services but fell in the administrative and support services industry grouping

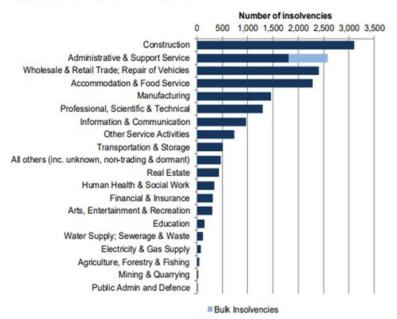
The following analysis excludes insolvencies where the company was unknown, non-trading or dormant.

In the 12 months ending Q3 2019, the accommodation and food services industry group saw the largest increase in underlying insolvency volumes (39 more, a 1.7% increase) compared with the 12 months ending Q2 2019. The administrative and support services group saw the largest decrease in volumes (50 fewer, a 1.9% decrease) compared with the same period.

The highest number of new underlying company insolvencies was in the construction industry with 3,106 insolvencies; followed by the administrative and support services grouping with 2,585 insolvencies; and the wholesale and retail trade, repair of vehicles industrial grouping with 2,409.

Figure 6: The construction industry had the highest number of insolvencies in the 12 months ending Q3 2019

England and Wales, non-seasonally adjusted



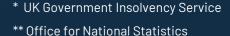
	England	& Wales		Scotland				
Year	Count	Rank	%	Count	Rank	%		
2010	3940	1	20.10%	343	1	26.06%		
2011	3979	1	19.52%	379	1	25.66%		
2012	3732	1	19.15%	320	1	22.39%		
2013	3227	1	18.22%	184	1	20.81%		
2014	2885	1	17.71%	212	1	21.79%		
2015	2457	1	16.84%	176	1	18.45%		
2016	2540	2	15.47%	162	1	15.64%		
2017	2641	2	15.25%	152	1	17.76%		
2018	3001	1	17.19%	202	2	20.61%		

	Oct 22	Nov 22	Dec 22	Jan 23	Feb 23	Mar 23	Apr 23	May 23	Jun 23	July 23	Aug 23	Sep 23	Total
Construction Sector	347	366	359	292	333	445	283	472	387	275	396	332	4287
Construction of buildings	124	153	130	110	118	164	108	172	143	106	155	117	1600
Civil Engineering	17	20	16	16	23	18	10	21	21	12	26	12	212
Specialist Subcontractors	206	193	213	166	192	263	165	279	223	157	215	203	2475

### In the UK

80 construction businesses go bust every week \*

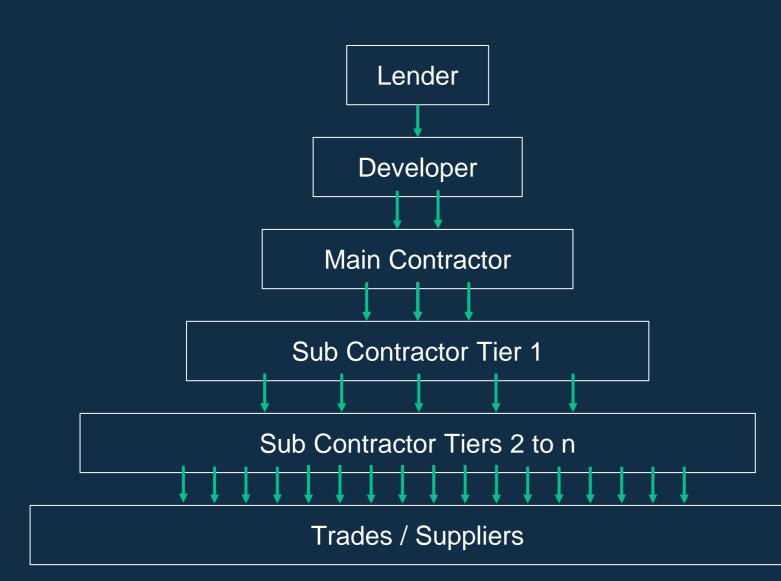
2 construction workers take their own lives every working day \*\*



Epidemic of late payments.

A 2019 study from insolvency specialist Begbies Traynor, over 115,000 UK construction companies were forced to wait an average of 57 days, triggering more than 1,000 insolvencies in 2018.





### Why?

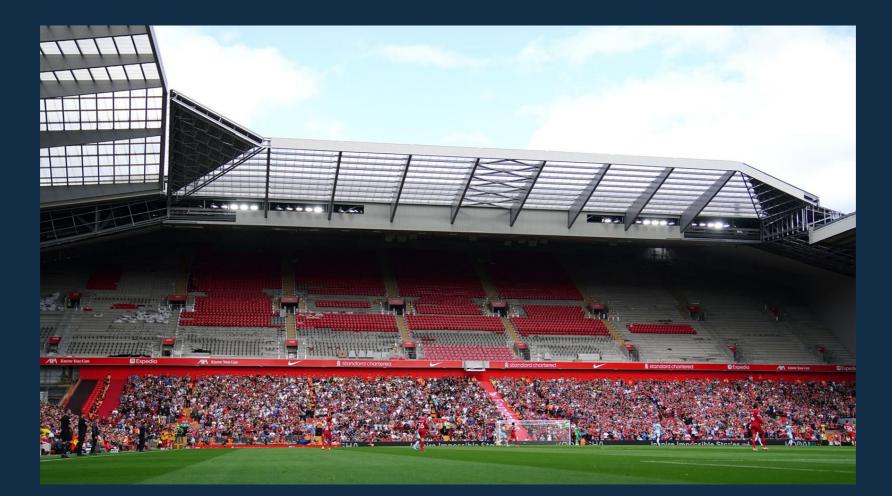
- Cash moves through the supply chain without protection
- Companies often hold on to a project's cash for longer than they should, and spend it outside of the project
- Late and non payment is rife
- Disputes are common
- Margins are small and cash flow is unreliable, so businesses go bust
- This creates huge risks for the funders of the project



#### Royal Liverpool University Hospital - £0.5bn+ recovery



### Anfield Rd - losing £1m per game.





#### There is a simple solution

- PBAs introduced in 2012 by Cabinet Office.
- Evidence that they are implemented on large scale, mainly infrastructure projects.
- Can be burdensome to implement. Need for banking checks and trust agreements.
- Rarely implemented beyond s/c Tier-1.
- Generally not adopted across the industry, and certainly not at the lower tiers.

CabinetOffice	
Government Construction	
Project Bank Accounts – Briefing document	
<sup>10<sup>th</sup> February 2012</sup>	



### Saible Team



#### Craig Dann

Chief Technical Officer



#### Jarvey Moss

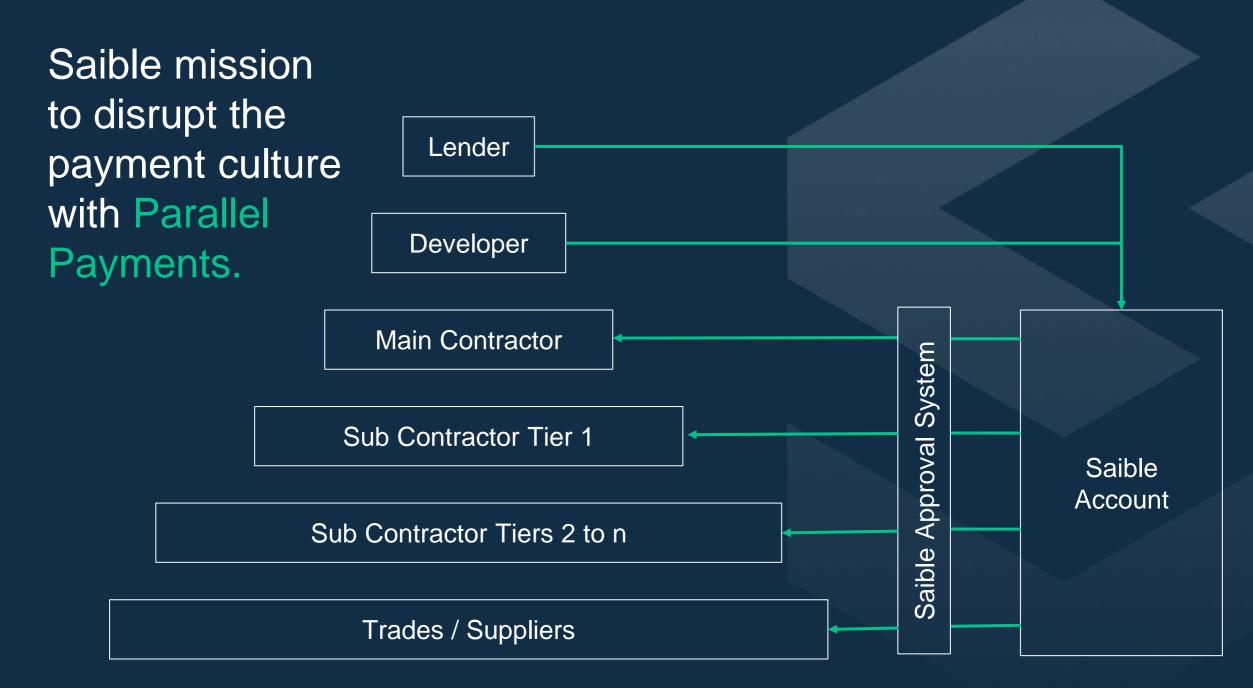
Chief Executive Officer



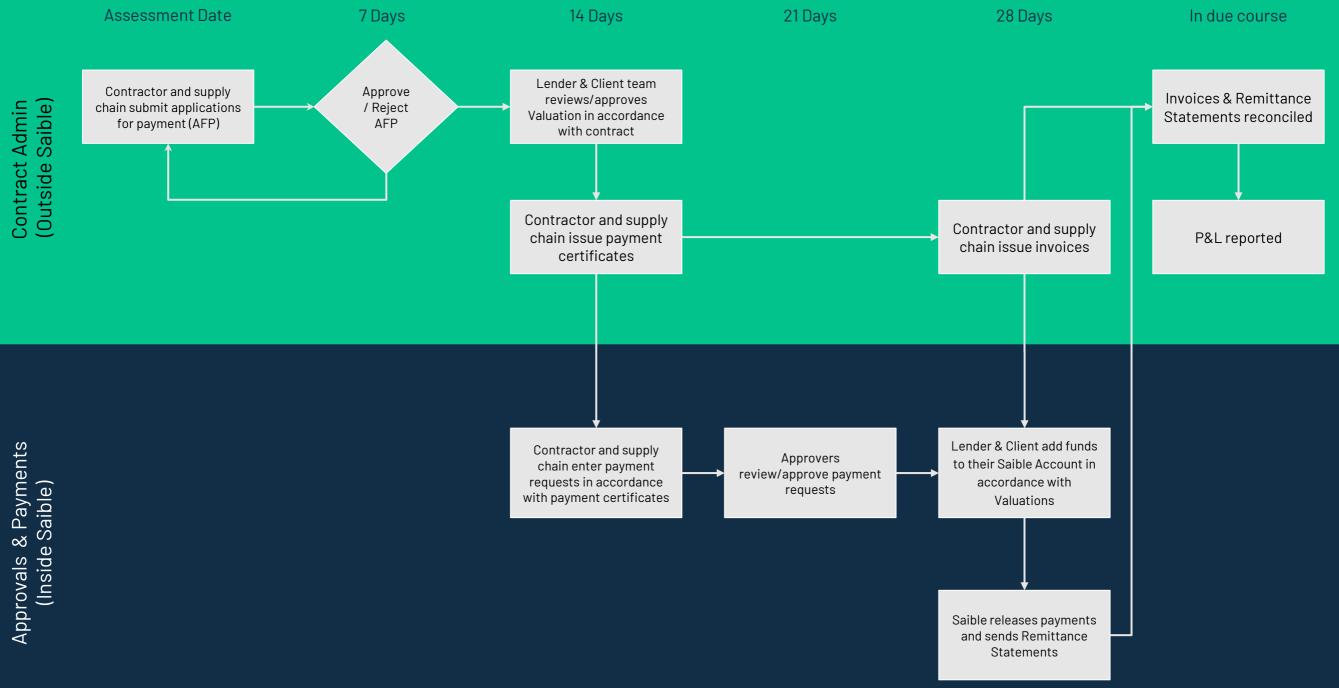
#### Tim Whitehill

Chief Strategy Officer









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## Benefits of using Saible:

#### **Risk Reduction**

If a company does go insolvent the money to pay the supply chain is safe



#### Transparency

The funder can see that the money intended for the project is spent on the project



#### Collaboration

It is in everyone's interest to resolve disputes quickly and collaboratively, or nobody gets paid



#### **Increased Profit**

Costs are lower because suppliers know that they will be paid, and paid on time (including retentions).

# Advisory Board



William Lorenz

FinTech & Payments Industry Advisor



Karen Elliot

Professor in Finance & FinTech



Nick Moss

Award-winning Architect



**Rudi Klein** 

International Legal Advisor



Anna Stoll

Built Environment Changemaker



#### **Q4**

Saible received £0.5m Pre-Seed Funding. Tim Whitehill appointed to the board as Co-founder/CSO. 2024 2024 2024 01 Saible to release prototype. 2024 Commercial release of Saible.

Seed funding call (£1.5-5m)







Join us to revolutionise the payment culture and help fewer businesses go insolvent in the construction sector.

Tim Whitehill, Co-founder & CSO tim.whitehill@saible.co.uk



**FINISHES & INTERIORS SECTOR** 

# We'll be right back

## **Event sponsored by**

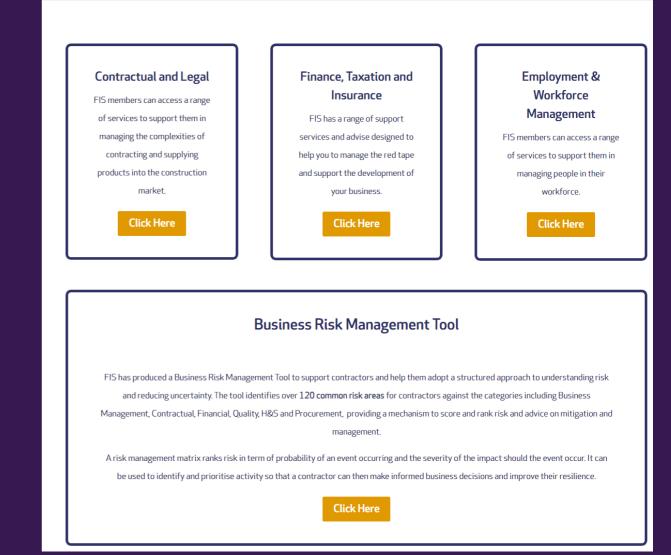




### **Helping Businesses**

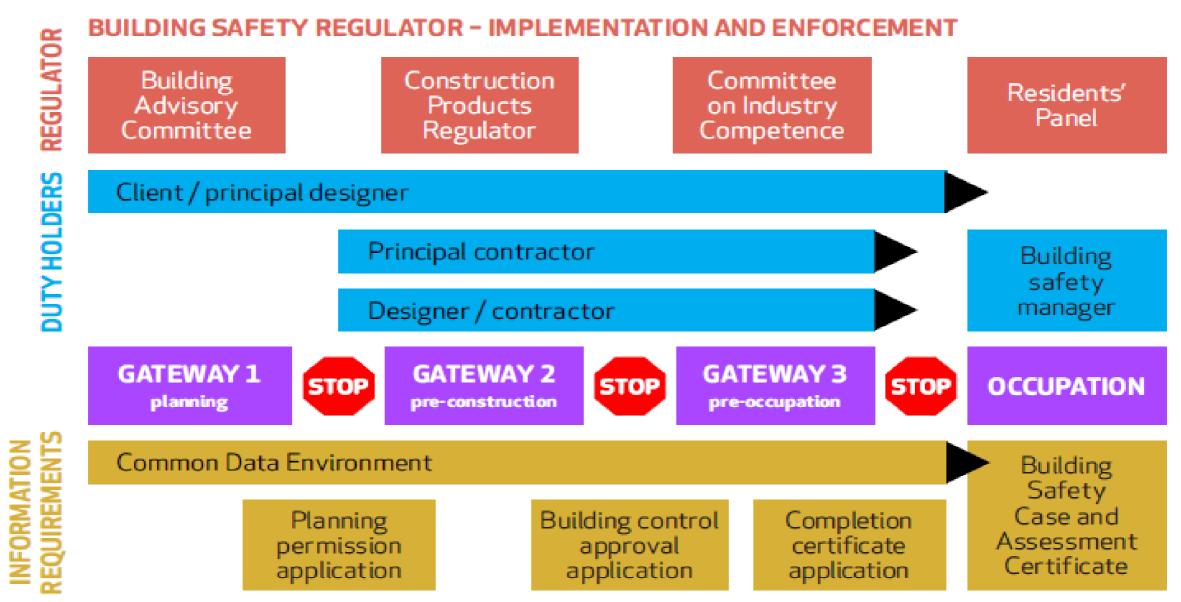
#### Business Hub

FIS is committed to supporting members in developing their business and both directly and through our expert network offer helplines, guidance, template resources and toolkits to help you to run your business, set contracts up right and avoid and manage any disputes.

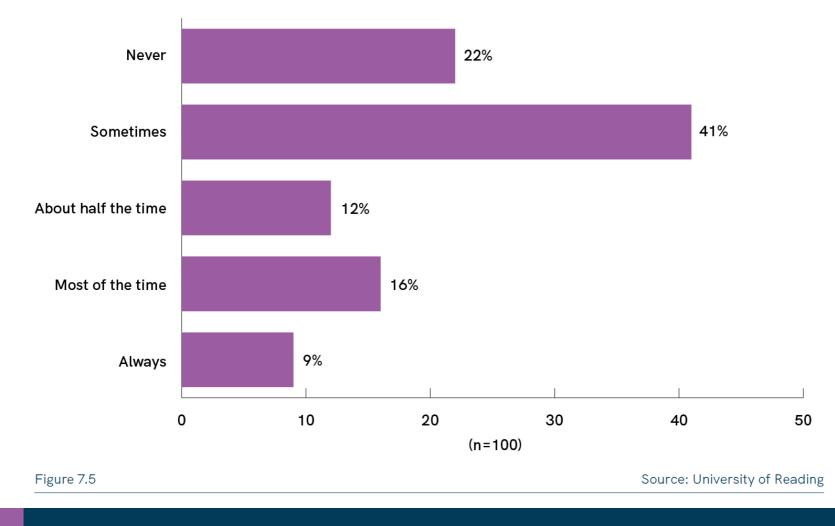


Legal and QS Helplines Legal and Contractual Toolkit FIS Standard Form Contracts Technical Advisory Service (Expert Witness) Risk Management Toolkits

### The Building Safety Act 2022



# How often does the awarded sub-contract include specific responsibilities for 'design development'?





FEBRUARY 2023

Procurement in the finishes, fit-out and interiors sector

# Pass it on...

The interface between the design team and the construction team has also become more complex, as aspects of building design are increasingly being carried out by specialist subcontractors

Stage 4 will overlap with Stage 5 on most projects..... At present, there are only two ways to reduce time: by compressing the time allocated to a stage or by overlapping stages.



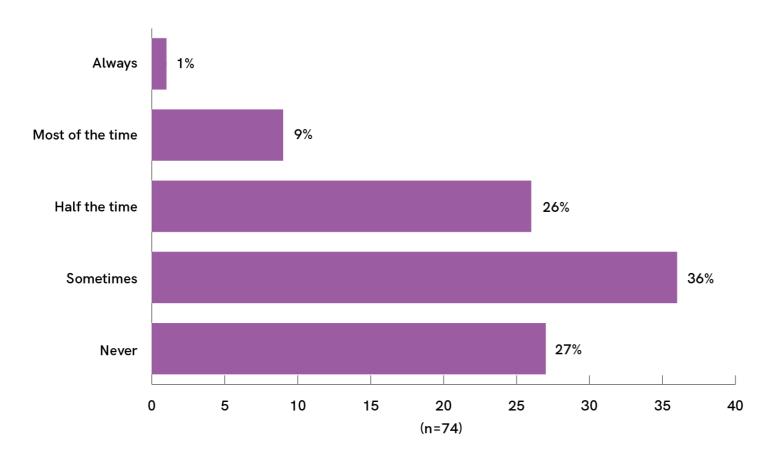
**RIBA** Plan of Work

It is crucial to review the responsibility Matrix <u>before Stage 4 commences</u> so it is clear who will be producing the Manufacturing Information and Construction



### **Delays due to design approval**

If required to submit design information for approval, how often do you receive a decision within the specified contractual limit (typically 14 days)?



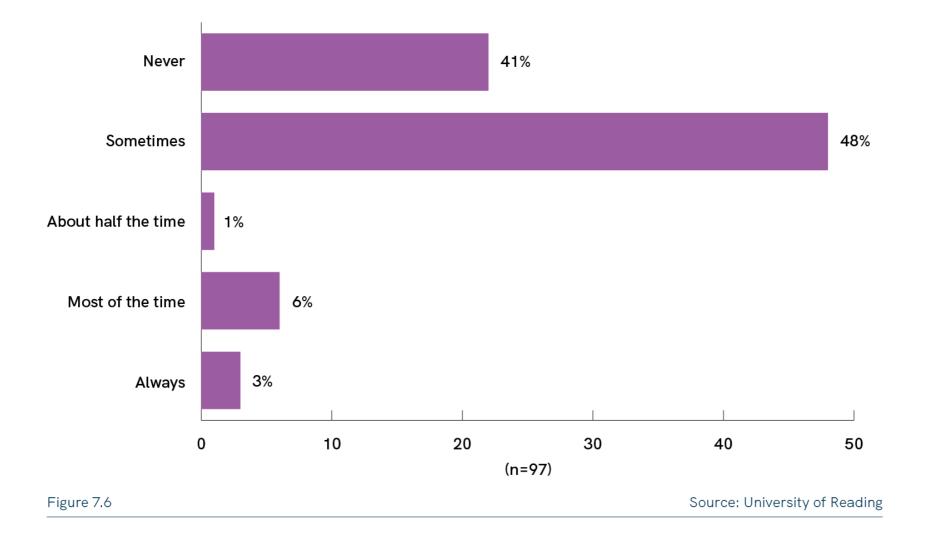
#### Figure 7.9

Source: University of Reading



#### Procurement in the finishes, fit-out and interiors sector

### **Provision of legal advice**





#### **FEBRUARY 2023**

Procurement in the finishes, fit-out and interiors sector

# **FIS Contract Review Service**





**Cost:** Subsidised fixed price (terms and conditions apply)

Aim: Identify onerous contract clauses before work starts.

Member Gets: Risk awareness in simple report with follow-up recommendations

FIS Gets: To harness collective wisdom in support of representation

### **Design Responsibility**

### Damian James Delay & Quantum Experts

The recital will contain something like this:

"The Contractor has examined the Employer's Requirements and is satisfied that the Contractor's Proposals meet the Employer's Requirements the Contract Sum Analysis and agrees to adopt and accept responsibility for the designs contained in the Employer's Requirements as if the same had been undertaken by the Contractor."

Then there is normally a clause inserted around 2.11 as follows:

"The Contractor shall be deemed to have verified all information contained in the Employer's Requirements and to have obtained any supplementary information needed in respect of the Employer's Requirements. The Contractor undertakes that the Contractor's Proposals meet the Employer's Requirements and accepts sole responsibility for the adequacy of any and all design contained within the Employer's Requirements."

### **Concurrent Delays**



Signing a contract where you won't get an extension of time because you agreed to this:

The standard JCT does not deal with concurrency so employers normally seek to add the following in clause 2.25.1:

After "by fixing such later date as the Completion Date" insert:

"(provided that the Employer shall not be obliged to take into account any delay caused by a Relevant Event which is concurrent with another delay for which the Contractor is responsible)".

## Indemnities

Damian James Delay & Quantum Experts

# The Contractor indemnifies and will keep indemnified the Employer against all

losses, damages, claims, actions and demands whatsoever and howsoever arising which may at any time be made or incurred in respect of the injury to or death of any persons or loss or destruction of or damage to any property and any other claims, liabilities, loss and/or damage arising from or in connection with the Contract or any defect in the Works or any breach by the Contractor of any of the terms of the Contract which arise out of the acts defaults or omissions of the Contractor, its sub-contractors, staff, agents or employees be these wilful, negligent or otherwise and against all claims, demands, proceedings, losses, damages, costs, charges and expenses whatsoever suffered or incurred in respect thereof or in relation thereto.

# Liquidated & Ascertained Damages (LADs)

Damian James Delay & Quantum Experts

The Contractor claims that they have issued a final account statement that of course we (the subcontractor) don't agree with

It may be spurious, but the problem is, on their side all they have to do is show: the sub-contract; that it contains LADs; that you finished late; that you do not have an EoT.

But they were never levied LAD's from the client

If there are LADs in a contract, they do not have to prove any actual loss and indeed they do not have to suffer any actual loss, the agreement of LADs means that they just claim the agreed number.





### **Conflict Avoidance Pledge**

### **Best Practice Guide**

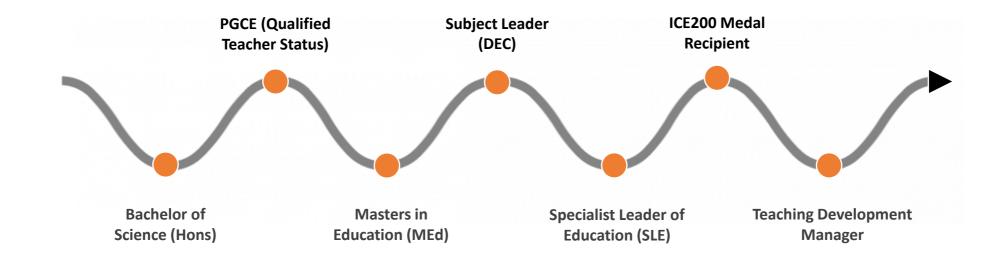






### **Daniel McDonagh** Teaching Development Manager Class Of Your Own

design...engineer...construct!





### **Daniel McDonagh**

Teaching Development Manager Class Of Your Own Ltd.







Project based Learning (PBL)



Pathways to university and employment



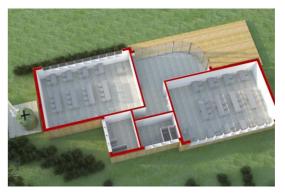
Application to Literacy & Numeracy



**Employability skills** 



Industry Knowledge



**Digital skills** 



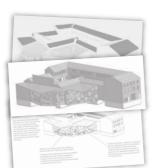
Global citizenship

**Awards & Qualifications** 



Inspire • Achieve • Succeed









RECOGNISING ACHIEVEMENT











DEC Awards 30GLH

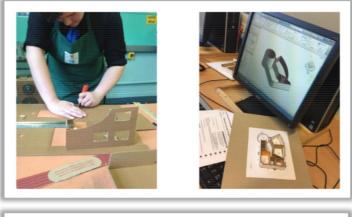


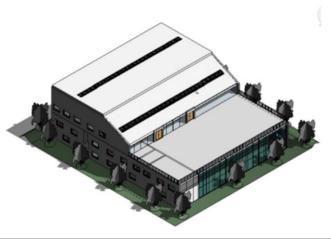






#### **Awards & Qualifications**



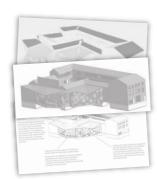


DEC Level 1 120GLH

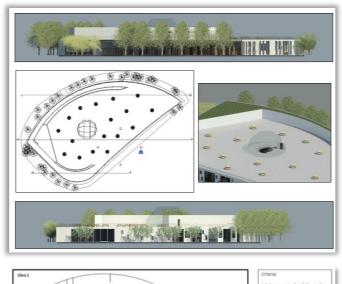


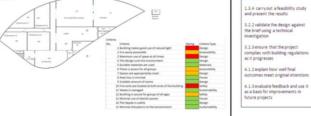






#### **Awards & Qualifications**





#### Summary of suitability:

This design wasn't very sustainable as the spacing and sizing of the rooms made navigating through the building difficult, the spacing of the rooms also complicated the spacing of the windows and the glass dome at the top of the root, this decreased the ranking on the use of natural light. The entrance was located at the back of the building far away from the main road which made it hand to access for all groups of people. There weren't any fire exits which made this building a very dangerous place to the public if there was a fire happening. The classrooms were located at the back of which left them unued for the majority of the weeks at they were put aside and created a separate section accessible only for puplis which decreased the sustainability of the building disatically.

in conclusion this design wasn't sustainable therefore it was not used as my final idea.

DEC Level 2 120GLH



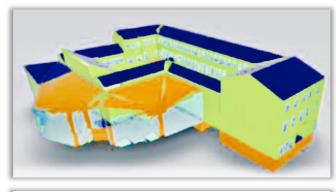




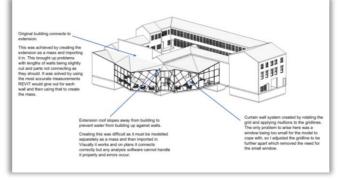


UC∕\S

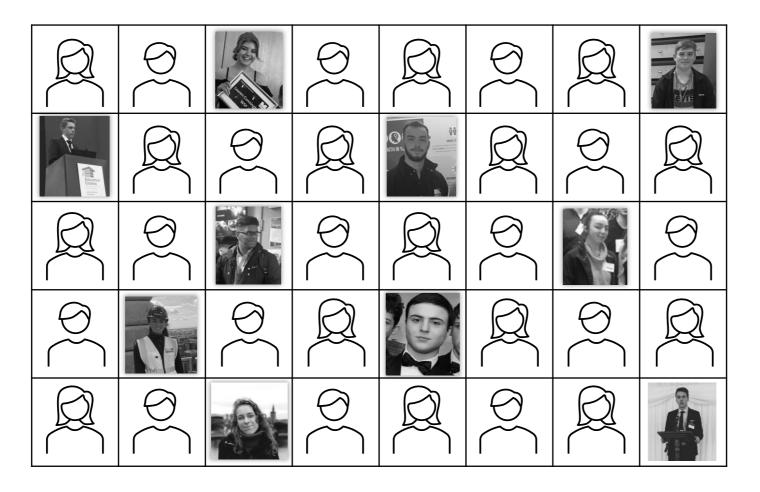
#### **Awards & Qualifications**



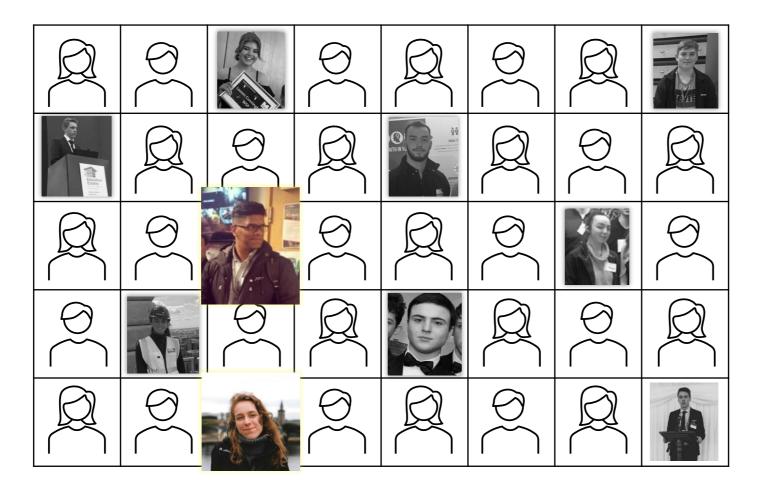




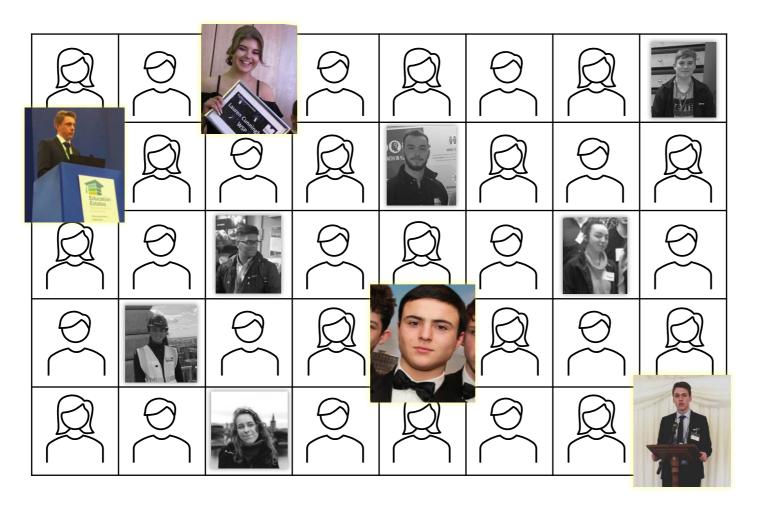
DEC Level 3 360GLH



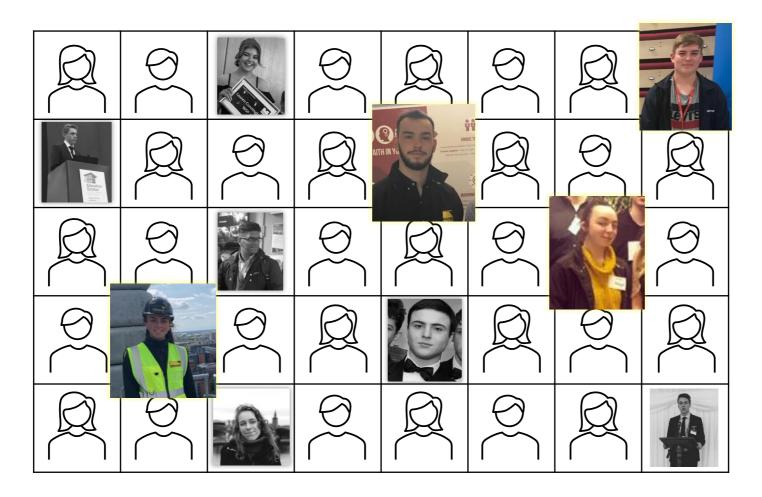
1 school. 8 years. 1000s lives changed. 40 new AEC leaders.



Designers

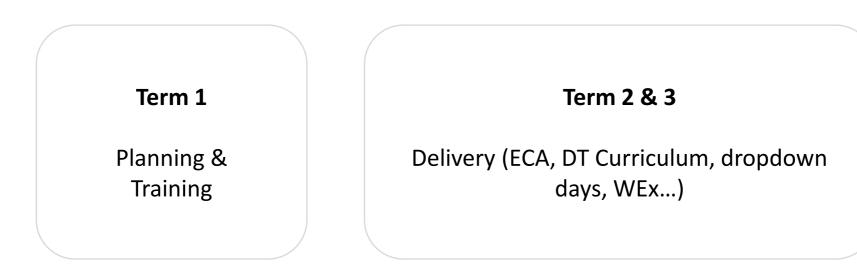


Engineers



**Construction professionals** 

Adopt a School 3+ years





Pilot



#### Adopt a School 3+ years

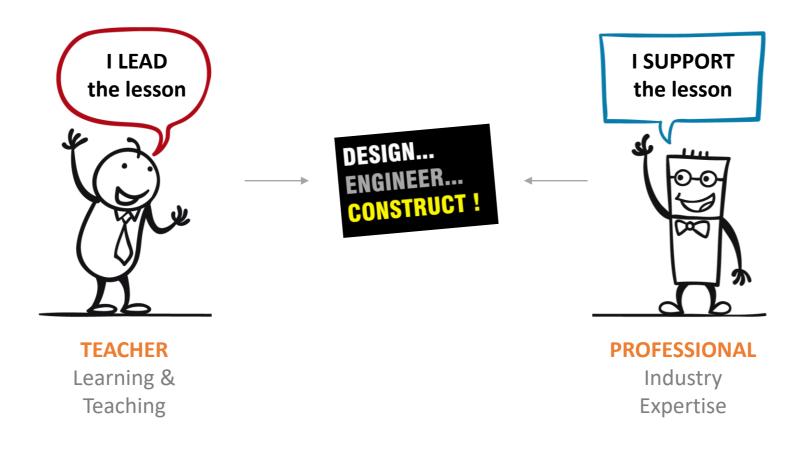








### Collaborate

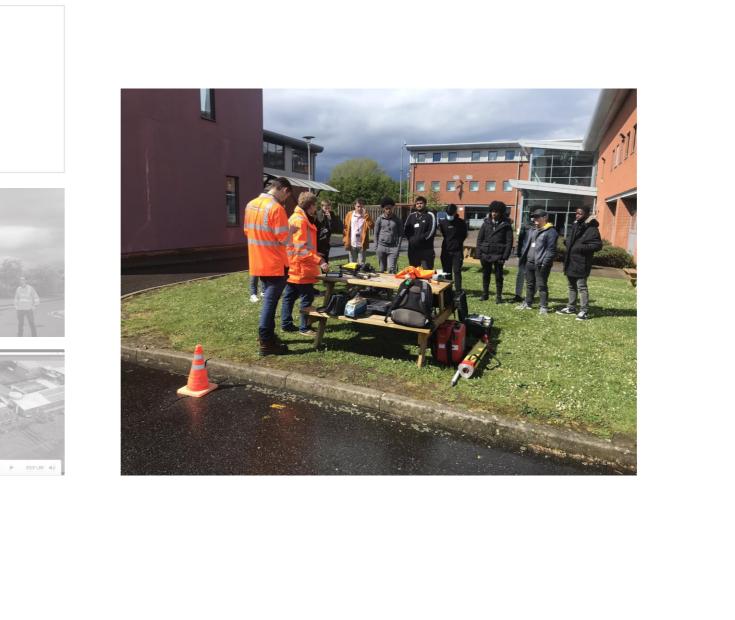


### **Types of Support**

FRUNT DOOR DINING ROOM COMPUTER 5

Short Presentation Critiquing Student Work Recording a film Producing a Resource Site Visits Teacher CPD **Open Days/ Parents Evenings** Work Experience Informal Lesson Visits **Observing Student Presentations** 

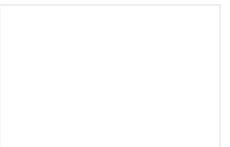












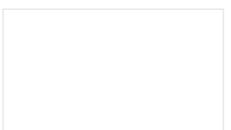












### Where to start





#### DEC SCHOOL

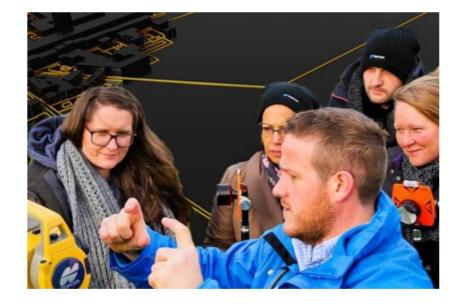
COURSES ~ RESOURCES NEWS MY ACCOUNT ~ **TEACHERS**~

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Introduction 1 hour





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- Drive learner attainment
- Improve learner engagement
- Transform your STEM curriculum
- ✓ Ignite career aspirations in the classroom
- Develop digital skills
- Inspire climate action

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