

## **Regular Intelligence Supplementary Information – V1. Theme 5 - Safety, the BE/Construction Sector View Stakeholder Challenges and Recommendations**

### **Purpose & Contents**

This document supplements the CEWales Regular Intelligence Report – Theme 5: Safety, The Built Environment Construction Sector View, issued to the Welsh Government in keeping with CEWales commitments to provide real-time market intelligence.

Built from sectoral insight, it provides further context and details around shared stakeholder challenges and recommendations.

[Sector Stakeholder Challenges](#)

[Sector Stakeholder Recommendations](#)

### **Sector Stakeholder Challenges**

*Relevant to Section 2. of the CEWales Regular Intelligence Report – Theme 5 Issue.*

#### **BSA Led Sector Transformation, Cultural Change and Compliance**

Tier 1 & 2 consultants and contractors have noted the increased focus on safety through recent legislative changes such as the Building Safety Act and the Social Partnership and Public Procurement (Wales) which ensures this shift from 'lowest bid' to 'best quality.' It underscores the need for sector transformation through connected enabling factors such as value- led procurement and data led information management. Sector acknowledges the opportunity this offers to influence culture and push the industry towards digitalisation through the Golden Thread Objective (Hackitt Review). Some identify a desire for the devolved thread to become a single national thread on building safety information management operating in a connected ecosystem. But there are challenges and CEWales acknowledges sectoral concern around the complexities of navigating this changing legislative landscape noting a genuine desire within the industry to make changes following the Grenfell tragedy.

However, awareness about the new legislation remains incomplete. This is partly due to the amount of information that was introduced over a relatively short period of time. There are two very clear tracks in play in the UK and Wales is quite a distance behind England and has adopted a different approach. According to sector legal advisors, this isn't helpful to the industry and industry is responding by adopting the English approach in so far as this standard meets or exceeds the Welsh ones and also where they are national suppliers and contractors. This simply because it takes time to run two books and also gives rise to a greater opportunity for mistakes. Wales will bring forward legislation in this term, four years after the Act came through which some believe to be a poor response. It also adds to the uncertainty of how key elements are being implemented. The private sector is concerned about how the public sector will respond and whether it is suitably resourced. The significant delays arounds SUDS approval is an example of a new idea being introduced but decisions being made by Authorities with inadequate resource and capability such that delays and additional costs were suffered. In England some contractors have withdrawn from the high rise residential market completely as the risk profile is too great. In Wales, some large Tier 1 contractors have decided locally that they will not deliver any schemes relating to HRBs and technical schemes tendered using a lowest cost Single Stage tender as a procurement route. While this means that they are turning off a large

number of tenders, it does mean that the tenders they do bid on allow them to help control overall Project risks.

Furthermore, many across the industry do not understand that the changes apply beyond higher-risk buildings, and some believe changes only involve fire safety, rather than building safety. Different rules apply to HRB's as noted below. In the management of occupied buildings Wales, has gone further than England by drawing in all multi occupation buildings as captured within the recent [Bill statement](#). For HRB design and construction, the gateway challenge has amplified the bottleneck and added to a stalling construction sector. The uncertainties around the gateways for higher-risk buildings create the largest challenge, with programme delays leading to lack of confidence from funders/investors halting some projects. Unknowns also lead to variations in the insurance market and some organisations struggle to absorb the perceived increased liability. There is the opportunity to diversify the way we procure projects, with earlier engagement encouraging better collaboration.

The industry is also naturally looking at different products and construction methods, this can not only lead to better building safety but also provides better oversight of more sustainable solutions. Following the events at Grenfell the UK Government commissioned a review of the products market in the UK. The resulting report – Testing for a Safer Future, An Independent Review of the Construction Products Testing Regime – raises significant challenges for a Duty Holder under the BSA looking to satisfy the functional requirements of the Building Regulation. Coverage - **The current system only covers construction products for which there is a designated standard. The estimate is that this accounts for about one-third of all construction products in manufacture – leaving two-thirds (20-30,000) products unregulated. The Regulation is not designed for ensuring a safe or sustainable product or building.** Consequently, there isn't actually a specific "UK system for testing the safety of construction products": rather there is a system for assessing conformity to whatever performance requirements are set down in a designated standard. Everything depends upon the relevant standards (where they exist and are applicable): how a product is to perform, how that is to be tested or assessed, how Conformity Assessment Bodies (including Approved Bodies) are accredited and reviewed by UKAS, and how UKAS itself is reviewed.

Although the framework by which standards are developed is a good one, the process can be slow, and the output insufficient and of variable quality. The result is that many standards are outdated, inconsistent or non-existent; and research conducted in 2020 on behalf of DLUHC questions the fitness for purpose of several standards critical for testing products for resistance and reaction to fire. The CPR assessment process is so complex that few people properly understand it, and there is a concerning disconnect between those involved in the assessment process and those who design and construct buildings. The criteria by which products are directed towards the different levels of this system are also unclear, and sometimes inconsistent. This renders the process opaque; and a system that cannot be readily understood is unlikely to be routinely observed and enforced, providing an opportunity for those who may seek to take advantage of a lack of transparency. The whole system (for setting standards, conformity assessment and oversight) is overloaded and slow. This represents both a threat to quality and a barrier to reform; and there is a particular urgency in addressing capacity issues relating to the ending of recognition of CE marking in January 2023. Enforcement has been almost totally non-existent, so that bad actors feel that they can bypass the regulations without consequence. As far as CEWales can determine, there have been no prosecutions under CPR305/11 since it was enacted, and only a limited number of investigations by the relevant enforcement authorities (Trading Standards in England, Scotland and Wales, Environmental Health in Northern Ireland). There is, no centralised database of regulatory investigations or enforcement actions. Nor is there a centralised database of products that might represent a risk. Without effective enforcement the market cannot function freely, fairly and safely; and it is not possible to judge how well the regulatory regime might work if it were effectively enforced.

Additionally, the changes in law create a new regulatory environment that not only demands competence of the people involved, but also the ability to demonstrate how the project meets the functional requirements. Compliance is therefore a key concern. There is complete divergence across the private sector and building control authorities as to what compliance to these legislations and new procedural requirements looks like in a practical sense – (Building safety Act, Building Regs). Tier 1's are very much up to speed but generally implementing their own bespoke solutions and have variance across organisations as to what compliance looks like. Through to the greater proportion of SME's in the sector who are either completely uneducated on the changes, or do not have the resources both monetary or from a time perspective to implement the systems necessary to drive compliance. Clients still think all the risk with a building project is with the design team and contractors – there is a lack of understanding with the Building Safety Act from a client perspective.

The consequences of non-compliance can be severe and over the next 18 months or so sector expects to see equivalent provisions being brought into force in Wales. There are a few organisations now taking the steps to hit the changes head on, but if in Wales, there is a drive for a higher standard for Building Safety than the approach in England, and driving a digital strategy for the sector, there is a unique opportunity to look at how to create a centralised system for driving compliance with the new procedural requirement of the building regulations as and when they come into force in Wales and also other day to day issues that then give rise to liabilities within the broader scheme of regulation through the Building Safety Act. CEWales notes sector calls for a governmental led solution for compliance that centralises not only the information that needs to be recorded but also then the documentary back up, is able to retain it in one place and is accessible to all stakeholders within the supply chain – then the divergences seen day to day (In England for example) should be mitigated. It should be possible to design a system which is accessible to all stakeholders regardless of levels of sophistication. As such CEWales champions sector call for driving compliance from a building safety perspective, to create an integrated, market leading response in Wales.

### **Circular Economy, Materiality and Material Supply Chain**

Sustainability led SME's and research bodies note that green construction, circular economy and safety are not mutually exclusive. For example, there is a risk framework for using circular materials in road construction that addresses safety aspects. Lower carbon construction, using improved methods of construction (in the road sector) improves safety if it reduces the numbers of maintenance interventions. Adapting highways to the threat of extreme weather improves safety by avoiding, e.g. the risk of standing water and skidding, or reduces the risk of landslides. From a materials product perspective however, sector has identified insufficient quantities of Welsh (home grown) timber to meet demand. Legislative, policy drivers and budget concerns include building with low carbon materials. There are concerns that Welsh timber is more expensive and involving unskilled labour in construction is more expensive due to impact on programme and supervision. Insurance concerns include that building with timber is uninsurable and building with unskilled labour is uninsurable. However, large tier insurance brokerages, risk consultants note that there is a perception issue around this with considerable misunderstandings by brokers who do not present to insurers/clients in the best light and because of this, insurers do not understand the timber sector comprehensively. Working with the Structural Timber Association has helped recognition by insurers that if clients, contractors, developers adhere to the STA's 16 steps, fire separation guidelines among other mitigating circumstances then insurers are more comfortable with timber. As such, CEWales notes that some large insurance providers suggest timber is insurable however this is an emerging picture as per [UK Gov Research](#). Where, timber will be insurable if it can be demonstrated to meet the functional requirements of BRs which will necessitate test data.

As demand for timber grows worldwide, it's important to [make use of the untapped power of locally grown timber in construction](#). Especially as importing timber to bridge the current gap, could also result in an increase in uncertified timber products entering the UK market especially as the EUDR is not mandatory beyond Europe.<sup>1</sup> As demand for timber increases, the UK must ensure that quantity isn't prioritised over quality, as this may undermine the very ambitions it seeks to support. In parallel, there is also a desire to grow forest cover in Wales and an [urgent need to plant more and speed up planning decisions on this](#). Local forestry and farming industries need support to ensure regular supply. These factors will continue to impact sector as current markets create a challenge of conflicting requirements where the safest and possible greenest option may not necessarily be the most cost-effective in the short term. This places importance yet again on quality and value-based procurement viewed through a long-term lens.

Furthermore, Tier 1 consultant and contractors that only build larger public buildings, and don't deliver residential schemes which are subject to 'Developer and Lease Holder' Levy's have reviewed the use of timber frame and use of CLT on numerous schemes. They are currently concerned that the lack of supply chain in Wales and the distances travelled by CLT columns and beams are detrimental to their use locally. Tier 1 contractors are aware of the specialist supply chains and sub-contractors who are delivering these schemes, yet the perceived risks associated with the delivery, storage (especially in Welsh wet weather), maintenance and local labour control their decision making regarding the use of these products. Overtime Tier 1's are both supporting knowledge building and awareness through funding events and utilising products. As an example, some Tier 1's are sponsors of 'Woodknowledge Wales WoodBUILD' over the past couple of years and increasing awareness as a Tier 1 Contractor regarding the use of these products and spend a significant portion of their PCSA discussing possible/probable insurance risks with their Local Authority Clients.

Unfortunately, when compliance, cost, availability and following standard details make insurance companies challenge the use of timber, such firms find it hard to make the argument other than from a sustainability viewpoint. Further they do not have a large skills pool to select from for the use of timber frame from the South Wales area. According to the construction Legal firms, funders are coming to terms with timber both internally and externally to an extent but it still remains a problem as well as with insurers. In practice the issues are designed out before they get to funders otherwise retentions can be put in place. It is a similar position with insurance too. The over-arching challenge is to combine safety and sustainability agenda, though the two can complement each other, ie through design, roofs can be made less maintenance reliant, meeting both working at height reduction and lowering significant repair costs throughout the life of the building.

### Competency Capability and Skills

The changes in law creates a new regulatory environment that not only demands competence of the people involved, but also the ability to demonstrate how the project meets the functional requirements. The situation is the same in England and Building Control are demanding proof of compliance before a consent to proceed is given. Where "proactively demonstrate" means moving from a state of being "reactive" and doing what the industry has always done, to one that applies competency to check and challenge the design and verify with evidence that the proposals meet the functional requirements of the Building Regulations. It's important to note this is not a change in the law as part of the BSA, but rather a refinement to how Building Control are responding to the law change with a more robust approval process. Meeting the functional requirements of the Building Regulations remains unchanged.

---

<sup>1</sup> [Governments promote timber for housing—but can supply meet sustainable demand? - Woodknowledge Wales](#)

This shift in emphasis and role of Building Control is significant and if not fully understood and embraced will lead to delays and perhaps legal challenges from another Duty Holder. Competency features heavily within the Act because it's a legal requirement of a Duty Holder to ensure they employ and deploy competent people. In comparing competing teams of people during an ITT stage the Client and/or his appointed agents, who may themselves be Duty Holders, will be required to assess competency. In England and Wales, the test for competency will be the SKEB model, as shown in the table below.

In Wales, the overall challenge is exacerbated by the secondary legislation powers which the BSA provides the Welsh Ministers. While the aim is to help set out much of the procedural and administrative detail of the changes, the reality on ground to respond differs with capacity and capability challenges in the spotlight. [Some of this secondary legislation has already been put in place](#) and involves registration and regulation of the building control profession. For example, new standards and codes of conduct were introduced that the profession must comply with. It also became mandatory for individual building inspectors and private sector building control companies to register with the Building Safety Regulator to continue overseeing building work. As part of the registration process individuals and companies must prove they meet the required competency criteria to work in the profession. This is a major change for the Building Inspectors and Building Control Bodies and for anyone carrying out construction work, which increases the severity of consequences of failing to comply with the core requirements for the giving of notices and prescribed information to the applicable building control authority. In addition, under the [forthcoming Bill](#), councils will become building safety authorities rather than having a separate body like England's Building Safety Regulator.<sup>2</sup> This will place significant pressure on local authorities (skills and resources) and will include tighter regulation of higher-risk buildings, dutyholder roles, gateways, the golden thread of information, mandatory occurrence reporting and stop notices.<sup>3</sup> For a sector already under immense pressure with tight margins, CEWales notes concerns to the increase in administrative burden.

Alongside these issues, early decision-making plays a significant role in mitigating safety concerns and improving well-being. Consequently, the burden is immense on clients, designers, consultants, contractors i.e. those working in the sector integral to the early stages of a project. Design is a key component influencing safe practices whereby a designers decisions can affect the health and safety of all those involved in constructing places and spaces as noted in [Construction Design and Management Regulations 2015](#). This places further pressure on ensuring procurement and tender requirements are 'right from the start' and the associated skills and competency are present. Currently existing gaps in competency are widened which impacts quality management and health and safety compliance. It creates project delays, increases costs, reduces productivity and delays in the delivery of much-needed social infrastructure, such as healthcare and housing.

### **'Safety' Perceptions, Understandings and Appetite**

Sectoral understanding of safety is wide-ranging especially as BSA is yet to be fully understood including its variations in Wales. Prior to the BSA, sector emphasis on safety has been from the approach of worker health and safety across the design and construction phase, the occupation and use phase, and/or safety in the demolition/decommissioning phase. Representatives on the HSE founding SSE Committee noted the continual risk of death and serious injury in the sector which is reflected in yearly statistics, although insight reveals that the death and serious injury statistics have been reduced by two-thirds since the introduction of the CDM Regs in 1996. According to SME's, some

---

<sup>2</sup> [Building Safety Act Frequently Asked Questions](#)

<sup>3</sup> [Building Safety Act implementation in Wales: an update](#)



firms have extensive understanding and PPE and documents Safety Working methods built into company policy - right to the other extreme where some actively shun the concept of H&S and make no investment in even basic PPE or working at height scaffolding for example. Often subcontractors are coached by Tier One contractors while working on their sites and this informs cultures at the subcontractor/self-employed companies. However, the quality and consistency across companies differs and is misleading/confusing. Some established UK wide companies lean heavily on the HSE muted 'corporate safety approach'. In reality, they may not hold many co-ordination design meetings for the project as it develops nor share important safety information between design team members. This places significant responsibility on site managers on the ground/site to be developed to co-ordinate safety which is in contravention of the spirit of Building Safety Act 2023. Academic research bodies and independent consultants alluded to sector characteristics exacerbating challenges. Where the construction industry is a fragmented and the approach to H&S is undertaken in the same way. Suggestions to improve included that BSA should be adopted by all fully. Sector championed Welsh Government's opportunity to take leadership, like the Future Generation Act and Social Public Partnerships Act, to lead with aligned policies and working legislation which drives sustainable, safety, efficiency, productivity and profitable outcomes across all the stages.

### **Risk and Liabilities, the Public View**

The impact on the leaseholders in terms of both saleability and level of service charges faced depends on the type of high rise building and whether remedial work has been undertaken and the overall fire strategy. In London there are many cases of leaseholders that cannot sell. Further given the complexities around this area and the risks, sector lawyers have withdrawn from this part of the market as the risks are too high and insurance is only available to particular elements. The Professional Indemnity market has softened from the post Grenfell position but contractually, there are now many more limitations of liability. Terms of contracts with Fire Engineers and Architects remain challenging and cover can be quite limited. From a remediation perspective, Wales is the only UK country to have a funded route to the full (internal and external) fire safety remediation for all residential buildings of 11 metres and over where responsible persons can submit an Expression of Interest to the Welsh Building Safety Fund acknowledging that fire safety remediation in Wales was not limited to cladding. The establishment of a new company, the Joint inspection Team for Building Safety (Wales) Limited aims to support local authorities and the Fire and Rescue Authorities in carrying out any additional inspections of high-risk buildings. Despite intention being there, frustrations are arising around the timeframe of delivery, with the Minister for Climate Change noting a three-year waiting period due to supply chain schedules and funding being in place. The campaign group Welsh Cladiators highlighted that "whilst some real and tangible progress has rightly been made in the remediation of social housing developments, thousands of private leaseholders continue to face severe challenges with their fire and build defective homes".

CEWales are aware that Government officials are meeting with managing agents to ensure there are no delays to either surveys or remediation works on buildings with fire safety issues. While the majority of managing agents have been supportive, in some cases, there have been delays. In early 2025, [eleven major housing developers](#) have signed up to the fire safety remediation contract. As captured in the recent [written statement](#), CEWales note that Welsh Government is considering all options available to it, including prohibitions on development, in order to ensure that developers step up to meet their responsibilities. To date, fire safety remediation work has been completed on 37 buildings, while work is underway on a further 86. Remediation work is set to begin on more buildings this year. Work has also been undertaken to support leaseholders who may have faced barriers when trying to sell or remortgage their homes. [The Royal Institution of Chartered Surveyors announced the publication of new valuation guidance for properties](#) in multi-storey, multi-occupancy residential buildings with

cladding, which will help support the removal of barriers to allow leaseholders to access mortgages and other financial products. However, the transition period and associated lag till the guidance beds in, is unavoidable. In a further move to support residents, [Inside Housing](#) has published the landmark ruling that Welsh tenants who do not receive safety reports are entitled to withhold their rent. All large developers in Wales have signed a Welsh Government building safety pact requiring them to make all buildings of 11m or more in height fire-safe. However, many leaseholders and residents in high-rise buildings are still waiting for work to be completed and continue to call for developers to be made responsible for fixing other faults not related to fire safety. Despite positive movement, the generally slow-paced evolving legislative landscape and the confusion around what is covered within 'design and construction' against what is relevant for 'management and occupation phase', increases concerns especially as clients seem to be 'ignoring building safety reforms opting for business as usual.'

## Sector Stakeholder Recommendations

*Relevant to Section 4. of the CEWales Regular Intelligence Report – Theme 4 issue.*

Key patterns were identified within stakeholder recommendations. These are shared below:

- Need to connect the disjointed sector on safety, sustainability and digital through the BSA and improve awareness and support of legislative changes including supporting the necessary shift to value-based procurement. Recommendation to integrate safety as a key outcome of the Sector Policy Statement/Action Plan inclusive of driving a profitable, efficient, productive and sustainable sector. To include the Digital Action Plan within the remit of the overarching PS/strategy and inform the Welsh representative Construction Playbook. This would enable strategic leadership and set a clear direction for the sector.
- Need for clarity and awareness on the Building Safety Act for Wales and desire for no further dilution or amendments which can double the effort, increase costs and engender the risk of safety failures especially as skills, training and competency is already a challenge. Recommendation to connect with construction sector bodies such as CEWales, FMB, FSB, BESA, NIMA and others to support sectoral understanding and adoption of the legislation. Building Safety Act 2023 must not allow the 'corporate safety approach' but instead make clear use of named/competent individuals responsible for areas of the design or build. To increase awareness and avoid repeated mistakes, product certification and labelling is paramount, particularly where evidence (via digital photos by Clerk of Works) is needed at upcoming BSA 2023 Stage 3 Sign Off. Ultimately there should be a phased and well-advertised approach to legislation changes to ease and facilitate adoption of the legislation and ramifications.
- Need for a centralised system (which links to the Digital Agenda) for driving compliance with the new procedural requirement of the building regulations as and when they come into force in Wales and also other day to day issues that then give rise to liabilities within the broader scheme of regulation through the Building Safety Act. Recommendation to identify clear competency baseline via a governmental led solution with buy in from building control and planning for compliance that centralises not only the information that needs to be recorded but also then the documentary back up. Where it is able to retain information in one place and is accessible to all stakeholders within the supply chain – then the divergences seen day to day (In England for example) should be mitigated. This approach would support the SME led workforce as it standardises and simplifies competency requirements which can then be fed into a standardised form which requires inputting of standardised data from relevant stakeholders in the project across supply chain. Then there can be confidence for safety to be addressed, implemented, managed in a standardised way without the commercial risk of delay at the end of the project. This helps to alleviate current issues where building control may delay a scheme based on competency requirements without providing any consistent published guidance as to what competency may look like, as experienced in England.