

Framework for Competence of Principal Contractors PAS 8672 Built Environment

Background

The Building Safety Bill will establish a Building Safety Regulator to implement and oversee a stringent regime for higher-risk buildings (HRBs) and drive improvements in building safety and performance standards in **all** buildings.

The Bill requires the appointment of a Principal Contractor to ensure that the building work complies with relevant requirements and does not negatively impact on the health, safety and welfare of **occupants and visitors in or about the building** for its lifetime. This is a different role to that of Principal Contractor appointed under CDM Regulations.

Draft regulations under the Building Safety Bill will require that, where an organisation is appointed as Principal Contractor, it must designate an individual under its control to fulfil its role as Principal Contractor.

The Principal Contractor must satisfy itself that the designated individual has the necessary skills, knowledge, experience and behaviours.

This PAS sets out competency requirements for designated individuals under these requirements which are in addition to the **existing Principal Contractor role under CDM Regulations**.

Response

Foreword

We have reservations on the contents of this PAS which seems to impose significant responsibilities on the individual designated by the Principal Contractor above and beyond those set out in the draft Regulations and on issues that are outside their control and those of the Organizational Principal Contractor that has appointed them. The PAS also fails to recognise existing systems within the sector such as the CSCS logo and the Common Assessment Standard.

We fully understand the need for each party discharging their duties in respect of HRB's however the responsibility must be placed on the appropriate party creating the risk and required to manage it.

This PAS does not cover the duties of a Principal Contractor (PC) under CDM; however, we do not believe that is made sufficiently clear in the document and it is not mentioned until page 3. The use of the same term for two different roles is potentially confusing. We understand that this term is used in the draft legislation which suggests there may be the opportunity to review its use to ensure clarity between the two roles.

If the term 'Principal Contractor' is to be used in this context it needs to be made very clear near the beginning of the document that it is covering separate Principal Contractor duties from those under CDM and that they may or may not be carried out by the same individual/organisation.

0.2 Issues Relating to Construction Management Competences

Construction management competencies have been reviewed within Setting the Bar and we support the need for competence schemes to align across the industry which will include this PAS. This is a significant amount of work and will take time to complete which should be recognised.

There is reference in the PAS to professional bodies, each of which have their own competence frameworks for individuals which are being updated in light of the Building Safety Bill and associated legislation. During this transition phase it will be extremely difficult for Principal Contractors to assess

competency with any sort of consistency and there will need to be absolute clarity on what the reasonable steps they are expected to take on recognising competencies in place at the time of their assessment.

We would expect Principal Contractors to use the Common Assessment Standard to assess the competence of organisations contracted to provide their services.

1 Scope

The PAS defines that the scope excludes *“the organizational and team competence or organizational management of the Principal Contractor”*. The majority of HRBs are likely to be developed under contracts where Organizations are appointed as Principal Contractor and there seems to be a gap here between the ‘Organizational’ and the ‘Designated Individual’ Principal Contractor. In particular how is competence of the Organizational Principal Contractor assessed to ensure that they correctly appoint a Designated Individual Principal Contractor.

The wording in the 4th bullet point - *“understand and promote fire spread, structural failure and other prescribed hazards, safety principles and practices in buildings”* should be improved as at present it would suggest that the Principal Contractor should be promoting fire spread and structural failures when we assume it means that they need to understand those issues and promote the safety principles and practices that prevent them.

3.1 Terms and Definitions

3.1.9 CDM Principal Contractor is a defined term. It would be useful to refer to the Principal Contractor appointed under the draft APICD Regulations by a specific defined term also rather than the generic term of Principal Contractor. It could be **APICD Principal Contractor** for example.

3.1.17 Construction Management

It should be understood and recognised that on many projects the Principal Contractor has limited or no interface with the end-users of the building particularly where they are leaseholders. Projects are often undertaken through a developer on behalf of a client or let after completion and the Principal Contractor will have no involved or knowledge of who will occupy the building once completed.

3.1.20 Designated Individual Principal Contractor

The Designated Individual term is used in other areas of building safety e.g. the Designated Individual for Temporary Works. A number of our members have commented that there may be a risk this becomes confusing.

4. Principal Contractor General Areas of Competence and Roles

Commentary on Clause 4 - The commentary states that Principal Contractor will be required to *“ensure the accuracy of the information being added to the golden thread of information”*. Principal Contractors are not the only party that provides information and they will be reliant on information provided by designers and other professionals with whom the Principal Contractor has no direct relationship. The commentary suggests that a Principal Contractor would automatically be liable for any incorrect information which is unreasonable and inequitable; the PAS recognises elsewhere that a Principal Contractor may not have the necessary expertise to fulfil all of the necessary competencies on a building project, and should engage competent third parties to assist them and will rely on third parties to provide information which they should be legally responsible for.

4.1 Principal Contractor General Areas of Competence

4.1j) The PC is expected to *“procure safe and appropriate quality assured materials, products and building systems that remain safe for the anticipated lifetime of the building”*. There should be some recognition that what is considered safe/not safe may vary over time and the duty should be to procure what is considered safe at the time of procuring it. In addition, the Principal Contractor will

have to rely on information provided by manufacturers and suppliers who must be responsible for the accuracy of the information that they provide. It would be unreasonable to expect a Principal Contractor to take responsibility for materials, products and building systems that are provided by manufacturers and others and we are expecting the legislation and associated guidance to be clear on who has what responsibility.

4.3 Behaviour and Ethics

The statement at the beginning of paragraph 3 of the commentary *that “instilling the right behaviours in the building sector’s workforce has been a longstanding struggle, in part, because of a fixation with cost and time, at the expense of quality and safety”* is too sweeping and unfair on responsible businesses that put quality and safety at the top of their priorities.

4.7 Limits of Competence

“The Principal Contractor shall recognize their own competence limitations as well as those undertaking building work under their legal duty to plan, manage and monitor the construction”. This statement needs to be clarified. What does it actually mean?

5.5.1 All Buildings

d) It would be useful to specifically recognise that, in an industry which is very transient and individuals regularly move on, there needs to be a clear handover process to document when the risk transferred to a new Designated Individual. This would provide clarity on where the responsibility and accountability rests and at which level at any stage of a project.

6 Behaviours

Behavioural competence is particularly difficult to assess and it is not clear how this is expected to be undertaken.

8.2 Workforce Qualifications

The industry currently confirms an individual’s competence by checking that they have a card carrying the CSCS logo which shows they have the appropriate qualifications and would usually then assess their performance on site. It is extremely difficult and onerous for Principal Contractors to additionally determine the appropriateness and currency of prior learning as they would be required to understand the vast range of qualifications and training programmes across a significant number of occupations.

The requirement should be aligned to the industry’s recognition of card schemes carrying the CSCS logo which overlays a system of card schemes which have undergone an audit by CSCS. The introduction of a common interface in early 2022 will enable sites to use smart technology to check cards carrying the CSCS logo and the requirement should be for Principal Contractors to use this system.

It would be unreasonable and impossible to expect Principal Contractors to have knowledge of all the detail behind each of the card schemes.

Use should also be made of the CITB’s Training Register which has the ability to maintain information on the training undertaken and qualifications achieved by individuals. We would suggest that the Training Register is reviewed to ensure that it is fit for purpose and then recommended for use by the industry. The engineering services sector has a similar record for individuals outside of the scope of CITB.

9 Competence Assessment, Development and Maintenance

We would have the same comment on this point as on clause 8.2. In addition, CPD is being introduced across many of the card schemes in response to a recommendation in Setting the Bar following the

fire at Grenfell Tower. The revalidation process is also undertaken by the card schemes as individuals are required to renew their cards every five years.

It is quite right for persons undertaking the Principal Contractor role to be assessed for competence and we agree that there should be a framework for the industry to assess the effectiveness of CPD undertaken; however, it is unreasonable and impractical to expect those fulfilling the role of Principal Contractor to be responsible for undertaking this for the workforce many of whom will not be employed by them.

Annex A - Education Training & Qualifications

The Common Assessment Standard is being adopted across the industry and this provides annual third-party assessment of Organizational Principal Contractors. The sector has worked hard to streamline the process of pre-qualification and would strongly urge against introducing a new assessment process when it is already putting in place a robust process recognised by the whole supply chain.