

Building Safety Competence Foundation

Code of Conduct for Certificated Persons

Authority of this Code of Conduct

Background

Building Safety Competence Foundation is UKAS ISO17024 accredited and certified.

Both the interim and final reports published under Dame Judith Hackitt's supervision identified serious shortfalls in the competence of persons involved at almost every stage of the design, construction, management, and operation of Grenfell Tower. The review concluded that several actions were needed to improve, sustain and assure building safety competence, including:

- That the construction and fire safety sector should develop leadership in delivering building safety; work with and learn from other sector good practice; and develop continuous improvement approaches to competence levels.
- Professional and accreditation bodies within the construction and fire sector should develop proposals for the role and remit of an overarching body to provide oversight of competence requirements and support the delivery of competent people working on higher risk buildings (in scope).

In response to these recommendations, the Industry Response Group (IRG) established a Competence Steering Group (CSG) to develop proposals in relation to Building Safety competence. This work concluded in the publication of 'Raising the Bar – Interim Report' in September 2019 and the final report, 'Setting the Bar' in 2020.

Recommendation 20 of 'Raising the Bar' stated:

"R20: Industry should lead the creation of a benchmark competence framework for higher risk buildings (in scope) covering the core knowledge, skills and behaviour required to work on higher risk buildings (in scope) as part of a suite of national standards under the governance of the national standards body against which professional and trade bodies are expected to develop their individual sector or discipline-specific competence frameworks."

A Framework for Building Safety Competence

BSCF representatives, alongside professionals for construction and the built environment, are currently working together to create a new framework for building safety competence.

The development of this suite of National Standards is being facilitated by the British Standards Institute (BSI) and will provide coherence between the mandatory key dutyholder standards and competence frameworks, and the wide range of sectoral competence frameworks.

Certifying the Competence of Individuals

Dame Judith's Independent Review of Building Regulations and Fire Safety Final Report said in para 5.13 "All those engaged at every stage of the life cycle of HRRBs carrying out work that impacts on fire safety, or other building safety risks, should have the proven competence to do so."

The Final Report of the Competence Steering Group for Building a Safer Future published their final report in October 2020 entitled 'Setting the Bar - A New Competence Regime For Building a Safer Future'. Some of their key recommendations included:

'The creation of an overarching competence framework covering the core skills, knowledge, experience and behaviors required to work on higher-risk buildings as part of a suite of National Standards, under the governance of the National Standards Body against which professional and trade bodies are expected to

'That professional and trade bodies which certify or qualify members against the sectoral frameworks recognised as meeting the National Standards are expected to maintain a register of those individuals certified under their scheme. These bodies are also expected to be accredited / licensed by a suitable publicly recognised body such as the United Kingdom Accreditation Service (UKAS), the Engineering Council or other body, subject to equivalent standards of accreditation or licensing being agreed by the building safety competence committee, reporting to the Building Safety Regulator'.

In the future it is likely that there will be various bodies created to certify the competency of individuals against the British Standard 'Overarching Competence Framework' and the sector specific frameworks, BSCF is one such body.

BSCF Code of Conduct for Certified Persons

This document is in two parts.

Part 1 sets out the Code of Conduct (the Code) which has been developed for use by all persons and entities working in the Construction Sector.

The Code sets out mandatory requirements and principle-based standards of conduct against which the actions of Construction Professionals registered by BSCF can be judged.

Part 2 provides guidance on typical considerations for Construction Professionals and sets out, in more detail, common areas where conduct could lead to a breach of the Code. Guidance in Part 2 may be material in assessing any complaint against an individual.

Part 1 – Code of Conduct for Construction Professionals

Scope

This industry wide Code of Conduct sets out the principles of behaviour and standards of professional conduct and practice expected of all construction professionals registered by BSCF. The Code deals specifically with issues of professional conduct and professional competence but does not address negligence which is a matter for civil proceedings.

The Code of Conduct does not:

- Generally repeat obligations placed by the general law or by construction legislation such as the Building Act 1984, the Building Regulations 2010 or the Building (Approved Inspectors etc.) Regulations 2010 (or any subsequent amendments to the Act or the Regulations).
- Provide for financial penalties against Construction professionals registered by BSCF or the awarding of costs or financial redress to complainants brought about by disciplinary proceedings that may result from a proven breach of the Code of Conduct.
- Take precedence over legal action or a complainant in relation to the subject matter of a complaint. In this situation, the BSCF complaints handling procedures will typically be suspended until that legal action has been concluded. Legal action, for the purposes of the complaints handling process, covers disputes that are subject to adjudication, arbitration, litigation, or mediation.

Application and Obligations

Individuals are required to comply with the BSCF's Code of Conduct, practices, standards, complaints procedures, competency and performance measures and sanctions.

This Code of Conduct adopts a principles-based approach based on best practice in professional regulation. The Code is designed to effect positive change in the built and natural environments, through promoting and enforcing high ethical standards. The Codes' focus is on fundamental professional and ethical principles which are at the heart of appropriate professional behaviour and which those registered by BSCF must follow.

Disciplinary action may be taken against any individual where there is adequate evidence of misconduct. Any disciplinary action will be conducted in accordance with the procedures that BSCF has published, copies of which are available at www.thebscf.org. Any failure to comply with the provisions of this Code is not in itself to be taken as constituting unacceptable professional conduct or serious professional negligence but can be considered in any disciplinary proceedings initiated by BSCF.

Not every shortcoming or failure to meet the required standards expected by the Code will necessarily give rise to disciplinary proceedings. Conversely, disciplinary action may still be deemed necessary in the public interest even where a specific breach of the code is not identified.

The Code and its supporting guidance do not attempt to cover every situation where a construction professional may encounter professional or ethical issues and it does not prescribe the way in which they should respond.

Individuals should be guided as much by the spirit of the Code of Conduct as by the express terms. The Code provides a structure for making decisions about how to behave as a professional. Individuals **must** use their professional judgement in applying these principles to the situations they face in practice.

The Code relates primarily to professional conduct in the delivery of their function, but personal conduct may be relevant to the rules where it may damage public confidence in the profession or BSCF or constitute a danger to public safety or welfare.

Where there is any conflict between any relevant enforceable law or statutory provision and this Code, those registered by BSCF should comply with this Code to the maximum extent possible without contravening those legal provisions.

BSCF may share information with other professional or regulatory bodies in accordance with its privacy policy. Individuals should also note that where they are a member of another professional or regulatory body there may be differences in some areas between the professional and ethical conduct requirements of the different bodies. Where there are differences, individuals should follow the provision that better protects the public interest.

Guidance to the BSCF Code of Conduct for Certified Persons

This Code is supported by further information in the form of 'Guidance to the BSCF Code of Conduct for Certified Persons'. Individuals are encouraged to familiarise themselves with this guidance and take it into account in undertaking their day-to-day functions. Deviating from the guidance does not by necessity indicate a breach of this Code but may be material and referenced by any Disciplinary Panel in coming to a view as to whether an individual is liable for a breach.

Mandatory Requirements

The following are mandatory requirements for all persons subject to this Code. Failure to meet these requirements may constitute misconduct and be subject to disciplinary investigation.

Continuing Professional Development

Having been registered by BSCF all persons subject to this Code shall undertake Continuing Professional Development as necessary to maintain their competence and as a minimum comply with any direction or requirement for CPD set by the Scheme Committee, including recording and reporting CPD undertaken.

Co-operation

All persons subject to this Code must cooperate fully with any disciplinary investigation undertaken by BSCF, including maintaining registration, until such time as that investigation is complete.

Reporting of Relevant Convictions, Financial Impropriety, and Sanction by Other Bodies

As soon as possible and no later than 28 days after the event, individuals must:

- Notify BSCF, as soon as they become aware of a conviction for any civil, criminal or regulatory offence committed by them, in connection with their work.
- Notify BSCF if they have been disqualified as a company director or have been the subject of adverse findings by another professional or regulatory body
- Notify BSCF if they have been declared bankrupt, entered into an arrangement with creditors or been subject to an adverse County Court judgement.

Standards for Construction Professionals

All persons subject to this Code will be held accountable in meeting the following standards:

Standard 1 - Honesty and Integrity

Individuals have a duty to uphold the highest standards of personal and professional conduct including openness, honesty, and integrity. They must:

- 1.1 Be honest and transparent.
- 1.2 Act in a reliable, trustworthy, and independent manner and treat others equally and fairly.
- 1.3 Be alert to the ways in which their work and behaviour might affect others and respect the privacy, rights and reputations of other parties and individuals.
- 1.4 Respect confidentiality.
- 1.5 Declare and manage conflicts of interest.
- 1.6 Avoid deception and take steps to prevent or report corrupt practices or professional misconduct.
- 1.7 Reject bribery and not allow bias, incentives, professional or financial conflicts of interest or the undue influence of others to override professional judgements.
- 1.8 Be objective and truthful in any statement made in their professional capacity.
- 1.9 Uphold the reputation of the profession at all times.
- 1.10 Not knowingly mislead or allow others to be misled.

Standard 2 - Respect for Life, Law, the Environment and Public Good

Individuals have a duty to protect public safety and the public interest, treat people and the environment with respect and maintain public confidence in their profession. They must:

- 2.1 Give precedence to the protection of public safety.
- 2.2 Protect consumer rights.
- 2.3 Obey all applicable laws and regulations.
- 2.4 Hold paramount the health and safety of others and draw hazards to the attention of appropriate bodies.
- 2.5 Ensure their work is lawful and justified.
- 2.6 Respect and protect personal information and intellectual property.
- 2.7 Protect, and aim to improve, the quality of built and natural environments whilst respecting the limited availability of natural resources.
- 2.8 Maximise public health and safety and minimise both actual and potential adverse effects for their own and succeeding generations.

Standard 3 - Competency, Accuracy and Rigour

Individuals have a duty to acquire and use wisely the competence, understanding, knowledge and skills needed to perform their role or task and to work within the confines of that competence. They must:

- 3.1 Always act with professional skill, care and/or diligence.
- 3.2 Perform services only in areas in which they are currently competent or under competent supervision.
- 3.3 Keep their knowledge and skills up to date.
- 3.4 Assist the development of knowledge and skills in others.
- 3.5 Undertake regular reviews and validations of professional competency.
- 3.6 Present and review theory, evidence, and interpretation honestly, accurately, objectively and without bias, while respecting reasoned alternative views.
- 3.7 Identify, evaluate, quantify, mitigate, and manage risks.

Standard 4 - Responsibility for Direction, Conduct and Communication

Individuals have a duty to demonstrate personal, leadership and ethical conduct, provide clear direction and communication, setting the example for others to follow. They must:

- 4.1 Be aware of and effectively communicate the issues that the built environment raises for society.
- 4.2 Promote equality, diversity, and inclusion, and respect the views of others.
- 4.3 Promote public awareness and understanding of the impact and benefits of new areas of learning, achievements, and innovation in industry.
- 4.4 Be objective and truthful in any statement made in their personal or professional capacity.
- 4.5 Challenge statements or policies that cause them personal or professional concern
- 4.6 Support others to raise issues.
- 4.7 Ensure others are working within their competence.
- 4.8 Take responsibility for checking information.

Standard 5 - Responsibility for Technical and Operating Standards and Integrity

Individuals have a duty to maintain high levels of technical and operating integrity in the provision of services. They must:

- 5.1 Follow commercial practices that protect the legitimate interests of those commissioning work and the eventual occupiers or purchasers of buildings and uphold the legitimacy of acceptable commercial practice within their profession.
- 5.2 Ensure that neither quality of service nor technical standards are sacrificed to create surpluses or profit.
- 5.3 Ensure that entities within their control have sufficient resources to provide the services offered to customers and those providing the service must have the appropriate qualifications, practical knowledge, sufficient experience, and demonstrable competency to match the type of work they undertake. Individuals are expected to engage with colleagues in a proactive way to ensure they have the relevant mix of skills and resources to support the work they take on.
- 5.4. Compete fairly and legally with others.
- 5.5 Be accountable for their decisions and for duties and tasks they delegate to others.
- 5.6 Provide, on request, their complaints procedure and investigate complaints in accordance with the procedure.
- 5.7 Maintain any necessary insurance and advise their insurers of any potential claim in accordance with the insurer's requirements.
- 5.8 Use any form of public or social media with moderation and respect i.e., based on fact, avoiding any misleading statements or offensive language or statements.

Annex A Legal Proceedings

Legal Status

This Code of Conduct and its associated guidance do not constitute legal advice. Individuals that encounter problems in relation to the legal interpretation of their obligations are recommended to seek their own independent legal advice.

Parallel Proceedings

BSCF may suspend any disciplinary investigation pending the outcome of civil or criminal proceedings where this is necessary in the interests of justice.

Civil or Tribunal Proceedings

The bringing of civil or tribunal proceedings against persons or bodies subject to this code will not necessarily result in disciplinary action. However, the facts giving rise to a civil suit may result in disciplinary proceedings if they disclose serious professional incompetence or unacceptable professional conduct.

Conduct resulting in proceedings against any person or body subject to this Code relating to employment of others, whether based on unfair dismissal, disability, age, gender, sexual orientation, ethnicity, race discrimination or otherwise may amount to unacceptable professional conduct and judicial findings may be evidenced in the disciplinary process.

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