**Building Safety Bill | CIAT invites further scrutiny on key issues**

 ***CIAT’s response to the latest draft of the Building Safety Bill***

**Foreword**

CIAT is the global membership qualifying body for Chartered Architectural Technologists and it represents those practising and studying within the discipline and profession of Architectural Technology.

As a design function, Architectural Technology relates to the anatomy and physiology of buildings and their production, performance and processes based upon the knowledge and application of science, engineering and technology, which are compliant with regulatory, statutory and legal requirements.

Architectural Technology achieves efficient and effective construction and robust sustainable design solutions that perform and endure over time.

Our members’ competences are innovative, creative and practical. Their fundamental skills include the ability to consider design holistically, considering all aspects of the composition. This includes the vision to run and lead projects from inception to completion, evaluating the client requirements balanced with the performance of the building together with its impact on the environment and the safety of its users.

**Summary**

CIAT wholeheartedly supports the principles behind the Building Safety Bill and what it is trying to achieve; and as such is a key player in the response to the Hackitt Review and the changes necessary to protect life.

The intentions are to be welcomed, and the approach taken must be proportionate and apply common sense.

With this in mind, it is critical that the Industry works collaboratively to raise competence across the board and instils integrity and responsibility across teams working together to construct, develop and maintain structures.

Below we have identified areas which we consider require urgent review and attention to ensure that the Bill provides for the best outcome for the Industry, clients, owners and users.

These cover the following:

1. **Amendments to Defective Premises Act and Limitation Act**
2. **Building Liability Orders**
3. **Architects Act**
4. **Amendments to Defective Premises Act and Limitation Act**

CIAT and its members continue to be concerned at the suggested changes to the Defective Premises Act (DPA) and Limitation Act, as set out in the current version of the Building Safety Bill. Seeking to extend the period within which legal action can be brought from six to thirty years on a retrospective basis, and fifteen on an ongoing basis, will likely create new exposures on long completed projects overnight. This will include, possibly unintentionally, claims unrelated to fire safety aspects. Further, we do not consider they will bring the resolution as indicated in terms of reparations, and therefore the outcomes as perhaps would be presumed by clients, owners and users.

There is not enough clarity on the workability of the proposals.  In particular, how these are intended to work in practice without unduly affecting innocent parties. Has the insurance market been consulted in respect of realistic availability of insurance to cover the extended and retrospective periods of liability?  What is to be done about spurious claims where the professional has no means to defend these due to the fact that: 1) there is no insurance cover; 2) under GDPR rules any records evidencing innocence will have been destroyed 3) any documents which may not be subject the GDPR may also have been destroyed on the advice of the practice insurers and lawyers 4) memories have faded and/or relevant members of staff are no longer available to provide evidence.

In developing and proposing legislation, it is also of importance to understand the market profile. As such, those writing this legislation need to understand that the vast majority of professional service providers do not operate multi million pound companies and are mainly micro SMEs (up to ten) or sole practitioners.  They will simply not have the capital to fund uninsured losses for remedial work that they had no influence or control over and the cost of dealing with claims

Further, due regard must also be given so that any amendments do not introduce any unfair transfer of liability and that any culpability is accepted by and apportioned to those responsible. For example, there appears to be potential to confuse liability for workmanship, or product substitution.

It is therefore critical that the wording is amended to clarify the defects intended to be captured by this change to avoid unintended consequences.

Whilst we agree with the premise that those undertaking unscrupulous activities and profiting from knowingly flouting the regulations and legislation should be brought to account and rectify their wrongdoings, it is not constructive for any actions to affect innocent professionals who will be unable to defend themselves fairly. It is for this reason that we feel a more in depth sensible and realistic review of the proposals with collaboration with both the insurance market and legal experts to arrive at a fair solution for all without creating loopholes for unscrupulous claims would be beneficial. It is important to enable the market to meet the needs of its clients, whilst avoiding unrealistic transfers of risk and giving comfort to both professionals and public alike.

***Suggestions:***

* ***Review with insurance industry and legal experts to arrive at workable solutions avoiding targeting innocent parties.***
* ***Review wording to define exactly those defects it is intended to capture.***

***Question:***

* ***What is the definition of “Fit for Habitation” – which criteria to determine is to be used?***
1. **Building Liability Orders**

We understand that the purpose behind this section would be to capture those firms setting up special purpose companies for the processing of particular projects.

***Suggestion:***

* ***We would ask for a definition to be included of “body corporate” and confirmation that it is not intended to extend this to individuals.***
1. **Architects’ Act**

The Bill is described as follows:

*“[AS INTRODUCED] A BILL TO Make provision about the safety of people in or about buildings and the standard of buildings, to amend the Architects Act 1997, and to amend provision about complaints made to a housing ombudsman.”*

In introducing this Bill, we recognise that there is a need to amend the Architects’ Act, but we consider that to reference it in the preamble, and embed it within the Bill was unnecessary; it focuses attention on one particular profession in favour of others who provide design services and act as project lead and will become principal designers under secondary legislation.

It is unclear why this needed to form such a prominent part of the Bill, and could have been featured in an appendix, particularly when the target audience is broader and all within the built environment must comply.

As such we consider that that amendments to the Architects’ Act to meet the proposals should have been dealt with independently in line with all other professions. There is also a more fundamental question as to whether there is a need for an Architects’ Act at all with the introduction of the BSB and the new regime.

***Suggestion:***

* ***To move the reference to the Architects’ Act as indicated, or remove from the Bill entirely.***

**END 15 March 2022**