



# Looking ahead to 2024 in Construction



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Seemingly, I have opened every article I have written over the last four years with the passage, “the last twelve months in the construction sector have been a perfect storm of inflation (albeit falling inflation now), rising interest rates (albeit stabilising), labour shortages (let’s not mention Brexit), material inflation (steadied but most the prices haven’t gone down), increased regulation and a variety of macro-economic factors ([insert] depending on which year we are talking about)”.



Then we turn to the year ahead, with great optimism and what better way to start this new year than looking ahead to what we can expect to see in construction law in 2024. Buckle up, this is going to be one hell of a ride.

Like any good, slightly rickety old rollercoaster, the track gently rises and falls to start off with, building up the anticipation amongst the revellers. So let’s start with the low hanging fruit:

1. We can expect to see the introduction of the Gateway Two Developer Levy (Building Safety Levy) via Building Safety Act 2022. Estimated to generate £3 billion over 10 years, its aim is to prevent the public and leaseholders being charged for the remediation of unsafe 11-18m residential buildings where developers cannot be traced or identified. You can read more about it [here](#).
2. The introduction of the Bio Diversity Net Gain requirement, introduced in the Environment Act 2021, should be seen in 2024, requiring developments to have a “*measurably positive impact...on biodiversity, compared to what was there before development*”. The government’s website promising “*information soon*” can be found [here](#).
3. The Levelling-Up and Regeneration Act 2023 will kick into gear and ultimately will lead to the biggest shake-up of the UK’s planning system since the Town and Country Planning Act 1947. You can read more about this [here](#).
4. Approved Document B amendments will see mandatory second staircases for residential buildings of 18m (circa 6 storeys) or more. From 30 months from introduction, all planning applications will need to be compliant with the new requirements.
5. You will already have seen, or avoided, our ePaper on the Building Safety Regulator’s strategic plan, which you can access [here](#). The plan requires a cultural change within the construction sector placing emphasis on participants in the sector (those who design, plan or build) to take ownership of building safety, beyond fire risk.
6. New construction product regulations and measures aimed at forcing construction product manufacturers to pay towards remediation work on unsafe buildings may come into being via the Independent Review of the Construction Product Testing regime by Paul Morell OBE and Anneliese Day KC.

## Moving on to weightier matters...

Importantly, we will see the publication of the Grenfell Tower Public Inquiry's Phase II Report, which is anticipated prior to the 7th anniversary of Grenfell, being 14 June 2024.

The judgment in *Martlet Homes Ltd v Mulallet & Co Ltd* ([2022] EWHC 1813 (TCC)) was handed down in July 2022, being the first high-rise defective cladding case since Grenfell. We anticipate this being the first of many cases as claimants take advantage of the extended 30 year limitation period under the Defective Premises Act 1972 (see more about that [here](#)) and widening of potential claimants to an action.

We also expect to see the first Building Liability Orders and Information Orders come through the High Court via section [130](#) and [132](#) of the Building Safety Act.

We may see the bringing into force of section [38 Building Safety Act](#), which introduces civil liability for breach of building regulations beyond defects, indeed encompassing any breach of the regulations. No doubt the new Building Safety Regulator will be flexing its muscles in 2024. You can read more about its strategic plan [here](#).

And in a final flurry, we will see the passage of the Arbitration Bill 2023-2024 to amend the Arbitration Act 1996, the launch of the JCT 2024 suite of contracts (see article [here](#)), the possible further integration of online civil justice (more online case management and hearings) and mandatory Alternative Dispute Resolution. Oh and whether or not a collateral warranty is a construction contract, which is on appeal in *Abbey Healthcare (Mill Hill) Ltd v Simply Construct (UK) LLP* ([2022] EWCA Civ 823).

I hope that I open my 2025 article with a look back on what has been an incredibly positive year for the construction sector and that the law can play that law can play a part in the revival of the sector and not hamper its regrowth.

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