

The new building safety regime January 2024

Debbie Larner

Welcome and introductions

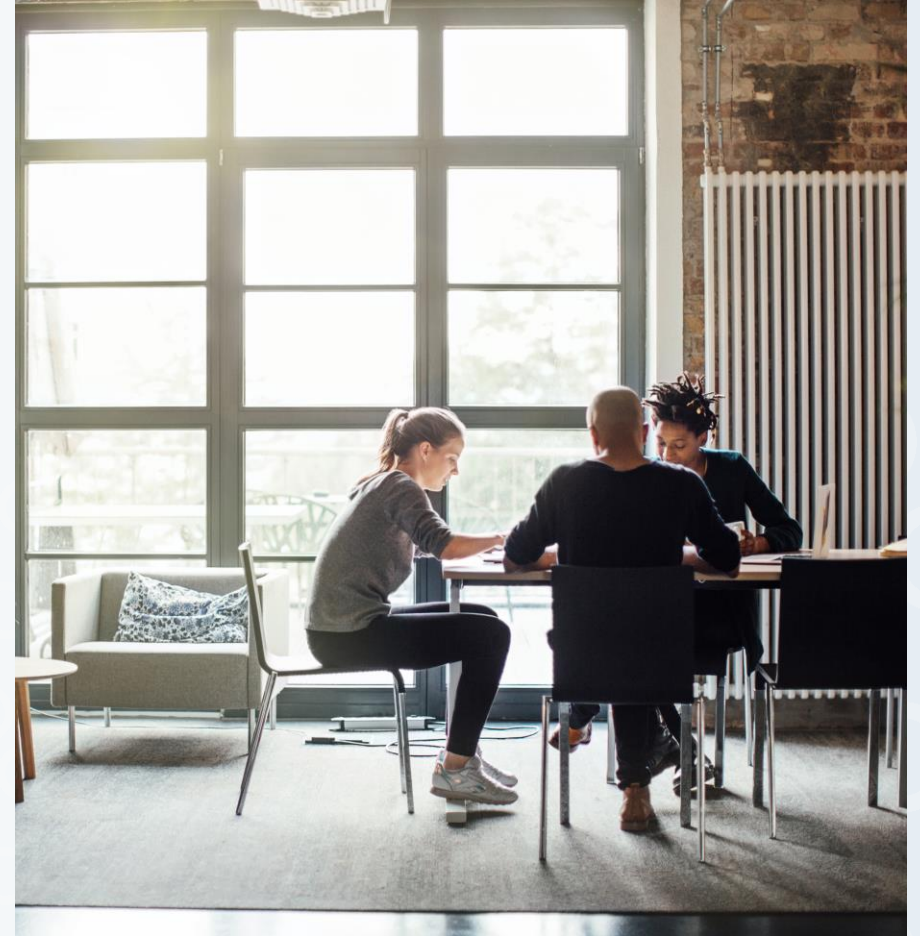
Outline of the session

- Welcome and introductions
- Current regulatory expectations on health and safety
- Putting residents at the heart of the safety agenda – the new social housing regulatory framework
- Overview of the Building Safety Act 2022
- The new building safety regime – in occupation phase
 - The Building Safety Regulator
 - The accountable person
 - The Building Safety Manager?
 - The golden thread
 - The Safety Case (and Report)
 - Resident engagement next steps



Introductions

- Who you are:
 - Name
 - Job Role
- What you want to get out of this session...?



Review of consumer regulation 2022/23

- **Governance and leadership** – Good governance and leadership are vital to providing good quality services. Non-compliance decisions included failures in establishing appropriate oversight to ensure tenants received quality homes and services.
- **Engagement with tenants** – Failures to treat tenants with fairness and respect; respond to tenants' concerns; and communicate with them in a way that takes into account diverse needs.
- **Quality accommodation** – Systematic failings in repairs and maintenance services resulting in tenants living in properties severely affected by damp or mould. Providers breached the Home Standard due to not meeting legal requirements on fire, electrical, water, asbestos or lift safety.
- **Data and compliance** – Self-referrals from providers due to uncertainties over completing required health and safety checks as a result of unreliable data. In some cases, mergers presented practical challenges as providers did not have clear oversight of legacy data management systems.

Lessons learnt

- It is essential that landlords have good quality data in order to manage and monitor compliance with statutory health and safety requirements, and where necessary, put in place steps to mitigate risks to their tenants
- Landlords must have an accurate and up to date understanding of the quality of the homes they manage, underpinned by reliable stock condition survey data
- Effective processes must be in place to quickly identify and deal with damp and mould
- Systems must be comprehensive and encompass all of the aspects that contribute to maintaining homes in a safe condition

Health and safety responsibilities – sector risk profile 2023

Ensuring that tenants are safe in their homes is a fundamental responsibility of all social landlords and their boards.

- Boards must have assurance that providers' stock meets **all relevant statutory health and safety obligations**, irrespective of whether providers are carrying out these checks directly
- Boards must be confident that there are effective data reporting and monitoring systems in place to ensure that providers meet statutory health and safety requirements, such as gas safety checks, and **that risks are appropriately identified and managed**
- Boards must ensure that they adequately understand all legislative and regulatory requirements relating to **health and safety compliance**, including their duties and responsibilities with regard to **fire and building safety under the new regulatory regime**
- Boards must ensure that they have comprehensive and **effective building safety systems** and programmes in place to provide assurance that tenants remain safe
- Boards will need assurance that their organisations hold **good quality data** to enable the accurate assessment and management of risks.
- Boards must **understand the costs** associated with remediation works and any implications for other planned major repairs, particularly for large and complex buildings and properties with vulnerable tenants
- Boards must drive **a safety-first culture** cross the organisation
- Overall, boards must **hold senior leaders to account** for health and safety performance across the organisation – staff and residents

Fire safety remediation in social housing in England – Nov 16th

“It is for boards and councillors to understand the landlords' legal obligations in relation to managing the safety of buildings and seek assurance that they are being met and that any identified risks are being well managed and promptly remedied. Ensuring organisations have robust systems and processes, underpinned by accurate and up to date data on fire safety and its management is a key aspect of ensuring that tenants are safe in their homes”.



Health and safety: Are you confident that....

- The compliance information you collate tells the whole picture and considers buildings as a whole system?
- You understand all legislative and regulatory requirements relating to health and safety compliance?
- You are at the forefront of driving a safety-first culture across your organisation?
- Your organisation has the required competencies to effectively manage safety across your homes?
- You have accurate, complete and reliable data to ensure you are meeting all relevant legal health and safety requirements?



How confident are you in answering these questions?



Putting the residents at the heart of the safety agenda

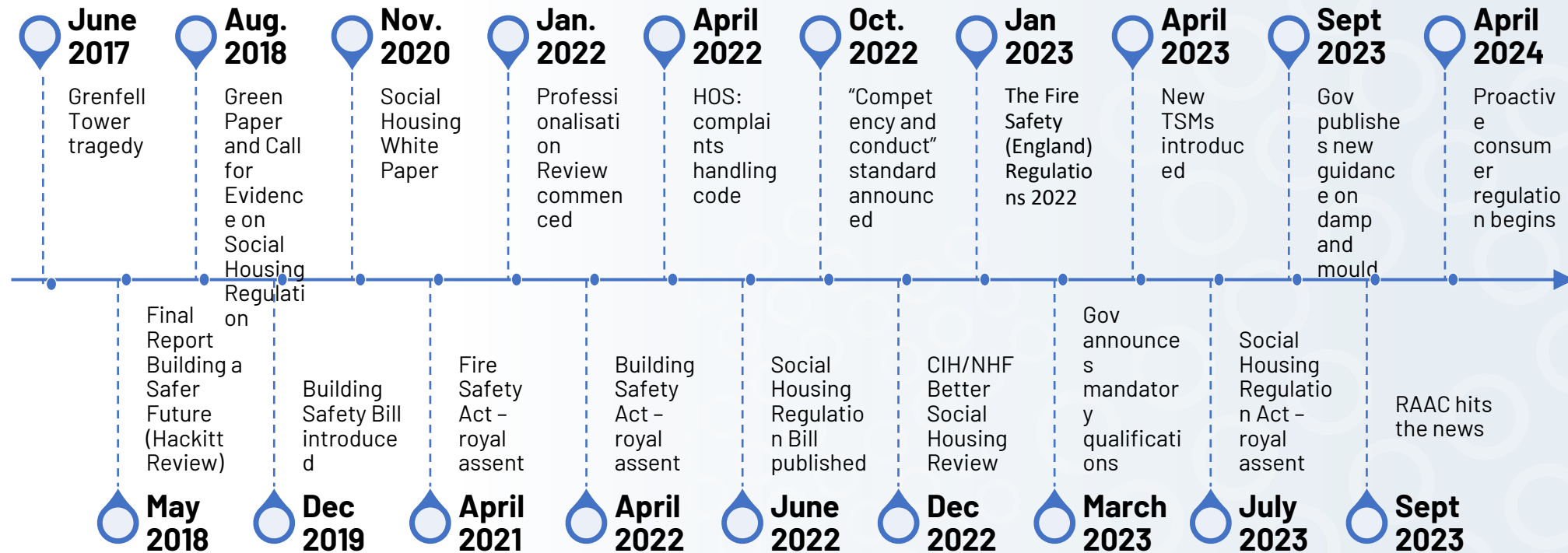


What residents highlighted...

- Lack of trust in the relationship between landlords and tenants
- Residents not having a voice or being listened to
- Lack of accountability and transparency about performance and decision making
- Slow and ineffective resolution of complaints
- General attitudes and behaviour of staff towards residents
- Concerns over safety and quality of homes



From then to now.....



"A cultural change is required to rebuild trust and ensure residents feel safe in their homes again. Providing reassurance, recourse and responsibility to residents is one part of a systemic overhaul designed to deliver buildings that are safe now and will be in the future" *Building a Safer Future: Final report*

"Where change is needed, it requires a culture change within the relevant registered providers. The quality and safety of the homes you provide, your ability to maintain them, and the quality of your services to tenants are vitally important".
Fiona MacGregor, RSH

"A lack of respect, tenants not listened to, no transparency and institutional indifference" *Grenfell Tower Inquiry*

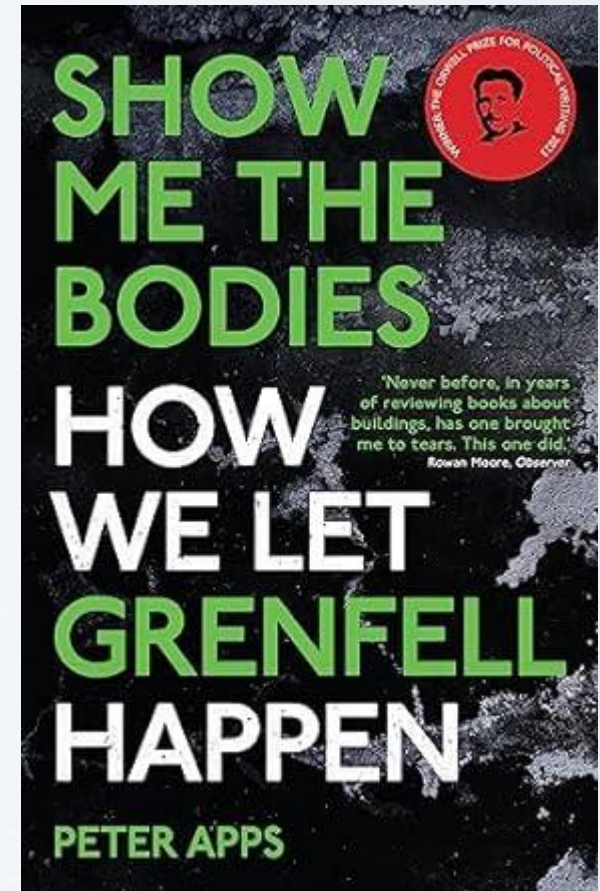
"When residents interact with landlords they should expect and receive a professional service from "competent and empathetic staff"; "all landlord staff must act professionally, listen to their residents and, at all times, treat them with courtesy and respect" *Social Housing White Paper*

"Our investigation found reoccurring instances of residents being treated in dismissive, inappropriate or unsympathetic ways. In some instances, the language used was derogatory". *Rick Blakeway, HOS*

Residents NOT at the heart results in...

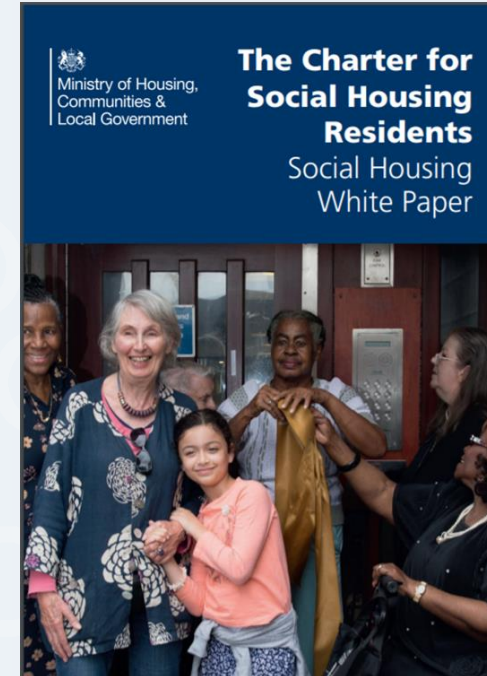
- Complaints consistently ignored – seen as a “nuisance”
- Views not listened to – not seen as valid or informed
- Not consulted on key decisions – views are not seen as relevant or important
- Assumptions informed by perceived potential “behaviour” of residents
- Money-saving/ cost cutting measures – poor quality products and materials
- Design reflects attitudes – “us and them”

<https://www.youtube.com/watch?v=LFoVARqu9u0>



The Social Housing White Paper

- Legislate to strengthen the Regulator of Social Housing's consumer regulation objectives to explicitly include safety
- Legislate to require social landlords to identify a nominated person responsible for complying with their health and safety requirements
- Require Regulator of Social Housing to prepare a Memorandum of Understanding with the Health and Safety Executive to ensure effective sharing of information with the Building Safety Regulator (BSR)
- Launch a consultation on requiring smoke alarms in social housing and introducing new expectations for carbon monoxide alarms
- Consult on measures to ensure that social housing residents are protected from harm caused by poor electrical safety.



Social Housing (Regulation) Act 2023

Aims:

- to deliver the reforms outlined in the Social Housing White Paper
- address the concerns raised following the tragic fire at Grenfell Tower in 2017
- bring forward a stronger and more proactive regulatory regime to drive up standards in the sector and hold landlords to account for the service they provide to their tenants
- strengthen the RSH in enforcing both the consumer and economic standards



What does it do?

- (Re)introduced a proactive approach to consumer regulation (removes serious detriment test)
- Enable the RSH to intervene with landlords who are performing poorly on consumer issues, such as complaints handling and decency of homes, and to act in the interest of tenants to make sure issues are rectified.
- Enable the RSH to inspect landlords to make sure they are providing tenants with the quality of accommodation and services that they deserve.
- Enable RSH to publish inspection plans
- Guarantee timely action where the RSH has concerns about the decency of a home by only requiring 48 hours notice to a landlord before a survey is carried out.
- Provide powers for the RSH to arrange emergency repairs of tenants' homes (following a survey and where there is evidence of systemic failure by the landlord), ensuring that serious issues are resolved rapidly where a landlord is unable or unwilling to act.
- Remove the cap on the fines that the RSH can issue to a landlord who fails to meet required standards

And there's more....

- Introduces of Awaab's Law which will require landlords to investigate and fix reported hazards in their homes within a specified time frame or rehouse tenants
- Provides new powers for the Housing Ombudsman to help social landlords improve performance by instructing them to self-assess against guidance during a complaint investigation
- Created new Tenant Satisfaction Measures which will allow tenants to see how their landlord is performing compared to other landlords and help the RSH decide where to focus its attention
- Enables the Social Housing Regulator to set a standard relating to information and transparency requiring social landlords to provide residents with information on how they can make a complaint against them
- Enables the regulator to set standards for registered providers regarding the **competence and conduct** of individuals involved in the provision of services in connection with the management of social housing
- Requires all social housing managers to have a **professional qualification** to protect residents and raise standards

A new approach to consumer regulation....

- Landlords maintain tenants' homes so that they are safe and of a decent standard and that landlords provide a quality service
- Where things go wrong, complaints are handled effectively, and things are put right.
- The relationship between tenants and landlords is underpinned by shared expectations of fairness and respect and a shared understanding of their respective rights and responsibilities.
- Landlords demonstrate that they understand the diverse needs of the communities that they serve and their services reflect that.
- Tenants understand, use and have confidence in the recourse that they have to get problems resolved.
- Stakeholders have confidence that landlords' commitment to their tenants is underpinned by effective consumer regulation, whether that landlord is a housing association, council or for-profit provider

Consumer regulation – safety and quality

- The Act expands the regulator's existing **objectives** to explicitly include safety – landlords must understand their health and safety obligations and identify and act on associated risks and issues so that residents remain safe in their homes.
- Introduces a new **consumer standard** on **safety and quality**
- There are new **explicit requirements** related to the stock quality and health and safety....

Proposed: Stock Quality

Required outcome:

Registered providers must have an accurate, up-to-date and evidenced understanding of the condition of their homes that reliably informs their provision of good quality, well maintained and **safe homes** for tenants.

- To maintain the required safety and quality of their tenants' homes, landlords need to know what state they are in.

Requirements:

- The proposed standard requires landlords to do physical assessments of their homes, keep accurate records of the results for each individual home, and use the results (along with other information) to keep homes in a good condition.

Specific expectations:

- Registered providers must have an accurate record at an individual property level of the condition of their stock, based on a physical assessment of all homes and keep this up to date
- Registered providers must use data from across their records on stock condition to inform their provision of good quality, well-maintained and safe homes for tenants including compliance with health and safety legal requirements.

Stock quality – things to think about

1. Make sure you meet the current Decent Homes Standard – and gear up for compliance with the new DHS with its enhanced focus on safety and energy efficiency
2. Seek assurance that the data that you have on your housing stock and the performance of your repairs service is comprehensive, accurate and up to date
3. Measure resident satisfaction with your repairs service and act where residents identify failings in the service
4. Involve your residents in the design delivery and scrutiny of your services
5. Learn from the complaints that residents make about the repairs service. Remember that complaints can identify systemic problems in service delivery that you need to address
6. Make sure you are on top of any damp and mould problems that you have in your housing stock. Keep your policies and processes on damp and mould issues under regular review. Monitor the implementation of these policies and processes to ensure your residents' homes are damp and mould free
7. Ensure your board/governing body understands their responsibilities in designing and implementing an asset management strategy for your housing stock. Keep them informed too about the performance of your repairs service

Proposed: Health and safety

Required outcome:

When acting as landlords, registered providers must take all reasonable steps to ensure the safety of tenants in their homes and associated communal areas.

Requirements:

- This requirement makes landlords' health and safety responsibilities clearer – for example, by saying they should act on the results of health and safety checks in a reasonable amount of time and consider tenants' safety when designing and delivering their service.
- **Specific expectations:**
- Registered providers must identify and meet all legal requirements that relate to the health and safety of tenants in their homes and communal areas.
- Registered providers must ensure that the safety of tenants is considered in the design and delivery of landlord services, for example how they manage complaints relating to health and safety and take reasonable steps to mitigate any identified risks to tenants.
- Registered providers must ensure that all required actions arising from legally required health and safety assessments are carried out within appropriate timescales.

Health and safety – things to think about...

1. Comply with the law on those critical items – the ‘big five’: gas, electricity, fire, asbestos and water. And do not forget lift safety if your housing stock has flats with lifts
2. Make sure your data on the safety of your housing stock is comprehensive, accurate and up to date. Carry out regular audits to give you assurance that your data provides an accurate picture of the safety of your housing as experienced by your residents
3. Find out from your residents what they think about the safety of their homes. Make sure you act on what they tell you
4. Involve your residents in the design delivery and scrutiny of issues that relate to the safety of their home
5. Learn from the complaints that residents have about the safety of their homes. The complaints could tell you that problems might not be ‘one-off’ incidents but reveal more widespread issues about how you are handling safety issues as a landlord
6. Make sure your board/governing body understands their responsibilities leading your organisation in delivering safe housing services to all residents and under the Building Safety Act 2022

Social Housing (Regulation) 2023 – Health and Safety Lead

- The Act requires housing providers to designate a person to act as lead on certain functions relating to the RP's compliance with its health and safety obligations towards tenants.
- This is in response to one of the Hackitt report recommendations.
- The Act requires that this must be an employee or officer so the role cannot be outsourced although there are slightly different arrangements for local authorities in relation to elected members
- The health and safety lead's functions are to monitor compliance with health and safety requirements, to assess risks of failure to comply, to notify the provider's responsible body of any material risks to or failures of this compliance, and to advise on steps to ensure the RP addresses these.

Social Housing (Regulation) 2023 – Health and Safety Lead

- The health and safety lead must have the authority, capacity and resources needed to carry out their role
- Housing providers are required to notify the Regulator of the contact details of the health and safety lead and publish this information so that tenants know who it is and can contact them.
- Importantly for those taking on the role, the Act clarifies that the health and safety lead is not liable for breaches and legal responsibility for ensuring compliance with health and safety requirements remains with the landlord
- Amendments are also made to other parts of the HRA2008 to effectively provide that the Regulator may utilise its enforcement powers (such as to serve an enforcement notice, impose a penalty or appoint a manager) for failure to comply with the requirements in relation to the health and safety lead.

Tenant Satisfaction Measure – building safety

- BS01 **Gas safety checks**: This measure will be based on the percentage of homes that have had all the necessary gas safety checks
- BS02 **Fire safety checks**: This measure will be based on the percentage of homes in buildings that have had all the necessary fire risk assessments
- BS03 **Asbestos safety checks**: This measure will be based on the percentage of homes in buildings that have had all the necessary asbestos management surveys or re-inspections
- BS04 **Water safety checks**: This measure will be based on the percentage of homes that have had all the necessary legionella risk assessments (legionella is a bacterium that can make people ill if it enters water supplies)
- BS05 **Lift safety checks**: This measure will be based on the percentage of homes in buildings where the communal passenger lifts have had all the necessary safety checks
- TP05 **Satisfaction that the home is safe**: Thinking about the condition of the property or building you live in, how satisfied or dissatisfied are you that your landlord provides a home that is safe?
- *although electrical safety checks are not currently included in the TSM, it is likely they will be once government has concluded its current [consultation](#).

Tenant Satisfaction Measure – building safety

- BS01 **Gas safety checks**: This measure will be based on the percentage of homes that have had all the necessary gas safety checks
- BS02 **Fire safety checks**: This measure will be based on the percentage of homes in buildings that have had all the necessary fire risk assessments
- BS03 **Asbestos safety checks**: This measure will be based on the percentage of homes in buildings that have had all the necessary asbestos management surveys or re-inspections
- BS04 **Water safety checks**: This measure will be based on the percentage of homes that have had all the necessary legionella risk assessments (legionella is a bacterium that can make people ill if it enters water supplies)
- BS05 **Lift safety checks**: This measure will be based on the percentage of homes in buildings where the communal passenger lifts have had all the necessary safety checks
- TP05 **Satisfaction that the home is safe**: Thinking about the condition of the property or building you live in, how satisfied or dissatisfied are you that your landlord provides a home that is safe?
- *although electrical safety checks are not currently included in the TSM, it is likely they will be once government has concluded its current [consultation](#).

Latest from the RSH – 23 November 2023

Letter to CEOs:

- There is a second data request following initial survey carried out in August (opened on 1 December – data due by 31 December)
- In addition to complete and submit a spreadsheet template requiring building level information, identifying all the 11 metre plus buildings, with information relating to their remediation where relevant.
- Providers will be expected to provide quarterly updates on progress on fire safety remediation for all buildings over 11 metres
- Data will be published by DLUHC on a provider-by provider basis

“Timely and accurate data submission is a cornerstone of the co-regulatory settlement, and we rely on the information you supply us to ensure proportionate and risk-based regulation. Failure to provide accurate and timely data may be reflected in our published judgement of a provider’s compliance with the regulatory standards”.

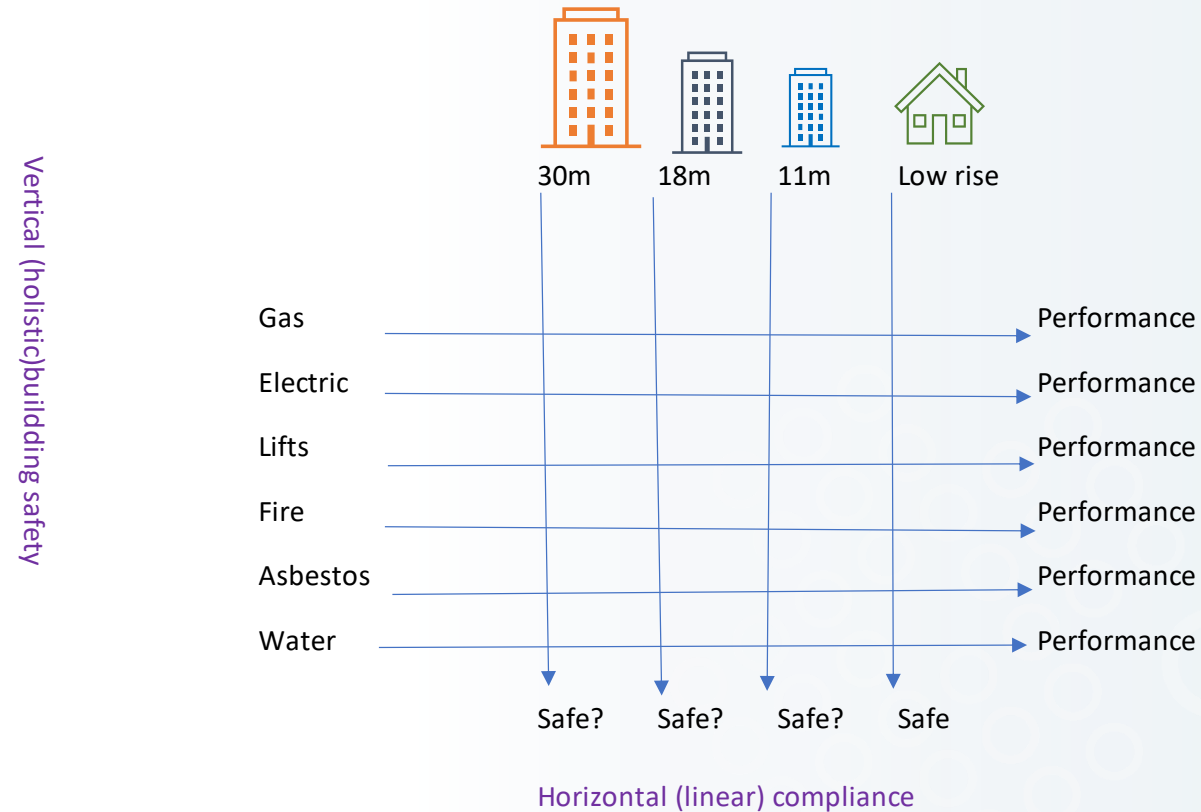
A New Building Safety Regime

A new building safety regime

- The new focus around safety requires landlords to think about compliance differently
- The approach taken by both the RSH and the BSR requires landlords to demonstrate what they are doing to keep residents safe AND to ensure that residents **feel safe** in their buildings and homes.
- This will require a new approach to assurance over and above the traditional performance/ KPI reporting currently adopted.
- While it will still be important for boards to understand performance around gas safety checks, landlords should also think about how they provide assurance that building (as a whole system) are safe
- Compliance data alone will not provide the assurance required by boards, members and residents that buildings are safe. For example, data that states that there is 95% compliance with gas safety inspections provides an incomplete picture

Thinking differently about compliance

Holistic building safety versus compliance



Taking ownership?



The regulator expects your organisation to have robust **systems** and processes, **governance**, **resources**, and right level of **expertise** to be able to ensure that risks are well managed and resident safety is at the forefront of all decision making from initial concept throughout the life of building through design, construction and occupation stages.

Competence

- The right mix of skills, knowledge, experience, and behaviours to ensure a positive culture is established and delivers the effective management of buildings throughout their lifecycle
- This requires having the relevant systems in place to manage competencies and employ staff who can demonstrate the right behaviours.
- Individual competence needs to be established and monitored on a regular basis to ensure your workforce remain competent in its function to deliver safety and manage risks effectively.
- You have a role in ensuring that your organisation has robust systems, processes and a competent workforce aligned with a positive culture that puts residents at the centre of all decision making.
- This will be essential to provide assurance to residents, members of the public, and the regulator



Competency frameworks

PAS 8673 - Competence requirements for the management of safety in residential buildings – Specification

- Framework for competence requirements for managing safety in residential buildings and other developments incorporating residential accommodation. covers :
 - Building structures and building systems, including building services
 - Interaction of systems and components
 - Operational practices necessary to maintain buildings safe for occupants
 - Risk management
 - Managing the golden thread of information, including other digital information
 - Managing change, including the consequences of human behaviour
- Its scope also includes leadership, communication and planning skills, and personal commitment to ethical behaviour and professional standards

BSI Flex 8670 v2.0:2020-12 Built environment – Overarching framework for building safety competence of individuals – Specification

- sets core requirements for behavioural and building safety competence for all persons working in the built environment in order to improve industry culture and safety outcomes throughout the building life cycle.
- drives adoption of consistent good practice in the development and use of competence assessment frameworks across the built environment.
- enables consistent and objective evaluation of different sector-specific competence frameworks against common criteria by regulators, clients and employers
- supports development of suitable mechanisms to provide robust assessment of individual competence

Resident safety is everyone's responsibility



Building Safety legislation

Fire Safety Act 2021

The Act amends the current Regulatory Reform (Fire Safety) Order 2005 (FSO), clarifying its ambit to include the risks posed by the external façade of buildings and individual entrance doors to flats. It applies to all multi-occupied residential buildings and is not dependent on the height of the building

In Summary, the Act:

- amends the FSO to require all Responsible Persons to assess, manage and reduce the fire risks posed by the structure and external walls of the buildings for which they are responsible (including cladding, balconies and windows) and individual doors opening onto common parts of the building;
allows the Fire and Rescue Service to enforce against non-compliance in relation to the external walls and the individual doors opening onto the common parts of the premises
- Introduces a new Fire Risk Assessment Prioritisation Tool - online tool designed to support Responsible Persons to develop a prioritisation strategy for updating their fire risk assessments

The Fire Safety (England) Regulations 2022

From 23 January 2023:

1. In all multi-occupied residential buildings which:

- Contain more than two or more sets of domestic premises
- Contains common parts through which residents would need to evacuate in the case of an emergency

Responsible persons will be required to:

- Provide residents with information relating to the importance of fire doors in fire safety

- Provide relevant fire safety instructions to their residents, which will include instructions on how to report a fire and any other instruction which sets out what a resident must do once a fire has occurred, based on the evacuation strategy for the building

2. In residential buildings **between 11 and 18 metres in height**, responsible persons will be required to:

- **Fire Doors:** undertake annual checks of flat entrance doors and quarterly checks of all fire doors in the common parts

The Fire Safety (England) Regulations 2022

3. In high-rise residential buildings **over 18 meters**, responsible persons will be required to:

- **Building Plans:** provide the fire and rescue services with electronic copies of building floor plans and keep hard copies of those plans in a secure information box accessible by firefighters.
- **External wall Systems:** provide the fire and rescue services with information about the building's external wall system and provide updates if there are material changes to these walls.
- **Lifts and Fire-Fighting equipment:** undertake monthly checks on fire and evacuation lifts and other firefighting equipment and inform the fire and safety services if a lift used by firefighters or firefighting equipment is out of order for longer than 24 hours.
- **Information Boxes:** install and maintain a secure information box containing the name and UK contact details of the responsible person and hard copies of building floor plans.
- **Wayfinding Signage:** install way finding signage which is visible in low light conditions showing flat and floor numbers in the stairwells.

Scope



Residential buildings with 2 or more domestic premises with common areas



Residential buildings between 11m and 17.9m in height



Residential buildings 18m (or 7 storeys) and above in height

Provisions that Apply

1 Fire Risk Assessment Prioritisation Tool

2 Information to residents – fire safety instructions

3 Information to residents – fire doors*

1

2

3



4 Fire door checks

1

2

3

4



5 Secure information box

6 Design and materials of external walls

7 Floor plans and building plan

8 Lifts and firefighting equipment

9 Wayfinding signage

* Please note: fire door requirements differ for buildings above and below 11m in height.

Overview of Building Safety Act 2022

Part 1: Overview of Bill

Part 2: Establishes a new Building Safety Regulator within the Health and Safety Executive

Part 3: Amendments to the Building Act 1984; new regulatory regime during the design and construction phase; registration of building inspectors and building control approvers

Part 4: In occupation phase – defines and places duties on the accountable person) and building safety managers

Part 5: Other provisions about safety standards – provisions to require a new homes ombudsman scheme to be established; removes the ‘democratic filter’. Plus remediation of certain defects

Part 6: General

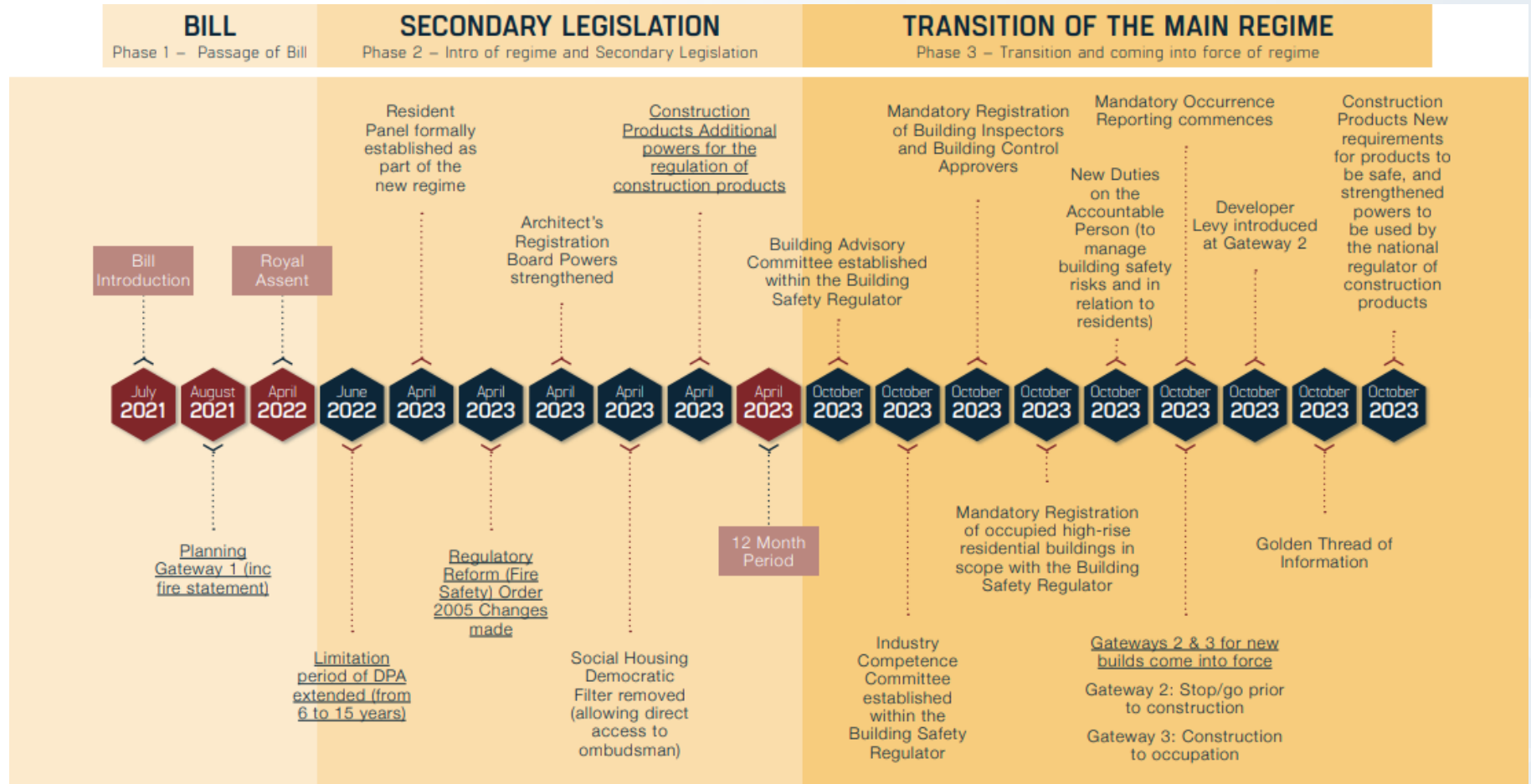
262 pages and over 400 pages of explanatory notes....



Building Safety Act 2022

- Place specific duties on organisations which own and manage high rise residential buildings to take a range of specific and prescribed actions to identify fire and structural safety risks, put the required measures in place to keep the building and its' **residents safe**, and to evidence how they are doing this
- Create a universal change in **responsibility and culture** across the built environment
- Establish a more effective regulatory and responsibility framework for the construction industry and clearer standards and guidance
- Ensure that **residents are at the heart** of a new system of Building Safety
- Clarify who has responsibility for Fire and Building Safety throughout the life cycle of a higher risk building
- Create a new regulator responsible for building safety ([Building Safety Regulator](#)) to **drive culture change**, improve standards and improve the competence of everyone involved in the planning, design, build and management of buildings

Timelines



The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023

- Deadline for registration and submitting 'Key Building Information' for existing occupied higher-risk buildings
- Registration of building inspectors (RBIs) and building control approvers (RBCAs) commences
- The Accountable Persons will need to manage the building safety risks for their Higher-Risk Building
- The Building Safety Regulator becomes the Building Control Authority for higher-risk buildings (HRBs) in England
- Plus, requirement under section 156 Building Safety Act 2022...



Section 156 of the Building Safety Act 2022

- Record their completed fire risk assessment, and in full (where previously only specific information was required to be recorded)
- Record the identity of any individual or organisation engaged to undertake/review any or all of the fire risk assessment, and share this with residents
- Record their fire safety arrangements which demonstrate how fire safety is managed
- Record and update contact information, including a UK-based address, and share this, along with the identified fire safety risks, preventative and protective measures, any competent persons nominated to assist with fire-fighting and detection measures, with other Responsible Persons and residents
- Take reasonably practicable steps to ascertain the existence of other Responsible Persons who share, or have duties in respect of the same premises, and of Accountable persons – they must then identify themselves and cooperate with accountable persons so that the accountable persons can carry out their duties
- Provide residents with relevant fire safety information in a format that is easily understood by the residents
- Any departing Responsible Persons must share all 'relevant fire safety information' with incoming Responsible Persons

Early 2024

All other duties applying to Accountable Persons and Principal Accountable Persons in higher-risk buildings will come into force. These include

- Devising and be operating a Mandatory Occurrence reporting framework
- Creating and maintaining a golden thread of information
- Safety case(s) and safety case report
- Providing information to residents and a resident engagement strategy in place
- Developing and be operating a complaints procedure specifically related to concerns over building safety
- In addition the BSR will:
 - Start to take action on un-remediated higher-risk buildings
 - Create a national register (searchable portal) of higher-risk buildings
 - Start to call in occupied higher-risk buildings for assessment of their compliance with the new duties to assess and manage building safety risks- if satisfied of compliance with duties, the Building Safety Regulator will issue a 'building assessment certificate

The Building Safety Regulator

The Building Safety Regulator

Aims:

- Improve the safety and standards of ALL buildings
- make sure residents of higher-risk buildings are safe and feel safe where they live
- help restore trust in the built environment sector

Published first strategic plan (November)

- <https://www.hse.gov.uk/building-safety/strategic-plan.htm>



They will do this by.....

- delivering consistent standards within the building control profession
- overseeing and driving improvements across the built environment
- regulating the planning, design and construction of new higher-risk buildings
- ensuring those who are responsible for higher-risk buildings manage risk so that residents are safe
- working in partnership with RSH, Housing Ombudsman, Local Authorities and Fire and Rescue Authorities



Building Safety Regulator – role

- The Building Safety Regulator is the Building Control Authority for higher-risk buildings,
- During design and construction, they are responsible for overseeing compliance with building regulation requirements
- During occupation we will be regulating those who are responsible for the management of building safety risks, related to the spread of fire and structural failure
 - Assess the validity of the Safety Case
 - Provide certification following sign-off of the safety case
- Impose formal enforcement and sanctions where necessary



BSR – Enforcement Policy Statement

- providing written information regarding breaches of law
- verbal warnings
- requiring improvements in the way risks are controlled and managed
- requiring action to be taken to remedy non-compliance
- stopping certain activities where they create serious risks or where they do not comply with relevant requirements
- recommending and bringing prosecutions where there has been a serious breach of law
- seeking appointment of special measures managers when an appointed person for a higher-risk building fails to carry out building safety functions

Building registration process

- You should have registered your buildings by **30th September 2023**
- It will be an offence if a building is occupied but not registered
- Residents will have access to register (soon)
- Online template <https://register-high-rise-building.hse.gov.uk/>
- £251 charge per building
- Guidance here <https://www.gov.uk/guidance/applying-to-register-a-high-rise-residential-building>
- To include key building information:

<https://www.gov.uk/government/publications/giving-bsr-structure-and-fire-safety-information-key-building-information/building-safety-regulator-giving-us-structure-and-safety-information-key-building-information#>

Information to the BSR

The principal accountable person will be required to submit the key building information at the following points in the lifecycle of a building:

- At the same time as or following registration (within 28 days)
- At the same time as a building assessment certificate application is made (where there have been changes to the information since registration)
- At the same time that an application for a completion certificate application is made, when building work has been carried out in an existing higher-risk building and this building work has resulted in a change to the key building information; and,
- As soon as reasonably practicable following any changes to the key building information. (14 days)
- Note: This does not include when an accountable person(s) change(s), as the duty to inform the Building Safety Regulator sits with the relevant accountable person(s) and not with the principal accountable person

Application for a Building Assessment Certificate (BAC)

- BSR will process registration information provided and prioritises HRBs – prioritisation will be based on height of building and number of residential dwellings
- From April 2024 – based on prioritisation (tranching) duty holders will be formally requested to formally an application for a **building assessment certificate** (BAC)
- The accountable person will have 28 (calendar) days from request to apply for a BAC
- 5-year programme to process the applications for the 13,000 buildings in scope
- The application for the building assessment certificate for each building in scope must include:
 - A copy of the latest safety case report
 - A copy of the resident engagement strategy
 - Prescribed information about Mandatory Occurrence Reporting arrangements
 - Information sharing

Process by the BSR

Each application will be reviewed by a multi-disciplinary team led by the building safety regulator but including fire and structural safety experts.

The MDT team will:

- Review documentation
- Contribute their opinion on whether these areas in terms of physical aspects and management, are compliant or non-compliant
- Advise how far short of the standard they are.
- Put view in writing with reference to supporting evidence (likely to be a template)
- Discuss findings with duty holders
- Issue building safety certificate

If there are still outstanding issues the BSR can

- Carry out on-site inspection of building
- Take enforcement action if required

Transitional arrangement – 5 year tranching

		Number of dwellings						
		141+	74-140	54-73	49-53	26-48	11-25	2-10
Height of building (in metres)	50+ m	1	1	1	1	1	1	5
	30-49 m	1	2	2	3	3	3	5
	18-29 m	1	2	3	3	4	5	5

New requirements under the Building Safety Act 2022

Essential ingredients for a building safety regime

- An accountable person/ principal accountable person
- A building safety manager (?)
- Mandatory Occurrence Reporting
- The golden thread
- A safety case/ safety case report
- A resident engagement strategy



The accountable person

The Act defines an accountable person as someone who:

- Holds a legal estate in possession of any part of the common parts (generally the freeholder/ building owner)
- Does not hold a legal estate in any part of the building, but who is under a relevant repairing obligation in relation to any part of those common parts (for example, landlord, managing agent, leaseholders)
- The AP will usually be an organisation or business (the body corporate) but could also be an individual



Multiple accountable persons

- If a building has more than one AP, the AP responsible for the structure and exterior of the building will be the **principal accountable person** (PAP).
- When buildings have a single AP, that entity or person is the PAP
- The PAP has overall responsibility for ensuring that building safety risks are being managed appropriately and that the various duties and obligations are being complied with



Duties and responsibilities of the accountable person

- **Ensure that a Completion Certificate has been issued prior to occupation**
– It is a criminal offence if a higher-risk building was occupied without a Completion Certificate.
- **Assess and manage building safety risks** – To both prevent building safety risks materialising and if they occur, to reduce the severity of any particular incident.
- **Comply with mandatory reporting requirements** – The Building Safety Regulator can require that certain information is reported to it as a matter of course
- **Keep prescribed information and prescribed standards and keeping that information up to date** – Ensuring that the golden thread of information is maintained and updated
- **Respond to residents' requests for information** – there is an expectation that there will be more engagement with residents on building safety risks going forward.

Duties and responsibilities of the principal accountable person

- **Register the building** – Details of how to apply for registration and what information is required is to be set out in secondary legislation, although this requirement will apply to both new and existing buildings.
- **Apply for a building assessment certificate**
- **Display building assessment certificate in prominent location**
- **Prepare of a safety case report** – This is a report which details all of the building safety risks identified by the accountable persons in respect of their part and also setting out a brief description of what action those accountable persons are taking in relation to those risks.
- **Establish and operate mandatory occurrence reporting system** – This ties in with the ongoing duty that accountable persons have to report prescribed information to the Building Safety Regulator. It will be the principal accountable person's responsibility for establishing and creating a framework through which the accountable persons can make these reports.
- **Prepare a residents' engagement strategy and establishing a complaints procedure**

Offences by the accountable person

- Failure to do the following can constitute an offence (with a maximum penalty of up to 2 years in prison, unlimited fine or both):
 - To register an occupied building
 - To apply for a building assessment certificate if directed to by the BSR
 - To display notice with prescribed information about Accountable Person, the most recent Building assessment certificate and any relevant compliance notices
 - To comply with mandatory reporting requirements (maximum penalty of a fine only)
- Without reasonable excuse, to contravene a requirement on the AP which places one or more people in or about the building at critical risk (significant risk of death or serious injury arising from a building safety risk) - Up to 2 years custodial sentence or a fine or both.

The Building Safety Manager (the proposed statutory role as was)

Responsibilities:

- manage the building **in accordance with the safety case report** for the building
- must as soon as reasonably practicable - notify the accountable person for the building if the manager has reason to suspect the safety case is no longer valid
- must give prescribed information to the regulator (failure will result in an offence and is liable on summary conviction to a fine)
- ensure that those engaged in the maintenance and management of the building's fire and structural safety meet the competency requirements
- establish, where necessary, and/or maintain information management systems to facilitate the ongoing safe management of the building
- take responsibility for building safety and engagement with occupants on matters affecting their wellbeing, health, safety and security, and the environment in and around the building
- empower occupants on building safety – including their own and their neighbours' safety – and access to information, and facilitate training to support them and their obligations to other stakeholders.

The (best practice) Building Safety Manager

A familiar face for residents who:

- Looks after their safety
- Keeps residents informed about the safety of their building
- Is seen as a responsible person to talk to and who will listen and act
- Acts as a competent coordinator to help ensure their views are considered
- Understands the context/ local area/ building
- Has authority and independence
- Is able to instigate action/ intervention
- Is competent to deliver against the requirements of the role (however defined)
- Is able to refer/commission experts as required.



The golden thread - the Higher-Risk Buildings (Keeping and Provision of Information etc.)(England) Regulations 2023)

Accountable Persons must maintain a Golden Thread of information throughout the lifecycle of the building to enable all stakeholders to have ready access to a "single source of truth" as regards all relevant safety aspects of the building. It must:

- show that the building was compliant with applicable building regulations during its construction and provide evidence of meeting the requirements of the new building control route throughout the design and construction and refurbishment of a building
- identify, understand, manage and mitigate building safety risks in order to prevent or reduce the severity of the consequences of fire spread or structural collapse throughout the life cycle of a building

The information stored in the golden thread will need to be reviewed and managed so that the information retained, at all times, achieves these purposes.

It must be kept in an electronic format which is accurate, transferrable, accessible, intelligible, secure and only changed in accordance with procedures which record the person who made the change and the date of that change

Mandatory Occurrence Reporting – The Building (Higher-Risk Buildings Procedures) (England) Regulations 2023

The Act legally requires accountable person to capture and report certain fire and structural safety issues ('safety occurrences') to the Building Safety Regulator.

A safety occurrence is any incident or situation relating to the structural integrity or fire safety of a higher-risk building that meets the risk condition. It also includes any design aspects relating to the structural integrity or fire safety of a higher-risk building that would, if built, meet the risk condition

- The reporting system should:
 - Be known to, understood by and accessible to AP's / PAP's
 - Form an ongoing integral and regular part of the building safety risks management process
 - Maintain a "whole of building" approach and be built to allow for urgent safety reporting
 - Identify and capture safety occurrences
 - Enable safety occurrences to be formally reported to the Building Safety Regulator
- Failure to report an occurrence without a reasonable excuse will be a criminal offence and liable on summary conviction to a fine
- <https://www.gov.uk/guidance/reporting-a-mandatory-occurrence>



The safety case

Origins of the safety case

Oil and Gas - PiperAlpha 1988
Petrochemical - Buncefield 2005
Nuclear - Sellafield 2005
Defense - Afghanistan 2006
Aerospace - Lockerbie 1988
Rail - Kings Cross 1987
Housing - Grenfell 2017

The safety case

- The new law proposes that people who manage or are responsible for high-rise residential buildings will have to take **all reasonable steps** to make sure their buildings are safe. There are 2 elements to this
 1. **a safety case** (in place for the entire life of the building and will be dynamic; ie. If any changes are made to the building, the safety case must be updated to reflect how the building remains safe for occupation).
 2. **a safety case report** (a document for the BSR proving your buildings are safe to occupy) .
- The safety case approach will help duty holders to identify and implement measures that are proportionate and effective and ensure that people in and around high-rise residential building are safe
- The safety case is the information you use to manage the **risk of fire spread** and the **structural safety** of your building
- The safety case report will be used by the BSR as the basis for issuing a Building Assessment Certificate(BAC)

Safety case principles

You will need to:

- demonstrate how you are keeping your building safe
- demonstrate why you believe the measures you have in place to prevent and limit the consequences of a major accident in your building are sufficient and effective
- demonstrate that you have a robust approach to the ongoing management of the building to make sure those measures remain effective

This requires you to think about your building **holistically** and to think of it as a system.

Holistic building safety versus compliance



Safety case report

- Identifies the major fire and structural hazards associated with building
- Should be succinct and allow the reader to understand:
 - the fire and structural safety risks associated with the building
 - what measures are in place to manage, control and mitigate the risks
 - how these measures are maintained
 - what checks are done to make sure the measures will work when they are needed
 - how the safety case will be kept up to date.

<https://www.hse.gov.uk/building-safety/news/safety-cases-news.htm>



Safety case report ...(cont'd)

A safety case report should not be:

- a collection of individual reports, compiled without narrative, reference or context
- just a fire risk assessment and nothing else
- a 'one-off' exercise – a standardised document containing generic information
- an overly technical or complex document
- a set of unsupported claims of safety without evidence
- a 'copy and paste' from another building's safety case
- an administrative hurdle to solely satisfy the regulator and residents
- a secret!!

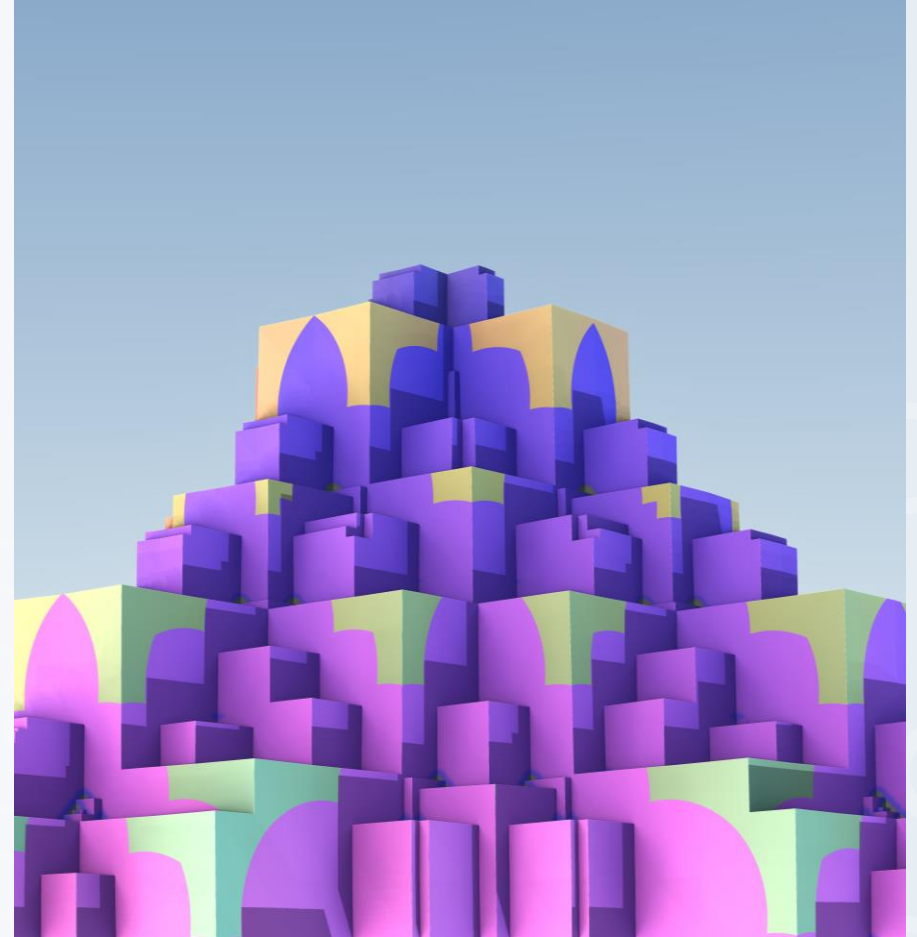


Fire risk scenarios

- **single-floor scenario** - a fire spreading across multiple compartments on a single floor
- **between-floors scenario** - a fire spreading from a single floor to another floor
- **multiple-floor or whole-building scenario** - where more than two floors are affected by the fire. This could be single-floor or between-floor scenarios spreading through the building, or an external fire spread affecting multiple floors
- **evacuation scenario** - a failure of evacuation routes turning a fire into a more serious incident
- **emergency-response scenarios** - issues with an emergency response turning a fire into a more serious incident. Possible factors include failure in early detection leading to delays in emergency response. Or access issues making it harder for emergency services to tackle the fire effectively
- **safety-system scenarios** - where a failure of one or more components of the safety systems could allow a fire event to escalate

Structural risk scenarios

- structural collapse of a residential unit or common areas
- multiple-floor collapse
- whole-building collapse
- balconies or suspended walkways
- attached or supported components
- undermining or compromise of foundations
- aggressive conditions due to chemical or biological processes
- specific incidents such as gas explosion or impact damage



Lessons learned

- Positive engagement: The BSR had been keen to engage and receive input from those with duties under the BSA.
- Assessment criteria: understand what the BSR is looking for and how they will be assessing your safety case – guidance is provided on HSE website.
- Consider how your building might “score” : in most cases it is likely that the BSR will attach conditions or require you to provide further information
- Costs: the BSR will charge a fee for registration and also for any additional information it may require from you. Make it as easy as possible for the BSR to assess and understand your safety case report or it could get very expensive!
- Guidance: Further guidance is in the pipeline, with input from a number of social housing providers, but don't expect a template for a safety case.
- Not expecting perfect buildings: The BSR is not expecting each HRB to be perfect, but a risk proportionate plan based on a suitable assessment to be in place where deficiencies are identified

Do your residents feel safe?????

The residents voice

Residents voice – overall expectations

- **Providing residents with building safety information** – All residents will be kept informed about the safety of their building and will receive building safety information. They will also be able to request further information from the accountable person who is responsible for the part of the building which they live in
- **The residents' engagement strategy** – The principal accountable person must establish a residents' engagement strategy, which promotes the participation of all residents in decisions about their building's safety and sets out how and when residents will be consulted
- **Complaints** – The principal accountable person must establish and operate a system for the investigation of relevant complaints. Where a complainant believes their safety concerns have not been adequately resolved, they will have the right to escalate their complaint to the Building Safety Regulator, who will establish and operate a complaints procedure to handle residents' concerns.

Resident engagement strategy

- The purpose is to ensure all residents can have a say when it comes to the safety of their home.
- This strategy must set out:
 - what information will be provided to residents about decisions relating to building management;
 - what they will consult residents on;
 - what aspects of a decision residents will have a say in;
 - how they will consult residents; and,
 - how they will review the appropriateness of the strategy
- Accountable persons must distribute the strategy to all residents over the age of 16 and owners of units in the parts of the building that they are responsible for
- Think about what format the residents' engagement strategy should be provided in that allows residents to clearly understand the content and aims of the strategy and promotes resident involvement in building safety decisions, for example via email, posting hard copies

Resident engagement strategy (cont'd)

Measuring effectiveness of your strategy

- Describe how you'll assess and review the methods you use to encourage involvement in building safety decisions. You should do this regularly and record the results of your review.
- To measure and review participation, you can:
 - record how many responses you get when you ask about a building safety decision
 - use surveys and focus groups
 - set up meetings and visits
 - If the results show a lack of satisfaction or participation, you may need to make changes to your strategy

Reviewing your strategy

- at least every 2 years
- after every consultation of the strategy
- after a mandatory occurrence report
- after the completion of significant material alterations to the building
- You must record each review, whether or not you make changes to the strategy

<https://www.gov.uk/guidance/preparing-a-resident-engagement-strategy>

Information to residents

- **Measures to reduce the risk of fire and ensure the structural integrity of the building** – this will include, for example, a summary of the most recent fire risk assessment, a summary of the measures in place to mitigate the potential spread of fire and any building structural safety risks, information on how residents can reduce the risk of fire, report a safety issue and help the accountable person manage building safety risks^L
- **Contact information for building safety matters and a short explanation of their role** – this will include, for example, the accountable person providing the information for the principal accountable person and any accountable person and the Responsible Person under the Fire Safety Order
- **Information about residents' rights** – for example a copy of the residents' engagement strategy, the principal accountable person's complaints policy, and a list of the further information residents can request

Duties on residents



Comply with requests for information by the AP- not to act in a way that creates a significant risk of a building safety risk materializing and refrain from interfering with safety items in and around the building



Accountable Person can issue resident with Contravention Notice and require resident to pay sum to repair or replace the safety item. Will be able to go to the civil courts to enforce those responsibilities.



An accountable person may also require access to a residents' premises, strictly to fulfil their duties relating to building safety or to determine whether a residents' duty has been contravened.

Resident engagement – traditional v building and structural safety

Scope	Traditional	Building safety
Range	Corporate / Geographical area	Micro/Ultra-local
Dynamic	Generic / Operational / Strategic	Practical / Tangible
Reach	General / Representative	Personal / Neighbours / Block
Context	Conceptual / Theoretical	Salient / Relevant
Mind-set	Affect perception	Affect behaviour
Currency	Satisfaction	Trust
Outcome	Greater understanding	Greater assurance

Successful resident engagement

- Recognising that one size does not fit all, engagement needs to be tailored to residents needs and the type of home they live in
- Consideration of residents' different learning styles and preferences when developing approaches to convey fire safety messages and evacuation procedures
- A range of messaging and communication channels should be used to ensure disengaged and harder to reach residents can access fire safety information
- Reminding residents repeatedly of the recommended course of action to be taken in the event of a fire. This could be through annual visits, newsletters, briefings at resident meetings or video message boards in blocks
- Recognising that trusted partners, particularly the Fire and Rescue Services, are important in successfully communicating safety messages
- Facilitating a positive environment for open and honest engagement.

<https://www.gov.uk/government/publications/the-social-sector-building-safety-engagement-best-practice-group-final-report>

Some questions....

- Do you have arrangements in place to engage with residents about the safety of their homes?
- Have you produced a resident engagement strategy in conjunction with your residents that ensures they are involved in the management and decision making relating to the building where they live?
- Have you provided residents with prescribed building safety information?
- Do you provide clear and culturally appropriate signage, instructions, and communication in multiple languages to ensure that information about building safety is accessible to all residents?
- Have you provided contact information to residents relating to staff engaged in building safety matters (including a short explanation of their role?)

Gearing up.....

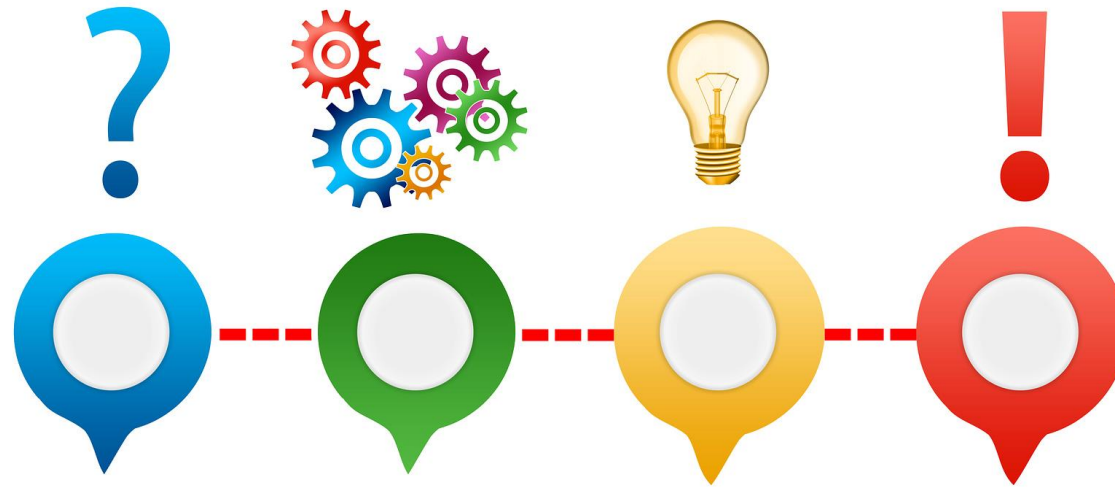
Some final questions

- Do you fully understand all the legal and regulatory requirements?
- Do you know understand what compliance looks like in the new regime?
- What assurance will you provide to the board/ what assurance should you be asking for?
- What is your current safety focus and what will have to change for the new regime?
- How do you embed a safety culture throughout the organisation?
- What buildings will you include? What criteria will you use?
- Do you have the right skills, knowledge and competence across the organisation to deliver building safety?
- Who is the accountable person/ principal accountable person?
- Do you have the right information management systems in place to manage the golden thread/ safety case?
- Can you prove our buildings are safe?
- Do your residents feel safe?

What should you be doing?

- Review compliance and service delivery to gain assurances about how your services are being delivered.
- Ensure you have the culture, systems and processes in place to enable you to deliver good safety outcomes for tenants.
- Make sure you have effective processes to ensure your homes are safe and maintained to a good standard and ensure tenants know how to report issues with their home
- Review your approach to risk management, assessment and stress setting
- Ensure you have accurate, complete and reliable data to ensure you are meeting all relevant legal health and safety requirements
- Understand where you are in relation to safety expectations in Building Safety Act and Social Housing Regulation
- Understand the competence of your staff – who has the right knowledge, skills and behaviours to deliver safety requirements? .

Thoughts, comments, observations, questions?



My details

- Email: debbie.larner@outlook.com
- Phone: 07966 018783
- Twitter: @DebbieLarner
- LinkedIn: <https://www.linkedin.com/in/debbie-larner-b7b52116/>

