

THE CHANGING LANDSCAPE OF BUILDING SAFETY

The built environment industry has seen a lot of change, particularly in the last five years. These changes have been in response to various reviews of the way buildings are constructed and managed, leading to the most significant legislative changes for many years. The aim of the new legislation is to make homes safer by implementing a new regime.

Items of legislation that will have a significant impact on building safety have been through Parliament recently, with additional supporting legislation due in the coming months and years. We will be updating this page as the changes take place.

The new regime will see positive changes in how the built environment is managed. However we understand that with significant change may come uncertainty, so we are aiming to outline what significant changes are taking place and the impacts of those in further detail for those affected by the changes.

THE NEW REGIME

A key driver of the regime change is new legislation. Arguably the most significant is The Building Safety Act 2022 ("the Act"), which received Royal Assent on 28th April 2022. While the Act is in force, many of its provisions are likely to take between 12 and 18 months to introduce and will rely on supporting regulations being passed.

The provisions set out in the Act will apply to building owners in the built environment, including those involved in the commission, design, and construction of buildings, and those managing the constructed building.

Whilst the Act is not exclusively for residential buildings, there is a special focus on higher-risk buildings of at least 18m or 7 storeys, with at least two residential units. These are known as Higher-Risk Residential Buildings, or HRRBs.

The Act also makes amendments to some aspects of the leasehold system. This is designed to give leaseholders more power to hold developers to account and implement a requirement to

explore alternative ways to meet remediation costs before passing these to leaseholders, giving them more of a voice in the management of their homes.

NEW RESPONSIBILITIES

WHO IS THE ACCOUNTABLE PERSON?

With the new legislation comes new responsibilities and the Act introduces a new role, the Accountable Person (“AP”). The person fulfilling the role will have ultimate responsibility for safety within a building, although they can carry out their duties with the assistance of other competent organisations.

It is expected that the owner of the building (freeholder), will be the AP, although where there is a Resident Management Company (RMC) or Right to Manage Company (RTM), they will take the role. Whilst many of those who act as a Director of an RMC or RTM are volunteers, if the RMC or RTM is the Accountable Person this will place additional legal responsibilities on those Directors, even as volunteers. It is important that those with new responsibilities understand them. With this in mind, the Act now allows for a paid Director to be appointed in order to provide the necessary expertise on matters relating to Fire Safety, if this is deemed beneficial by the RMC Board.

Where there is a complex building, it may not be possible to identify a single AP. In such cases, there will be the Principal Accountable Person (PAP), who is the ultimate nominated Accountable Person, with the other APs responsible for managing risk within their areas of responsibility. The PAP will have specific responsibilities in addition to their other AP responsibilities to ensure that the building is managed safely.

There are set responsibilities, including registering a building with the new Building Safety Regulator and preparing the safety case for the building. The safety case is the assessment of risks related to the building and a documented framework managing the risks. See [The Golden Thread and Safety Case](#).

WHAT ABOUT RESIDENTS?

Whilst there is a focus on the new responsibilities of the AP and other industry roles, there are also new responsibilities for residents. Those living within residential buildings have a responsibility to ensure that they do not introduce significant risk to the building and to work with the AP to discharge their duties, including providing access to their home where reasonable notice has been provided.

The AP will have the power to issue a contravention notice should a resident fail to meet their obligations. The Act also requires greater transparency for residents and gives them a greater voice in the management of their building. For more information, see [The Residents' Voice](#).

WHAT HAPPENED TO THE BUILDING SAFETY MANAGER?

In the draft Bill, there was a requirement for a Building Safety Manager (BSM), however this was removed by Government to ensure a proportionate regime. The duties of the BSM still remain, much of which sits with the AP. The decision to remove the role is a sensible one, allowing organisations that have the resource to support the AP in delivery of these duties, rather than requiring a single individual to fulfil these obligations.

OVERSIGHT OF THE NEW REGIME

The Health and Safety Executive (HSE) has been named as the Building Safety Regulator (BSR), which will implement a more stringent regulatory regime to oversee the safety and performance of buildings. They will assist and encourage competence in the built environment, as well as the registered building inspectors.

WHAT WILL THE BUILDING SAFETY REGULATOR DO?

Before occupation of any residential building over 18 meters, the BSR will need to issue a Building Assurance Certificate once the building is registered. This will apply to existing occupied buildings and will be issued based on the strength of the [safety case report](#).

The BSR will work closely with local authorities and fire and rescue authorities for technical expertise to regulate buildings in scope. They will also create the need for new committees, including the [residents' panel](#) for involvement in policy and strategy within the BSR.

THE GOLDEN THREAD & SAFETY CASE

The golden thread is information specific to the building from the commissioning of building work through its entire lifecycle. It is information that allows the safe management and understanding of a building. It will be a live collection of information and fed to the BSR.

The golden thread will be required to be accurate, understandable, and current, responsibility for which will sit with the AP (or PAP where there is more than one AP). It must be digital and

readily accessible. We currently hold a significant amount of documentation relating to buildings digitally through our software, which can link to other systems.

The safety case is evidence that building safety risks are being managed proportionately for each building. It will identify and assess risks from fire spread and structural failure and provide details on how these will be prevented and mitigated in the event of an occurrence.

INFORMATION THE GOLDEN THREAD CONTAINS

The golden thread will start with design and construction information about a building, including information about refurbishment. There are gateways established that the BSR will oversee to ensure that all the relevant information will be shared with the AP.

Occupied buildings will need documentation and information that details how residents will be kept safe, such as the registration of the building, safety case and residents' engagement strategy. Much of the golden thread is thought to be relating to the maintenance and inspection of building assets, such as fire systems.

INFORMATION WITHIN THE SAFETY CASE

The safety case report should provide a summary of the proportionate steps the AP has taken regarding building safety risks to:

- Identify
- Assess
- Remove
- Reduce
- Manage

The safety case should be aimed at delivering safe buildings for residents. The Act requires the AP to ensure management structures and processes are in place across the building to deliver systemic approach to risk assessment and management. Rendall & Rittner's Health and Safety management system is accredited to the international standard ISO 45001, which is embedded across your development.

The Safety Case is not a once only document and must remain under constant review by the AP.

THE RESIDENTS' VOICE

The Act requires transparency of information with residents. They will require access to information about their buildings, including the golden thread. The AP is required to have a plan on what and how residents will be communicated with, known as the Residents' Engagement Strategy.

WHAT IS THE RESIDENTS' ENGAGEMENT STRATEGY?

The residents' engagement strategy promotes the participation of residents in the decision-making process about the building safety risks in their homes. The AP must produce the strategy and provide all residents with a copy.

The strategy will outline what information will be provided to residents, what they will be consulted on, how their participation will be included and how the strategy will be measured.

WHAT IS THE RESIDENTS' PANEL?

The residents panel has been established by the BSR to consult on its functions, which may impact the residents of higher-risk buildings. Members of the panel can be non-resident owners, as well as residents.

Annually, the BSR will publish information on its functions, including what was tabled to engage with the residents panel.

WHAT NEEDS TO BE DONE TO PREPARE?

There is still some time to start to prepare for the implementation of the new regime, although it is lessening. Legislation that supports the Act is starting to be written and in some cases is available and will be enforceable in January 2023.

To prepare for the Act, there are several things that can be done. The first is a gap analysis of the requirements for the golden thread. This will likely form the basis of budgetary requirements for information that is not currently available. This is something that we will be able to assist with.

For Resident Management Companies, we recommend that Directors start establishing who will take on the role of the AP. Open dialogue with your property manager will be important to

ensure that you will have the support required for undertaking the day-to-day activities required by the AP.

FURTHER INFORMATION

The government has published fact sheets, which contain more information on provisions of the Act, which can be found here:

[Building Safety Bill: factsheets - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/factsheets/building-safety-bill-factsheets)

Information correct as at June 2022