

Housing Residential Safety and Compliance report

The Building Safety Act 2022

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Background

- Following the tragic event at Grenfell Tower in 2017 Dame Judith Hackitt was appointed to lead a review of building safety
- Her review, Building a Safer Future, made a number of recommendations many of which have been incorporated into the new Act
- The new Act received Royal assent on 28th April 2022 and we are expecting a number of secondary pieces of legislation to be passed over the coming months, there is a possibility of some further changes to the Act given that there were a number of last minute changes made in April

Key Points

- The Act only applies Higher Risk buildings - buildings at least 18m high or with at least 7 stories and that contain two or more dwellings (it therefore excludes hospitals, hotels and office buildings). It is likely that this will be reduced in the future to include buildings of 11m or 5 stories
- The Act establishes a new Building Safety Regulator, a branch of the HSE
- The Act doesn't just relate to fire safety but explicitly states structural safety and allows placeholders for other areas of safety in the future
- The Act establishes a number of new dutyholders, 5 during the design and construction phase (which largely mirror the CDM regulations) and an Accountable person during the occupation phase. Each has explicit duties and responsibilities but must be able to demonstrate competence to undertake the role.

Buildings in Havering that the Act applies to

LBH High Rise Buildings Stock				
Order	Building	Post Code	Floors	No of Dwellings
1	BLK 1-57 DRYDEN TOWERS HEATON AVENUE HAROLD HILL ROMFORD ESSEX	RM3 7HS	15	57
2	BLK 1-57 KIPLING TOWERS HEATON AVENUE HAROLD HILL ROMFORD ESSEX	RM3 7HT	15	57
3	BLK 1-76 HIGHFIELD TOWERS HILLRISE ROAD COLLIER ROW ESSEX	RM5 3DQ	16	76
4	BLK 1-53 EDINBURGH HOUSE ELVET AVENUE ROMFORD ESSEX	RM2 6JP	11	53
5	BLK 1-53 ELIZABETH HOUSE DURHAM AVENUE ROMFORD ESSEX	RM2 6JU	11	53
6	BLK 1-53 MOUNTBATTEN HOUSE ELVET AVENUE ROMFORD ESSEX	RM2 6JT	11	53
7	BLK 1-53 VICTORIA HOUSE DURHAM AVENUE ROMFORD ESSEX	RM2 6JL	11	48
8	BLK 1-48 OVERSTRAND HOUSE SUNRISE AVENUE HORNCHURCH ESSEX	RM12 4YN	13	48
9	BLK 3-52 PARKVIEW HOUSE SUNRISE AVENUE HORNCHURCH ESSEX	RM12 4YW	14	50
10	BLK 1-48 UPHAVERING HOUSE PARKHILL CLOSE HORNCHURCH ESSEX	RM12 4YX	13	48
11	BLK 1- 35 BROOKSMOUTH COURT, NEW ROAD, RAINHAM	RM13 8YB	7	35
12	BLK, 1-54 DAMSELFY COURT, GREENSTONE WALK, RAINHAM	RM13 8G	10	54
13	BLK, 1-54 SILVERFERN COURT, GREENSTONE WALK, RAINHAM	RM13 8YJ	9	54
14	BLK, RIVERBANK COURT, SUNRISE AVENUE, HORNCHURCH	RM12 4GH	10	55
15	BLK, MAYLARDS COURT, PARKHILL CLOSE, HORNCHURCH (yet to be handed over)	RM12 4GL	8	40

Building Safety Regulator (BSR)

The Building Safety Regulator (BSR) is an independent body established by the Building Safety Act, 2022, and is part of the Health and Safety Executive (HSE).

Core function is to oversee the safety and performance systems of all relevant buildings

- The regulator will become the building control authority for all in scope buildings
- Oversee the performance of building control bodies
- Review and advising on changes to Building Regs
- Facilitating improvements in the competence of the building industry and building inspectors

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- Maintaining registers of buildings in scope
- Oversee the inspection of in scope buildings during design and construction including the express powers to authorise remedial works, stop non-complaint projects, impose special measure and order replacement of key officers
- Assess safety case files for buildings during their occupation
- Has the ability to take enforcement action as required.
- The Act place an express requirement on the (Building Safety Regulator) BSR to facilitate and secure the safety of disabled persons in in-scope buildings

Three Limbs of the Act

The Act has three distinct limbs which need to be considered separately

- **Building Control** - A duty as a part of the regulatory approach on building control bodies
- **Developers** - A duty on developers of in-scope building to follow a prescribed gateway approval process
- **Freeholders** - A duty on freeholders in-occupation

Plus

- **Residents** - A duty on residents and owners of properties in in-scope buildings

LBH has responsibility under all three but this presentation mainly considers LBH freeholder/landlord in-occupation function

Key In-Occupation Points

- LBH currently has 13 buildings which fall in the scope of the legislation (an additional two will be handed over at Park Rise)
- The act also introduces changes to the Landlord and Tenant Act 1985, allowing changes to the service charge regime and aligns both sets of legislation
- The act is chiefly concerned with building safety risk;
 - **Fire** - The spread of fire (previously just fire not its spread)
 - **Structure** - Structural failure (we therefore have to have much greater influence over what leaseholders do in their properties)
 - **Other** - Any other matter prescribed by the Secretary of State (essentially the legislation has been designed to very quickly incorporate any emerging issues)

Accountable Person (AP)

- The act requires that an accountable person is established;
 - a person who holds a legal estate in possession in any part of the “common parts”.
 - This can be a corporate body or a named individual.
 - The accountable person is responsible for the in-occupation duties under the Act and must have sufficient delegated authority to take appropriate actions

In-Occupation Duties

Register all in-scope properties with the Building Safety Regulator

- The Act introduces the requirement for a completion certificate in relation to construction of high risk buildings, creation of additional units in high risk buildings or works which make a building become a high risk building.
- The Accountable Person is responsible for obtaining the certificate, any occupation before receiving the certificate is punishable by prison or a fine (or both)

Building Assessment Certificate (BAC)

- The Accountable Person will also be required to apply for Building Assessment certificates for existing buildings. The Building Safety Regulator is expected to roll out this requirement over 5 years based on a risk based approach.
- There will be a number of pieces of information required, including the safety case, mandatory occurrence reporting systems, information demonstrating compliance by the Accountable Person and a copy of the resident engagement strategy
- The Building Safety Regulator will have to approve the Building Assessment Certificates and this will need to be displayed in each building (as yet the BSR has not issued and BAC)

In-Occupation Duties

Assessment and Management of building safety risks

- The Accountable Person must assess building safety risks as soon as reasonably practicable. Assessments must be carried out;
 - at regular intervals
 - at any time that an Accountable Person has reason to suspect that the current assessment is no longer valid; and
 - at the direction of the Regulator within a specified period.

The Accountable Person must;

- prevent a building safety risk materialising (i.e. a risk to the safety of people in or about the building arising from the spread of fire, structural failure or any other prescribed matter)
and
- reduce the severity of the incident resulting from such a risk materialising (the act accepts that risks exist, the duty is to minimise them)

In-Occupation Duties

Safety Case Reports

- The Accountable Person must produce a Safety Case report which will be presented to the Building Safety Regulator as part of the building assessments certificate application.
- It must be revised as and when the Accountable Person considers it necessary
- It must contain information on the golden thread showing how risks are being managed

Resident Engagement Strategy

- The Accountable Person must put in place a Resident Engagement strategy which must promote the participation of residents in the making of building safety decisions

In-Occupation Duties

In-occupation duties

- Residents request for further information
 - The Accountable Person must provide prescribed information to the residents of a property including;
 - The resident engagement strategy
 - full, current and historical fire risk assessments
 - planned maintenance and repairs schedules
 - the outcome of any building safety inspection checks
 - how assets in the building are managed

In-Occupation Duties

- Complaints Procedure
 - The Accountable Person must establish a complaints procedure to handle any relevant complaints made by a resident (this is LBH existing process)
- Compliance Notice and Special Measures
 - the Building Safety Regulator can issue a Compliance notice to the Accountable Person where it believes people in or around the building are in imminent danger
 - The Accountable Person commits an offence where
 - breaches a Compliance Notice; or
 - contravenes a relevant requirement that places one or more people in or about the building at significant risk of death or serious injury.
- These offences are punishable on summary conviction to imprisonment for a term not exceeding six months or for conviction on indictment to imprisonment not exceeding two years; or a fine or both.

Duties on Residents and Owners

- Residents and owners of properties in-scope buildings must observe the following duties;
 - Not to act in a way that creates a significant risk of a building safety risk materialising
 - Not to interfere with a relevant safety items
 - To comply with a request made by the appropriate Accountable Person for information reasonability required for the Accountable Person duties
- The Accountable person will be able to issue Contravention notices which may be enforced by the County Court, which may require a resident to do something, stop doing something or pay a specified sum to the Accountable person.
- The act also allow the Accountable person to make a request to access to their premises to assess building safety risk, and can apply to the County court for an order if necessary

Progress & Way Forward

- An action plan is in place highlighting all of the relevant actions and who/how they are being managed ✓
- All in scope buildings have been registered (deadline of 1st October) and all Key Building Information (KBI) provided ✓
- Full Building Safety Case file are being prepared and will be ready for the 31st March 2024 deadline ✓
- A full golden thread approach is being determined to ensure all information is kept up to date ✓
- We continue to respond to consultations around some of the secondary legislation and will react as that legislation become law ✓
- We continue to work with the Regeneration team to ensure the new builds meet the requirements and data provided will support the Safety Case files ✓

Implications on New Developments

- Ban on combustible materials for residential buildings, hotels, hospitals and student accommodation above 18m, and additional guidance for residential buildings between 11m-18m.
- Lower threshold for the provision of sprinklers in new blocks of flats from 30m to 11m.
- Requirement for wayfinding signage for firefighters in residential buildings above 11m.
- Requirements for residential buildings over 18m to have an Evacuation Alert System, and for new residential buildings over 11m to include a Secure Information Box (SIB).
- Second staircases in new residential buildings above 18m.

Implications on New Developments (Transitional Arrangements)

An Initial Notice must be deposited (and not rejected), or full plans deposited before the day the new regime came into force (1st October 2023)

Any approved applications that do not follow the new guidance will have 18 months for construction to get underway in earnest. If it does not, they will have to submit a new building regulations application, following the new guidance.

The Secretary of State for DLUCH , Michael Gove announced in a Commons statement on 25th October 2023, that developers/clients will have a 30 month transitional period for the introduction of the new Approved Document B . The announcement make it clear it is the clients decision should they wish to proceed with a single core option on buildings over 18m.

Any new residential development must have cast the foundations or driven piles prior to 30/04/24 to remain in the current building regulation process . After this date all new building will be under the Building Safety Regulator regime .