

EXPLANATORY MEMORANDUM TO
THE HIGHER-RISK BUILDINGS (MANAGEMENT OF SAFETY RISKS ETC)
(ENGLAND) REGULATIONS 2023

2023 No. 907

1. Introduction

1.1 This explanatory memorandum has been prepared by the Department for Levelling Up, Housing and Communities (DLUHC) and is laid before Parliament by Command of His Majesty.

2. Purpose of the instrument

2.1 The purpose of the Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 is to specify the management of buildings safety duties for occupied higher-risk buildings. The Regulations set out requirements on the Building Safety Regulator (the Regulator), principal accountable persons and accountable persons, residents and others with regard to building safety. Specifically, the Regulations set out provisions on a safety case approach to managing fire and structural safety in higher-risk buildings, duties to engage, consult and provide information to residents, the ongoing management of a digital golden thread of information throughout the building lifecycle and the creation of a mandatory occurrence reporting framework. The Regulations also include provisions on compliance and appeals which will enable the Regulator to effectively enforce the new building safety regime, and for persons to resolve disputes with a right of appeal to the First-tier Tribunal for certain decisions.

2.2 These Regulations also amend the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 in relation to minor provisions and the requirements for removal of buildings from the register.

2.3 Higher-risk buildings are defined under Part 4 of the Building Safety Act 2022 (the Act) and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 which came into force on 6th April. ¹.

2.4 Throughout this document the principal accountable person and accountable persons are referred to as accountable persons. However, there are specific duties which the principal accountable person must carry out. In these cases, the document will refer to the ‘principal accountable person’ as necessary.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

¹ Higher-risk buildings are defined as buildings with at least two residential units which are at least 18 metres in height or have at least seven storeys.

4. Extent and Territorial Application

- 4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.
- 4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. European Convention on Human Rights

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

6. Legislative Context

- 6.1 These Regulations are part of a group of instruments being laid in 2023, that underpin the framework and duties set out in the Act on the people responsible for occupied higher-risk buildings (the accountable persons). The Regulations also set out certain responsibilities on residents of higher risk buildings.
- 6.2 The Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 and the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023 came into force on 6th April 2023. Those Regulations set out the requirements for registering higher-risk buildings, made provision for review of certain decisions of the Regulator, set out the key building information to be provided to the Regulator and set out that where there are multiple accountable persons for the same higher-risk building which part of the building an accountable person is responsible for.
- 6.3 Further regulations, the draft Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023, will be laid in Parliament in the Autumn. This instrument will come into force on at the same time as those Regulations. Those Regulations will specify the information and documents that the accountable persons must keep as the golden thread information and share with certain persons.
- 6.4 These Regulations support those regulations by specifying the requirements for: building assessment certificates, identifying and managing building safety risks, mandatory occurrence reporting, engagement with residents and resident duties, appeals, compliance notices, the managing and storage of golden thread information and ancillary provisions around when and how information and documents are shared.

7. Policy background

What is being done and why?

- 7.1 The Act establishes a new more stringent building safety regime for managing fire and structural safety risks in occupied higher-risk buildings. This new regime was a fundamental part of Dame Judith Hackitt's recommendation as outlined in her Building a Safer Future Report (the report). In this she said there must be clarity about the responsibilities of residents and building owners on appropriate risk mitigations and fire and structural safety, with more guidance and information for residents.
- 7.2 The Act introduced various requirements to strengthen oversight of, and protections for, residents in higher-risk buildings, and established the Regulator to administer and enforce the new regime to drive up safety and standards. These Regulations are part of

those reforms. The person responsible for the higher-risk building will be the accountable person. Where a building has more than one accountable person, the accountable person responsible for the structure and exterior of the building will be the principal accountable person. When buildings have a single accountable person, that entity or person is the principal accountable person. These Regulations support accountable persons in complying with their duties under the Act, by ensuring the effective management of fire and structural safety risks within occupied higher-risk buildings. If accountable persons do not comply, they will be liable to enforcement action by the Regulator, which could result in a fine or imprisonment.

Building Assessment Certificates

7.3 The principal accountable person must apply for a building assessment certificate once directed by the Regulator². To obtain a building assessment certificate the principal accountable person will need to demonstrate that they are meeting certain duties in relation to the management of building safety.³ Regulation 3 sets out the prescribed information that needs to be provided as part of the application for a building assessment certificate regarding compliance with mandatory occurrence reporting duties and provision of information to the Regulator, residents and other persons. The Regulation sets out that the Regulator can issue a direction setting out how applications should be made.

7.4 The Regulation also specifies the information that should be included on the building assessment certificate and what information must be included in a contravention or a refusal notice.

Management of building safety risks: prescribed principles

7.5 Under section 84 of the Act, accountable persons must take all reasonable steps to manage building safety risks in the part of the building for which they are responsible and must act in accordance with prescribed principles to manage building safety risks. Accountable persons are required to ensure appropriate layers of protection are in place for life saving purposes.

7.6 Regulation 4 sets out the principles accountable persons must follow in their management of building safety risks. These principles are complementary, and they should not be considered in isolation. Competence is a key element of effectively managing risks and this Regulation 4 requires accountable persons to ensure that persons engaged by them, have the relevant competence required to carry out the task assigned to them. It sets out that competence of an individual is measured by their skills, knowledge, experience and behaviours, and for an organisation, by their capability to perform a task satisfactorily.

Safety Case Reports

7.7 Under section 85 of the Act, accountable persons must demonstrate they are meeting duties to assess and manage building safety risks through a safety case report. The principal accountable person is responsible for producing the safety case report, engaging with other accountable persons to ensure the safety case report reflects the entire higher-risk building.

² Under section 80 of the Act.

³ These duties are set out in section 81 of the Act.

- 7.8 The safety case report should show that appropriate measures have been introduced to prevent a building safety risk materialising and reduce the severity of any incident should such a risk materialise, including arrangements for the testing, maintenance and implementation of the measures. Together the requirements in these regulations require the report to make an informed assessment of the adequacy of risk assessments and measures in place to mitigate and manage building safety risks on an ongoing basis.
- 7.9 As such it will be supported and substantiated by the golden thread information that accountable persons need to keep (required by the draft Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023). Regulation 5 specifies the information that must be included by the principal accountable person in the safety case report, including: details of the higher-risk building and where it is located; the key findings of assessments of building safety risks; how the steps taken to manage building safety risks meet the requirements of section 84 of the Act, including the emergency arrangements in place to reduce the severity of any incidents involving a building safety risk; and a summary of how the safety arrangements are tested and maintained to keep their efficacy.
- 7.10 Safety case reports, while dynamic, are not expected to be substantially revised on a regular basis. The safety case report must be revised where there is a change in either the assessments made of the building safety risk or the steps in place to manage them. The principal accountable person must notify the Regulator when a safety case report is produced or revised. The principal accountable person must include in the notification an overview of the changes and an explanation for why they have been made. They must submit the safety case report to the Regulator when directed to do so. The Regulation specifies that the Regulator may make a direction as to the way in information must be given to it. This may include a requirement to give information or documentation via a website.
- 7.11 Regulation 5 also requires that the safety case report be stored in electronic form. This aligns with the requirement that the safety case report must be kept as part of the golden thread information and meet the standards required for golden thread of information.

Mandatory reporting requirements

- 7.12 Section 87 of the Act requires accountable persons to establish and operate an effective mandatory occurrence reporting system and give information that relates to a building safety risk for the part of the building for which they are responsible to the Regulator.
- 7.13 The principal accountable person is required to implement a mandatory reporting system. These Regulations support this, creating provision for the reporting of incidents and situations to the accountable person, the timely assessment of those incidents and situations to determine whether they are a reportable safety occurrence, and the notification and reporting of those occurrences to the Regulator. The Regulation requires the principal accountable person to review the effectiveness of this system on a regular basis. Regulation 6 also sets out that a ‘safety occurrence’ is an incident which can affect the structural integrity of a building or lead to the spread

of fire, to the extent that it meets the ‘risk condition’⁴. Guidance will be provided on what will be considered a safety occurrence, and which will have to be reported to the Regulator.

- 7.14 Regulation 6 prescribes that the Regulator must be notified as soon as reasonably practicable after the occurrence has taken place, that a report must be submitted to the Regulator within 10 days beginning with the day on which the safety occurrence came to the accountable person’s attention and the information that is to be provided to the Regulator about the safety occurrence. The information includes but is not limited to: details of any recent building works; whether any persons were injured or killed as a result of the occurrence; and a description of the measures taken to mitigate or remedy the occurrence.

Keeping of information and documents

- 7.15 Section 88 of the Act requires accountable persons to keep golden thread information to prescribed standards. Regulation 7 specifies that accountable persons must ensure that information and documents kept as golden thread information are kept in an electronic format, in such a way that the information can be transferred electronically to other persons without the data in it being lost or corrupted. Golden thread information must be secured from unauthorised access, must be accurate and intelligible to the intended users of the data, and must include any key information needed to understand the data.
- 7.16 The Regulation also requires that the information and documents are kept in such a manner as to be accessible as soon as reasonably practicable in response to a request from any prescribed person.⁵ And the Regulation requires that information and documents are changed in accordance with procedures which record the person who made the change and the date of that change.

Provision of information to the regulator, residents etc

- 7.17 Section 89 of the Act requires accountable persons to share golden thread information with prescribed persons. Regulation 8 specifies that an accountable person must provide information and copies of documents as soon as reasonably practicable after the information or document has been created or updated, in specified circumstances and upon written request. This includes the information and documents the accountable person must provide to the Regulator, other accountable persons, the client, the Responsible Person, fire and rescue services and the relevant landlord.
- 7.18 Regulation 8 also specifies when an accountable person must give information and documents to residents of the building and to owners of residential units (who are not also residents of the building)
- 7.19 The Regulation specifies that an accountable person must give information and documents to residents and owners of residential units in writing, and in a form which allows the residents and owners of residential units to understand the content and aims of the information or document given. This includes explanations of technical language used, or with plain English summaries of complex or technical provisions.

⁴ Risk condition is defined in the Regulation as being met in relation to a part of a building if the use of that part of the building without the incident or situation being remedied would be likely to present a risk of a significant number of deaths, or serious injury to a significant number of people.

⁵ The prescribed persons are: other accountable persons for the higher-risk building, the Regulator, residents of the higher-risk building and owners of residential units within the higher-risk building, Responsible Persons for the building, a relevant client, the fire and rescue authority in which the higher-risk building is located.

The Regulation also specifies that some of this information and these documents and contact details for certain persons responsible for building safety must also be displayed by the accountable person in common parts of the building.

- 7.20 Regulation 8 also specifies that when an accountable person provides information and documents to other accountable persons for the building, the Responsible Person, the client⁶ or the local fire and rescue authority, they must provide information and documents electronically and in a format that the recipient can access. This requirement does not apply to providing information and documents to residents, owners of residential units or to the landlord of a resident.
- 7.21 The Regulation specifies that an accountable person must give information and documents to residents and owners of residential units in writing, and in a form which allows the residents and owners of residential units to understand the content and aims of the information or document given. This includes explanations of technical language used, or with plain English summaries of complex or technical provisions. The Regulation also specifies that some of this information and these documents and contact details for certain persons responsible for building safety must also be displayed by the accountable person in common parts of the building.

Provision of information etc on changes in accountable person

- 7.22 Section 90 of the Act and the draft Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023 require the outgoing accountable person to give information and documents to the new accountable person and stipulate what information and documents should be given. Regulation 9 sets out the information and documents that must be given by the outgoing accountable person to the new accountable person as soon as reasonably practicable after the outgoing accountable person ceases to be responsible for all, or any, part of the building.
- 7.23 The Regulation specifies that the information and documents must be given in a way that the new accountable person can access. The information and documents must be given electronically and in such a way that the data is not lost or corrupted. The information and documents must also be intelligible to the recipient, with any key information needed to understand the data being provided at the point of handover.
- 7.24 Section 90 of the Act also requires the outgoing accountable person to provide information to the Regulator once they cease to be responsible for the building or any parts of the building. The Regulation specifies the information the outgoing accountable person must provide to the Regulator.
- 7.25 The Regulation specifies that the Regulator may make a direction as to the way in which information must be given to it. This may include a requirement to give information or documentation via a website.

Residents' engagement strategy

- 7.26 Section 91 of the Act places a requirement on principal accountable persons to prepare a residents' engagement strategy to ensure that residents have the opportunity to understand and participate in the safe management of their building.

⁶ Client means any person for whom a project is carried out. Project means a project which includes or is intended to include any building work and includes all planning work, design work, management or other work involved in a project until the end of the construction phase.

- 7.27 Regulation 10 sets out when the principal accountable person must review the residents’ engagement strategy and includes a provision that this must be at least every two years. The regulation also sets out specific circumstances requiring the principal accountable person to review the resident engagement strategy within a reasonable period: following a consultation on the strategy; following a mandatory occurrence report; and following significant material alterations to the building (unless the impact of the significant material alterations has already been considered as part of a review within the previous two years). Regulation 10 defines “significant material alterations” in this context.
- 7.28 Regulation 10 specifies that the principal accountable persons must consult with residents and owners of residential units and other prescribed persons on the content of the residents’ engagement strategy when the strategy is first prepared and when there have been revisions to the strategy, except where those revisions have been made as a result of a consultation. Where a building is occupied in stages, the requirement to consult on the strategy when it is first prepared is met if the consultation is carried out in stages corresponding to the occupation of the building, or at a point where a majority of relevant persons are able to participate.
- 7.29 The Regulation specifies that if there are multiple accountable persons for the higher-risk building, the principal accountable person must consult with the other accountable persons on the residents’ engagement strategy and provide them with a copy of the strategy.
- 7.30 The Regulation specifies that the residents’ engagement strategy must set out that the principal accountable person will inform residents when works resulting from a building safety decision will be carried out, and the purpose of the works. The Regulation also specifies certain circumstances when the principal accountable person will need to consult residents and accountable persons before the works take place. The principal accountable person must then give due consideration to the responses to any consultation. This requirement to consult does not apply if works are required on an emergency basis.
- 7.31 The Regulation 10 specifies how consultations must be held, both on the residents’ engagement strategy document itself and on decisions relating to the management of the building (that are committed to as part of the residents’ engagement strategy). The consultations must include appropriate and reasonable methodologies which may include digital, postal or in-person events, and must include reasonable steps to ensure that any relevant person likely to be affected by the matter to which the consultation relates is aware of the consultation. Consultations on decisions relating to the management of the building must be for a reasonable period. Consultations on the residents’ engagement strategy itself must be for a reasonable period, but no less than three weeks.

Requests for further information

- 7.32 Section 92 of the Act specifies that a resident or an owner of a residential unit of a higher-risk building can request certain prescribed information and documents from an accountable person, as will be provided for in the draft Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023. Regulation 11 specifies the way in which the information, or a copy of a document, must be given, and the form in which the information must be given. The accountable person must give the information in writing and in a form which allows the recipients to

understand the content and aims of the information or document including, where reasonable to do so, explanations of technical language used or plain English summaries of complex or technical provisions. This is different to the requirement set out in paragraph 7.21, as the information residents can request is lengthier and more technical than the information that is provided to residents proactively.

Principal accountable person's complaints procedures

- 7.33 Section 93 of the Act requires the principal accountable person to establish and operate a complaints system for the investigation of relevant complaints. A relevant complaint is defined as a complaint that relates to a building safety risk (as defined in section 62 of the Act) regarding the higher-risk building or the performance by an accountable person for the higher-risk building of any duty under the Act or regulations made under it.
- 7.34 Regulation 12 specifies that the principal accountable must publish a complaints' policy and sets out the information that must be included in the policy such as what amounts to a relevant complaint, how a complaint can be made, and how it will be dealt with under the system. The Regulation also sets out the standards that the complaints system must meet including: that any relevant complaint must be dealt with under the system (even if the complainant does not explicitly identify the complaint as 'relevant'); that there must be an appropriate prioritisation process taking account of the level of risk involved; and that complaints must be dealt with in an impartial, fair and timely manner. The complainant must receive information about the timeframe for responding to the complaint and taking action to resolve it.
- 7.35 The Regulation specifies that any person is able to make a complaint and may be assisted by another person to do so. Complaints may be made by any reasonable method and complaints must be acknowledged as soon as reasonably practicable, and the complainant must be informed whether their complaint is accepted as a relevant complaint or not.
- 7.36 The Regulation specifies that, where a principal accountable person determines that a complaint is not a relevant complaint, the complainant must be informed of this, and of their right to take the issue to the Regulator. Duplicate complaints from the same complainant that have already been determined, or are under consideration, may be rejected.
- 7.37 When providing an initial substantive response to a complaint, the complainant must be provided with details of how they may ask the principal accountable person to reconsider that response. Any subsequent substantive responses must include details of the right to take the complaint to the Regulator. If the complainant is not satisfied with the outcome, they may then escalate the complaint to the Regulator.
- 7.38 Regulation 12 specifies what must be included in a response to a complaint and that responses to the complainant are required to be provided in writing and in a form which allows the recipient to understand the information given, including explanations of technical language used, or with plain English summaries of complex or technical provisions.

Contravention notices

- 7.39 Section 95 of the Act sets out the duties on residents and owners of residential units. These duties are to not act in a way that creates a significant risk of a building safety risk materialising, to not interfere with a relevant safety item and to comply with a

request made by the appropriate accountable person for information reasonably required to perform their duties to carry out an assessment of building safety risks and to manage those risks. The Act also provides a mechanism for accountable persons to ensure residents comply with their duties. Section 96 of the Act enables an accountable person to serve a contravention notice on a resident, or owner, of a residential unit in the part of the building for which they are responsible, the requirements that contravention notices must fulfil in order to be valid, and a framework for escalation to the county courts.

- 7.40 Regulation 13 specifies that a contravention notice must contain certain information in addition to the information required by Section 96 of the Act. The information includes:
- details of the statutory provision that the person is alleged to have contravened;
 - details of previous communication on the matter;
 - any relevant guidance that is issued by the Regulator in relation to the contravention;
 - an explanation of why the accountable person believes it necessary that the person in question takes certain steps;
 - an explanation of any sum required to be paid;
 - details of the principal accountable person's complaints procedure; and,
 - contact details for the accountable person who is issuing the contravention notice.
- 7.41 The Regulation 13 also specifies that contravention notices must be in writing, and in a form which allows the person in question to understand the content and aims of the notice, including explanations of technical language used or plain English summaries of complex or technical provisions.

Compliance notices

- 7.42 Section 99 of the Act introduces compliance notices which the Regulator can use during the occupation stage of a higher-risk building. The Regulator can issue compliance notices to accountable persons where they fail to comply with any of the requirements imposed on them under Part 4 of the Act or regulations made under that part. Compliance notices will require the accountable person to take corrective action within a specified period. Failure to comply with a compliance notice is a criminal offence and carries a maximum penalty of an unlimited fine and/or two years in prison.
- 7.43 If a breach of a duty by an accountable person places people in or around a building in imminent danger, the Regulator can specify that a compliance notice is an 'urgent action notice'. This differs from a standard compliance notice as an appeal of an urgent action notice will not suspend its effect, and an appeal of a standard compliance notice will suspend its effect.
- 7.44 Regulation 14 provides detail on the contents, service and withdrawal of compliance notices. A compliance notice must contain the date of issue, the name and address of the accountable person, a statement that it is a compliance notice under section 99 of the Building Safety Act, details of the requirement that has been breached, details of the nature of the contravention, the building or part of the building in which the breach

has occurred, consequences of failing to comply with a notice, details of the right to appeal or extend a notice in the First-tier Tribunal, and if a notice is an ‘urgent action notice’, reasons why the notice has been specified to be an urgent action notice and details of the right to apply to suspend the effect of an urgent action notice during appeal in the First-tier Tribunal.

- 7.45 The Regulation specifies that a notice can relate to no more than one contravention of a relevant requirement. The Regulation also specifies that where a principal accountable person or accountable person has been issued with a compliance notice, the other accountable persons for the building must be notified by the Regulator by being given copies of the notice. The Regulation also specifies that the Building Safety Regulator can withdraw a compliance notice at any time. Where a notice is withdrawn, the Regulator must inform the recipient with a notice in writing.

Appeals of decisions to refuse to remove buildings from the register

- 7.46 Section 78 and the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 required the principal accountable person to register a building. Regulation 15 allows an appeal to the First-tier Tribunal where a principal accountable person for a building considers that the building should be removed from the register because it is no longer a “higher-risk” building as defined in the under Section 65 of the Act and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023, and the Regulator has decided not to remove the building from the register.

- 7.47 The Regulation 15 prescribes that accountable persons, or a person that would be an accountable person, can appeal against a decision not to remove a building from the higher-risk register, and specifies the grounds of appeal.

Amendment of Regulations

- 7.48 Regulation 16 makes minor amends to the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023, including clarifying when the Regulator must give notice to accountable persons about the refusal to remove a building from the register.

8. European Union Withdrawal and Future Relationship

- 8.1 This instrument does not relate to withdrawal from the European Union.

9. Consolidation

- 9.1 This instrument amends the Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 for the first time. There are no plans to consolidate the relevant legislation at this time.

10. Consultation outcome

- 10.1 We conducted a 12-week public consultation between 20 July and 12 October 2022 (Consultation on the new safety regime for occupied higher-risk buildings).
- 10.2 Responses were received online and via email. Responses came from a range of stakeholders including local authorities and registered providers, developers and house builders, fire and rescue authorities, fire engineers, engineering consultants, product manufacturers, institutional investors, representative bodies, and a small number of leaseholders.

10.3 Overall, respondents agreed with our proposals as summarised below:

- There were 64 responses to the building assessment certificate section of the consultation. The questions covered various aspects of the certification including the timescales in which a direction should be issued by the Regulator, the processes for applying for an assessment certificate and refusal by the Regulator of an assessment certificate. On average 80% of respondents agreed with the proposals across eight questions. In response to feedback, provisions have been included which mean that all accountable persons for a building will be given copies of compliance and contravention notices rather than just the principal accountable person or the accountable person who has committed the infraction.
- The section on principles for managing building safety risks and the safety case report received 71 responses in total. The questions posed asked respondents whether they agreed with principles that accountable persons must follow when taking steps to manage building safety risks and detail on the requirements for the safety case reports. Respondents gave positive feedback with 73% agreeing with the proposal. In response to concerns raised about the lack of competence in the sector, competency requirements have been included within the prescribed principles on the management of building safety risks.
- The section on mandatory occurrence reporting received 57 responses. It covered various aspects of the policy including the definition of a safety occurrence, the information to be provided to the Regulator and the timescales for reporting. Across six questions posed, 65% of respondents agreed with proposals. In response to comments, the information required to be submitted with a mandatory occurrence report to the Regulator has been extended.
- There were 20 questions posed on section covering the residents' engagement strategy, complaints, contravention notices, and providing residents with building safety information. It covered proposals on the information that needs to be provided to residents along with timings and accessibility, contents of the resident engagement strategy and the means of compliance for residents with their building safety duties. On average across the 20 questions, 67% of respondents agreed with proposals. However, support ranged widely from 51% to 83% in agreement. In response to feedback, requirements have been included for the principal accountable person to review the resident engagement strategy after a mandatory occurrence report has been submitted to the Regulator, and where significant work has been carried out on the building.
- The section on the golden thread principles and how the golden thread is stored and managed received 55 responses. This section covered that golden thread information should be stored and transferred electronically and should be accessible, accurate, up to date and secure. The golden thread of information should also form a single point of truth and be interoperable, transferrable, and accessible, and that there should be a consistent use of language and terminology as far as is reasonably practicable. On average across eight questions 77% of respondents agreed with proposals. In response to feedback, about the use of multiple systems and how this can deliver effective outcomes, the government decided that to deliver a single source of

truth it is not necessary for all the golden thread information to be stored in a single system.

- The section on enforcement set out proposals on the information to be included in compliance notices and how they should be withdrawn and amended by the Regulator. There were 47 responses to this section and on average across the two questions posed 92% of respondents agreed with proposals. In response to the comments we did not make any changes to the proposals.
- The section of the consultation on review and appeals received 42 responses. This section covered the internal review process and suspension of a direction to manage building safety risks or a decision not to remove a building from the register when an appeal is made to the Tribunal. On average across two questions 85% of respondents agreed with proposals. However, the government decided against implementing the suspensive effect of appeals on the aforementioned decisions. Further details on this can be found in the full government response.

10.4 Overall, feedback was largely positive with on average 72% of respondents agreeing with the proposals. All objections to policy proposals have been considered and the policy position is detailed in the full government response. Where necessary provisions have been amended or omitted in response to respondents' feedback and further policy consideration. Across all policy area respondents commented that comprehensive guidance from the government and the Regulator would be required to ensure accountable persons can comply with the building safety duties imposed under the Act and in Regulations. This guidance will be produced by the Regulator. A full government response to the consultation is published alongside these Regulations and can be found on the webpage linked here:
<https://www.gov.uk/government/consultations/consultation-on-the-new-safety-regime-for-occupied-higher-risk-buildings>.

11. Guidance

11.1 As set out above, the Regulator will set out guidance to support meeting the requirements introduced by this statutory instrument.

12. Impact

12.1 A full and joint impact assessment has been prepared for this instrument and the Higher Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023 and is submitted with this memorandum and published on the legislation.gov.uk website.

12.2 There will be an impact from both these Regulations on business, charities, voluntary bodies and the public sector. The Department has estimated that the estimated equivalent annual cost of the in-occupation regime is £133.5m - £274.2m, with a central estimate of £182.9m. This assessment does not include costs associated with remediating historical safety defects, or of carrying out works to the building to manage building safety risks. These will be building specific and will depend on how the building safety risks for that building have been managed.

12.3 We estimate that the annual equivalent cost of the in-occupation regime on the public sector, specifically the Regulator is £29.9m of which, 90% will be recovered from industry through cost recovery as detailed below.

- 12.4 The costs of delivering the new regime for higher-risk buildings in occupation fall initially to the organisations responsible for managing higher-risk buildings and the Regulator. The Regulator intends to recover most of their costs from industry via cost recovery. Industry can recover some costs relating to managing the safety of higher-risk buildings in-occupation from leaseholders via service charges. These are estimated to amount to an average monthly (£15) cost to leaseholders, for an average (typical) building over a 15-year period.
- 12.5 These Regulations fall within the Better Regulation Framework exclusion because they relate to the safety of tenants, residents, and occupants in buildings.

13. Regulating small business

- 13.1 The legislation applies to activities that are undertaken by small businesses as small businesses can own and manage higher-risk buildings.
- 13.2 No specific action is proposed to minimise the Regulations burden on small businesses as the costs relate to ensuring building safety.

14. Monitoring & review

- 14.1 The instrument does not include a statutory review clause and, in line with the requirements of section 31 of the Small Business, Enterprise and Employment Act 2015, the Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley MP has made the following statement:
- “The regulatory measures in this instrument are within the scope of the periodic review provided for in section 162 of the Building Safety Act 2022, and it would not be appropriate in the circumstances to make provision for a separate review in this instrument”.

15. Contact

- 15.1 Rebecca Thompson at the Department for Levelling Up, Housing and Communities email: rebecca.thompson@levellingup.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Camilla Sheldon, Deputy Director for Reform, Policy and Legislation within the Safer, Greener Buildings Group at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley MP, at the Department for Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.