

Open consultation

Consultation on implementing the new building control regime for higher-risk buildings and wider changes to the building regulations for all buildings

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Department for LevellingUp, Housing & Communities

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Scope of the consultation

Topic of this consultation:

We are consulting on proposed changes to building regulations under part three of the Building Safety Act 2022. This consultation seeks views on policy proposals for legislation we intend to introduce to create the building control procedure for higher-risk buildings, as well as wider changes we are proposing to improve the building control system overall.

We are seeking views on:

New duty holder and competence requirements on all building work and additional duties for those working on higher-risk buildings

New hard stops to strengthen building control for higher-risk buildings before a building is occupied

The approach to Regulator's notices to support building projects which comprise both higher-risk building work and non higher-risk building work

Additional requirements for building work carried out in existing higher-risk building work e.g. refurbishments

Stronger change control during the construction of higher-risk buildings
The process of certifying building work that have been carried out without building regulations approval (regularisation)

Establishing greater record keeping and management in higher-risk buildings (golden thread)

A mandatory occurrence reporting system in higher-risk buildings

Stronger enforcement and sanctions for all building work

Wider changes to the building regulations to align the existing system with the new system

Commencement of building work and transitional provisions for changing to the new higher-risk building regime

This consultation relates only to the design and construction of buildings, it does not relate to occupation requirements in higher-risk buildings.

Scope of this consultation:

Building Safety.

Geographical scope:

These proposals relate to England only.

Impact assessment:

Yes, there is an economic annex which provides qualitative and quantitative analytical updates for some of the areas being consulted on through this consultation. This is included at the end of the consultation. Where an area on which we are consulting has not been covered by this economic annex, it is because the estimates set out in the Building Safety Bill's Regulatory Impact Assessment are still valid. Details on the current estimated impacts for these areas can be found in the published

[Building Safety Bill Regulatory Impact Assessment here](#)

Basic information

Body/bodies responsible for the consultation:

Department for Levelling Up, Housing and Communities

Duration:

This consultation will last for 12 weeks from 20 July 2022 to 12 October 2022

1. Introduction

1.1 Following the Grenfell Tower tragedy, the government appointed Dame Judith Hackitt to lead an Independent Review of Building Regulations and Fire Safety. In her

final report, Dame Judith Hackitt outlined a new approach to managing fire and structural safety risks in high-rise multi-occupied residential buildings. Overall, 53 recommendations were made for government and industry to drive the cultural change and behaviours necessary to improve building safety.

1.2 The government has committed to implementing Dame Judith Hackitt's recommendations and in July 2021 the Department of Levelling Up, Housing and Communities (then the Ministry of Housing, Communities and Local Government) introduced the Building Safety Bill in Parliament. The Bill received Royal Assent and became an Act of Parliament on 28 April 2022.

1.3 The Building Safety Act 2022 brings forward a package of legislative changes to make buildings safer. It aims to deliver improvements across the entire built environment and strengthen oversight and protections for residents in high-rise buildings. Its focus on risk helps owners to manage their buildings effectively, while giving the home-building industry the clear, proportionate, framework it needs to deliver more, better, high-quality homes.

1.4 The government's objective is to improve the whole system of building safety regulation. We intend to use delegated powers to provide the procedural and administrative detail of the regulatory changes, including the new regulatory regime for higher-risk buildings. Through secondary legislation, the Secretary of State will be able to make regulations that support the Building Safety Regulator and other building control bodies in driving up performance and safety across the built environment while providing clarity to industry on its responsibilities and duties.

1.5 The government aims to ensure building regulation is fit for purpose across the built environment and where appropriate will apply the new approaches in the Building Safety Act 2022 to all building work, not just those in scope of the new regulatory regime for higher-risk buildings. We are seeking views on these proposed changes through this consultation.

1.6 In the reforms to building regulation, we are introducing a new more stringent regulatory regime for certain buildings overseen by the Building Safety Regulator, known as higher-risk buildings. The requirements of the new regime are brought forward through part three of the Building Safety Act 2022 and will be supported by the proposals outlined in this consultation.

1.7 The Building Safety Act 2022 defines higher-risk buildings for the new design and construction regime as buildings which are at least 18 metres in height or have at least 7 storeys and are of a description specified in regulations. Government is proposing to specify in regulations that only buildings containing at least two residential units, hospitals or care homes that meet the height threshold will be higher-risk buildings. A consultation on these proposals can be found at [Consultation on the new safety regime for occupied higher-risk buildings](#)

1.8 The proposed requirements include the procedural and administrative detail underpinning new building control procedures to provide strengthened regulatory oversight and rigorous inspection of building regulations requirements before, during, and on completion of building work. These proposals aim to ensure that building regulations compliance, including building safety is considered by dutyholders at each stage of design and construction. The Building Safety Regulator will enforce the new

more stringent regulatory regime for higher-risk buildings; overseeing compliance with the new regulations once they come into force. We are seeking views on these proposed changes through this consultation.

Development of these proposals

1.9 In June 2019, the government published the [Building a Safer Future Consultation](#) detailing proposals to achieve long-term reform of the building safety system. In April 2020 the government published the response to the consultation and its proposals for a more rigorous approach to building control applications and oversight during building work.

1.10 Alongside the introduction of the Building Safety Bill to Parliament, the government published draft secondary legislation covering a number of the proposals in this consultation document, to ensure the public, industry and Parliamentarians had sight of key proposals whilst the Building Safety Bill was being scrutinised. We are now seeking views on the technical detail of these proposed regulations.

1.11 We have worked closely with the Building Safety Regulator (in its shadow form), industry and other external partners to develop the provisions underpinning the new, more stringent building control regime.

1.12 The Building Regulations Advisory Committee (BRAC), the Joint Regulators Group (JRG) and the Early Adopters Group have supported our work devising these procedures. We are extremely grateful for the advice and assistance provided by the members and partners of these groups.

Focus of the consultation

1.13 This consultation focuses mainly on the changes that will be made to the building regulations to implement the new building safety reforms. These changes will be made using powers in the Building Act 1984 as amended by the Building Safety Act 2022. This consultation is pursuant to section 14(3) of the Building Act 1984 and is also a full public consultation.

1.14 Whilst this consultation is split into sections, Dame Judith Hackitt proposed a system of reforms all working together to deliver real and meaningful change. We therefore encourage you to read all the sections before answering the questions.

1.15 To help guide you through the consultation and all the changes we are proposing to make to the building regulations, below is a short summary of the key proposals contained in it cover:

- A) New duty holder and competence requirements on all building work and additional duties for those working on higher-risk buildings. These new roles and requirements aim to ensure a stronger focus on compliance with the building regulations.
- B) A series of robust hard stops ('gateways') to strengthen building control for higher-risk buildings before a building is occupied.
- C) The approach to Regulator's notices to support building projects which comprise both higher-risk building work and non higher-risk building work.
- D) Stronger change control during the construction of higher-risk buildings.

- E) Additional requirements for building work carried out in existing higher-risk buildings e.g. refurbishments.
- F) The process of certifying building works that have been carried out without building regulations approval (regularisation).
- G) Establishing greater record keeping and management in higher-risk buildings (golden thread of information).
- H) A mandatory occurrence reporting system in higher-risk buildings.
- I) More rigorous enforcement powers for building work in all buildings to focus incentives on the creation of reliably safe buildings from the outset and the approach taken to the review and appeal of building control decisions.
- J) Wider changes to the building regulations to align the existing system with the new system.
- K) The transitional provisions for changing to the new higher-risk building regime.

Duration and next steps

- 1.16 This consultation will last for 12 weeks from 20 July 2022 until 12 October 2022.
- 1.17 The government will aim to publish its response to the consultation within 12 weeks of the consultation closing.
- 1.18 We will be considering your comments before the Regulations are signed and laid before Parliament.

2. New duty holder roles and responsibilities in the building regulations to ensure a stronger focus on compliance with the regulations

2.1 The Building Safety Act 2022 amends the Building Act 1984 to create powers to prescribe requirements on those who procure, plan, manage and undertake building work also known as dutyholders. The proposals will set out a framework of duties for dutyholders, make clear who they are and impose specific duties on them. These dutyholders will be the client, Principal Designer, designers, Principal Contractor and contractors.

2.2 Our proposals also include the competence requirements on anyone carrying out design or building work and those who appoint them to take reasonable steps to ensure that they are competent to perform their functions in relation to the design and construction of buildings.

2.3 This section will set out proposed requirements which will apply in relation to any work or matter to which the Building Regulation 2010 are applicable.

Dutyholder requirements

General duties in design and construction

2.4 Under the proposed requirements, dutyholders will need to ensure that there are arrangements and systems in place to plan, manage and monitor both the design work and the building work to ensure compliance with building regulations.

2.5 They will be required to cooperate with other dutyholders, coordinate their work, and communicate and provide information to other dutyholders. They will also need to ensure they and those they appoint are competent (have the necessary skills, knowledge, experience and behaviours) to carry out the design work and building work they are engaged to do and only undertake work within the limits of that competence.

2.6 We have modelled the dutyholders and their duties on those in Construction (Design and Management) Regulations 2015 (CDM). CDM is embedded in the construction industry and has driven a cultural and behavioural change in relation to compliance with health and safety requirements. The people and organisations procuring and undertaking the work in compliance with CDM are the same as those who should be considering compliance with building regulations, so these regulations will take a similar approach [\[footnote 1\]](#).

2.7 Although these are the same dutyholders identified by CDM for health and safety duties, we do not expect duplicate dutyholders, but they will need the right competence for the work they are engaged to do, and it should also be clear how the statutory roles have been allocated. For example, the client may decide to appoint a Principal Designer or Principal Contractor for CDM, and a Principal Designer or Principal Contractor for building regulations purposes after considering the different statutory requirements. The same person may also fulfil both roles if competent to do so.

2.8 Furthermore, one person can carry out more than one dutyholder role, for example a developer may carry out both the Principal Designer and Principal Contractor role for building regulations on a building project if they possess the required competencies to carry out the design and building work as per the appointment.

2.9 We propose that the following duties will apply to all dutyholders during design and construction, they must:

- Plan, manage and monitor their work to ensure the building work complies with building regulations;
- Cooperate with other dutyholders (e.g. share information, have effective routes of communication, and support other dutyholders in achieving compliance with the regulatory requirements imposed by the new regime for higher-risk buildings, including meeting gateway two and three, golden thread and mandatory occurrence reporting requirements); and
- Ensure they and the people they appoint are competent (have the necessary skills, knowledge, experience and behaviours and where organisations are involved, the appropriate organisational capability) to carry out design work and building work they are engaged to do and only undertake work within the limits of that competence.

Question: Do you agree or disagree with the proposed duties that will apply to all dutyholders during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Specific dutyholder requirements

Clients

2.10 The client is the person for whom the building work is done; often the client will be the developer or the building owner. They have a major influence over the way a project is procured, managed and funded. They control the contract, the finances and the time available for the project. We propose that the client should have the following duties: Make suitable arrangements for planning, managing and monitoring a project, including the allocation of sufficient time and resource, to deliver compliance with building regulations. In practice, this means appointing the right people, with the right competencies (the skills, knowledge, experience and behaviours or organisational capability) for the work and ensuring those they appoint have systems in place to ensure compliance with building regulations; Where there are a number of firms working on different aspects of the project, the client will need to appoint a Principal Designer to be in control of design work and a Principal Contractor to be in control of the building work; Provide building information to every designer and contractor on the project and have arrangements to ensure information is provided to designers and contractors to make them aware that the project includes any higher-risk building work; and, Cooperate and share information with other relevant dutyholders.

Question: Do you agree or disagree with the proposed duties that will apply to the client during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Designers

2.11 Any person who, in the course or furtherance of a business, carries out any design work, or arranges for or instructs, someone under their control to carry out design work, will be a designer. In addition to the general duties we propose that designers should have the following duties:

- To not start design work unless satisfied that the client is aware of their duties;
- When carrying out design work the designer must ensure that, if built, the building work to which the design relates would be in compliance with all relevant requirements;
- In providing a design, a designer must take all reasonable steps to provide sufficient information about the design, construction and maintenance of the building to assist the client, other designers and contractors to comply with all relevant requirements;
- Where a designer is carrying out only part of the design of the building work which comprises a project, the designer must consider other design work which directly relates to that building work and report any concerns as to compliance with all relevant requirements to the Principal Designer; and,

- If requested to do so, a designer must provide advice to the Principal Designer or the client on whether any work, to which a design it is preparing or modifying relates, is higher-risk building work.

2.12 The Principal Designer is a designer appointed to be in control of all of the design work. In addition to the general and the designer duties, we propose that the Principal Designer should have the following duties:

- Plan, manage and monitor the design work during the design phase;
- Co-ordinate matters relating to the design work to ensure that, if built, the building work to which that design relates will comply with building regulations;
- Ensure that they, and all designers working on the project, co-operate, communicate and co-ordinate their work with the client, the Principal Contractor, and other designers;
- Liaise with the Principal Contractor and share information relevant to the building work; and,
- Assist the client in providing information to other designers and contractors.
-

Question: Do you agree or disagree with the proposed duties that will apply to designers and the Principal Designer during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Contractors

2.13 Any person who, in the course or furtherance of a business carries out, manages or controls any building work will be a contractor. In addition to the general duties we propose that contractors should have the following duties:

- To not start building work unless satisfied that the client is aware of their duties; and,
- Contractors must provide each worker under their control with appropriate supervision, instructions and information so as to ensure that the building work is in compliance with all relevant requirements.

2.14 The Principal Contractor is a contractor appointed to be in control of the whole project during the construction phase. In addition to the general and the contractor duties we propose that the Principal Contractor should have the following duties:

- Plan, manage and monitor all the building work;
- Co-ordinate matters relating to the building work to ensure that it complies with building regulations;
- Ensure that they, and the contractors in the team, co-operate, communicate and co-ordinate their work with the client, the Principal Designer and other contractors;

- Liaise with the Principal Designer and share information relevant to the building work; and,
- Assist the client in providing information to other designers and contractors.
-

Question: Do you agree or disagree with the proposed duties that will apply to contractors and the Principal Contractor during design and construction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Competence requirements

General requirements

2.15 Our intention is to ensure that everyone doing design work or building work is competent to carry out their work in a way that is compliant with building regulations. For any design or building work on all buildings in England, it is intended that building regulations set out the duties on anyone who participates in or manages the work to have the appropriate skills, knowledge, experience and behaviours, and if they are an organisation, the organisational capability to carry out work in a way that is compliant with building regulations.

2.16 It is recognised that competent individuals may be supported by other individuals who may not be fully competent (such as labourers or apprentices). In addition, newly trained individuals need to be given the opportunity to gain experience of working. In these cases, they must be in a process of obtaining the relevant competence and must be appropriately supervised by someone who is competent.

2.17 Anyone who appoints persons to carry out design work or building work must take reasonable steps to ensure that those they appoint meet the competence requirements for their roles. "Reasonable steps" will depend on the nature and complexity of the project, and the range and levels of the risks involved.

Principal Designer and Principal Contractor

2.18 We propose to set out the framework of duties for those who procure, design and undertake building work. In particular, the Principal Designer and Principal Contractor will have the overall responsibility and are pivotal to ensuring compliance with building regulations and building safety during design and construction.

2.19 The role of Principal Designer and Principal Contractor can be carried out by individuals or organisations. Those appointed to the role of Principal Designer and Principal Contractor must have the appropriate skills, knowledge, experience and behaviours and, if they are an organisation, the organisational capability, to fulfil their duties under these regulations. They may not accept an appointment unless they fulfil these conditions.

2.20 In many cases, the role of Principal Designer and Principal Contractor are normally carried out by an organisation. In these cases, the organisation will be responsible for fulfilling all their duties as the Principal Designer or Principal Contractor. In doing so, they will be relying on their organisational capability, including having in place a robust management system and a team of people with relevant competence. In practice, organisations will usually have individuals, with the relevant competence who lead, oversee and manage the project, supported by a team with a range of expertise. This should enable the organisation to fulfil its duties as the Principal Designer or the Principal Contractor for the design or building work included in the particular project.

2.21 We therefore propose that where the role is carried out by an organisation, reasonable steps must be taken to ensure the individual or individuals designated, fulfil the functions of the Principal Designer or the Principal Contractor for a specific project, have the appropriate skills, knowledge, experience and behaviours.

2.22 To support individuals designated to manage the functions of the Principal Designers and Principal Contractors, the Department of Levelling Up, Housing and Communities has sponsored the British Standards Institution to work with industry experts and relevant stakeholders to develop the competence requirements for these roles. Any schemes set up by professional and trade bodies for assessing individuals as meeting these standards should be supported by robust assessment processes and third-party accreditation arrangements.

Question: Do you agree or disagree with the proposal for organisations appointed as the Principal Designer or Principal Contractor to take reasonable steps to ensure that the individual/s designated, to manage the functions of the Principal Designer or Principal Contractor for that specific project have the relevant competence to do so?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Ceasing to be competent

2.23 It is important that individuals or organisations are aware of the limit of their own competence. They should not carry out work or ask others to carry out work on their behalf, which is beyond their skills, knowledge or experience. Where an individual or individuals do not have the necessary competence, they should seek advice and guidance from appropriate persons or organisations with the relevant competence for the particular tasks or functions.

2.24 We propose that building regulations require that where any person ceases to satisfy the competence requirements:

- If they are the Principal Designer or the Principal Contractor, they must notify the client;

- If they are a designer working on the design, they must notify the Principal Designer (or where the Principal Designer was not appointed, the client) and the person who asked them to carry out the design work;
- If they are a contractor undertaking building work, they must notify the Principal Contractor (or where the Principal Contractor was not appointed, the client) and the person who asked them to carry out the building work; and,
- In any other case, they must notify the person who asked them to carry out the work.

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Question: Do you agree or disagree that regulations should include the requirement on individuals or organisations to notify the relevant dutyholders and those who appoint or ask them to carry out the work where they cease to satisfy the competence requirements?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.
How dutyholders can demonstrate competence

2.25 There are a number of ways in which a person involved in the construction project can demonstrate that they meet the competence requirements for the role or tasks they are to undertake. As a minimum, those carrying out work will be expected to meet the standards set by their sector, for example, relevant training and qualifications recognised by accredited institutions, membership of an established trade or professional body, or relevant experience of the type of work they will undertake.

2.26 As previously consulted on, industry, with government support, has been leading the work to improve the competence of those working on higher-risk buildings. This work includes the development of sector-specific competence frameworks for key disciplines across procurement, design, construction, inspection, maintenance and management of buildings. The Department for Levelling Up, Housing and Communities has sponsored the British Standards Institution to work with industry experts and relevant stakeholders to develop a suite of competence standards, [covering the core criteria for building safety](#) in competence frameworks and competence requirements for the Principal Designer, Principal Contractor and for the management of building safety in residential buildings. These requirements are expected to be published in late July and will be available from [BSI Competence Standards webpage](#).

2.27 These standards and the industry competence frameworks will be key to supporting dutyholders in meeting the competence requirements and we expect dutyholders to demonstrate that they meet the standards and competence frameworks. Robust accreditation arrangements by a publicly recognised third-party body are vital to ensure consistency in the application of the frameworks and rebuild confidence in the industry. We expect that organisations wishing to assess individuals against the British Standards Institution's and sector-specific frameworks will be third-party accredited.

2.28 The Building Safety Regulator intends to provide guidance to support the competence requirements. The guidance will provide examples of the skills, knowledge,

experience and behaviours and organisational capability required to work on higher-risk buildings, in particular, for the Principal Designer and Principal Contractor. The guidance will make references to the competence standards developed by the British Standards Institution for these roles and competence frameworks or schemes developed by various industry sectors, if sufficiently rigorous.

Additional dutyholder and competence requirements for higher-risk buildings

Additional dutyholder requirements for those working on higher-risk buildings

2.29 In addition to the requirements above that apply to all building work, dutyholders in higher-risk buildings will need to demonstrate to the Building Safety Regulator how they intend to comply with all their duties and how they will ensure that the building work to be undertaken will comply with all relevant building regulations requirements for HRBs throughout the building control approval process.

2.30 As outlined earlier in this consultation, The Building Safety Act 2022 defines higher-risk buildings for the new design and construction regime as buildings which are at least 18 metres in height or have at least 7 storeys and are of a description specified in regulations. Government is currently consulting on proposals where only buildings containing at least two residential units, hospitals or care homes that meet the height threshold will be higher-risk buildings.

2.31 For higher-risk buildings, appointments by the client of the Principal Designer and Principal Contractor must be made before the building control application is made. The dutyholders will need to work together to provide information to the Building Safety Regulator before building work begins via a building control approval application with plans and new prescribed documents which accompany it.

2.32 This will include an obligation on the client to ensure that designers and contractors are aware that they are working on a higher-risk building project.

2.33 To ensure that that dutyholders remain accountable for the building work they are undertaking we have included obligations to identify and share information about the nature of the higher-risk building project to achieve compliance in particular with the proposed new regulations for higher-risk buildings.

2.34 There will also be specific duties on the client responsible for a construction on a higher-risk building to develop and maintain a golden thread of information about the building and its construction and building regulations put in place on reporting processes to support a mandatory occurrence reporting regime. Further information about golden thread and mandatory occurrence reporting in higher-risk buildings can be found later on in this consultation.

Question: Do you agree or disagree with the additional requirements proposed for dutyholders involved in work on higher-risk buildings?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question: Please explain your answer. If you answered disagree, please outline what changes you think should be made.

Competence checks on those working on higher-risk buildings

2.35 For higher-risk buildings, as the Principal Designer and Principal Contractor will have the overall responsibility for, and are pivotal to, ensuring compliance with building regulations' requirements including building safety during design and construction, the roles may require enhanced competence, appropriate to the particular higher-risk building work in question.

2.36 In the interests of public safety, we are proposing that when conducting their assessments on competence (skills, knowledge, experience and behaviours) before appointing a person in relation to proposed higher-risk building work, the duty holder making that appointment should be required:

- To ask any person it appoints whether that person has a serious infraction; and
- To consider whether previous conduct of that person, in particular any serious infraction, might call into question their competence in relation to the work in question.

2.37 We propose that "serious infraction" should mean that within the 5 years before the appointment is being considered, the person or organisation in question has been subject to any of:

- The issue of a compliance notice in relation to contravention of Part A (structural failure) or B (fire safety) of Schedule 1 to the Building Regulations 2010;
- The issue of a stop notice in relation to a contravention any requirement of, or imposed under, the building regulations;
- The conviction for any offence under the Building Safety Act 2022, Building Act 1984 or the Regulatory Reform (Fire Safety) Order 2005;
- The conviction of an offence under the Health and Safety at Work etc Act 1974 or the Construction (Design and Management) Regulations 2015;
- A finding by a formal inquiry of behaviour that directly resulted in loss of life, the deliberate misleading of customers or amounted to the failure to meet regulatory requirements.

2.38 In relation to higher-risk building work, in addition to the general requirements on appointing a Principal Designer or Principal Contractor, we propose that the client and other dutyholders making appointments must keep a record of the steps they took to satisfy themselves that the proposed/appointed persons have the relevant competence for the roles. This must include the steps taken to determine whether the person has a serious infraction, and the detailed consideration of their previous conduct, in particular any serious infraction, which might call into question their competence in relation to the work in question, their reasons for appointing them nonetheless and the measures the

duty holder who made the appointment will take to mitigate the effects of the appointment.

2.39 When submitting a building control approval application for the creation of new higher-risk buildings, we propose the above information must be provided as part of the competence declaration, signed by the client or someone on their behalf, stating that the client has taken all reasonable steps and is satisfied that the Principal Designer (or sole or lead designer) and the Principal Contractor (or sole contractor) meet the competence requirements by having the necessary skills, knowledge, experience and behaviours, including consideration of previous conduct. In considering this part of the application, the Building Safety Regulator will have regard to government guidance or recognised industry standards in relation to the competence of the Principal Designer, Principal Contractor or the relevant trades and professions.

Question: Do you agree or disagree with the requirement on the client to record the steps they took to satisfy themselves that the appointed Principal Designer and Principal Contractor have the relevant competence for the role and include it with the competence declaration required with the building control approval application for higher-risk building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that anyone making appointments for building work on a HRB should consider whether a serious infraction might call into question a person's skills, knowledge, experience and behaviours?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree with the proposed meaning of serious infraction?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that the consideration of serious infractions be limited to the last five years?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Duty holder and competence requirements for domestic clients in all buildings and in higher risk buildings

2.40 A domestic client is someone for whom a project is carried out, which is not done in connection with a business.

2.41 We propose special provisions for domestic clients, similar to the approach taken in the Construction (Design and Management) Regulations 2015. Where the client is a domestic client, there are certain duties that must be carried out by:

- The contractor (where there is only one contractor for a project); or
- The Principal Contractor or the Principal Designer (where there is more than one contractor) if the client and the Principal Designer has agreed this in writing.

2.42 If a domestic client fails to make the appointments of the Principal Designer and Principal Contractor, the designer in control of the design phase of the project will be the Principal Designer; and the contractor in control of the construction phase of the project will be the Principal Contractor.

2.43 The duties referred to above are to:

- Make suitable arrangements for planning, managing and monitoring a project so as to ensure compliance with all relevant requirements, and maintain and review these arrangements throughout the project;
- Take reasonable steps to satisfy themselves that any person they permit to carry out design or building work have the relevant competence to carry out work in accordance with building regulations and to fulfil their duties under these regulations, except where they are in training and are supervised by a competent person; and,
- Take reasonable steps to satisfy themselves that the Principal Designer and/or the Principal Contractor (where appointed) have the relevant competence to fulfil their duties under these regulations.

Question: Do you agree or disagree that special provisions set out above should be made for domestic clients?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Duty holder and competence requirements for non-notifiable work in all buildings and in higher-risk buildings

2.44 The government stated in its summary of responses to its [Building a Safer Future consultation](#) that it intends to apply the duty holder and competence requirements in a proportionate and targeted way across the range of building work on all buildings.

2.45 Building regulations recognise the proportionate regulation of small-scale projects by, for example, providing for certain work to be covered by self-certification requirements through 'competent person schemes' (CPS), and for the type of work prescribed in Schedule 4 to the Building Regulations 2010 which does not need to be notified to a building control body. This type of work is mainly of a minor nature, where there is no significant risk to health, safety, water efficiency or energy-efficiency.

2.46 To be consistent with the proportionate approach taken in building regulations, we intend not to apply the dutyholders duties and competence requirements where the work consists only of work described in Schedule 4 to the Building Regulations 2010. Whilst there is no duty to notify either a building control authority or the Building Safety Regulator about these works, the substantive requirements of the building regulations continue to apply.

Question: Do you agree or disagree that the dutyholders and competence regulations should not apply to work prescribed in Schedule 4 of the Building Regulations 2010?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

3. A series of robust hard stops (“gateway points”) to strengthen regulatory oversight before a higher-risk building is occupied

3.1 The government intends to introduce a more stringent regulatory regime during design and construction for higher-risk buildings through secondary legislation. The Building Safety Act 2022 defines higher-risk buildings for the new design and construction regime as buildings which are at least 18 metres in height or have at least seven storeys and are of a description specified in regulations. Government is proposing to specify in regulations that only hospitals, care homes or buildings containing at least two residential units that meet the height threshold will be higher-risk buildings. Find a

[consultation on these proposals here.](#)

3.2 The Building Safety Act 2022 provides for the Building Safety Regulator to be the building control authority for higher-risk buildings in England. The proposed regulations will contain the detailed provisions setting out the building control procedures which apply to:

- The construction of a new higher-risk building (e.g. new build);
- Building work to an existing higher-risk building such that it continues to be a higher-risk building on completion of the work (e.g. refurbishment of a residential building at least seven storeys in height);
- Building work to a non higher-risk building such that it becomes a higher-risk building (e.g. Converting a five storey residential building to a seven storey residential building);
- Material change of use of an existing out-of-scope building such that it becomes a higher-risk building (e.g. an office to residential conversion); or,
- Building work to a higher-risk building or proposed higher-risk building such that it becomes a higher-risk building.

3.3 These building control procedures will provide strengthened regulatory oversight and rigorous inspection of building regulations requirements before, during, and on completion of building work, ensuring that building regulations compliance is considered by dutyholders at each stage of design and construction. Along with the new duty holder requirements which place firm responsibilities on those carrying out the work and include a strong focus on skills, knowledge, experience and behaviours (including past building regulation compliance), these requirements will encourage culture change by giving the construction industry the clear framework it needs to deliver more high-quality, safe homes and liveable buildings, with clear responsibilities on those undertaking design and construction work.

3.4 The new building control process for creating higher-risk buildings will operate as follows:

Before building work commences

- If proposing to construct or create a higher-risk building (HRB) an applicant must submit a building control approval application to the Building Safety Regulator (BSR) with plans and new prescribed documents.
- Work cannot commence without BSR approval.
- BSR will consult its multi-disciplinary team, including fire and rescue authority and sewerage undertaker and determine the application within 12 weeks.
- If application is approved, the BSR will agree a bespoke inspection schedule with the applicant. The BSR must be notified at these stages for inspection to take place. Building work can then commence (subject to any BSR imposed requirements).

Construction phase

- BSR carries out inspections at agreed stages. Inspections can also be carried out without notice.

- Dutyholders must comply with duty holder and competence duties; mandatory occurrence reporting requirements; and golden thread requirements.
- If applicant proposes to deviate from the original building control approval application, they must determine whether it constitutes a 'major' or 'notifiable' change.
- Major: Applicant submits change control application to BSR. BSR has six weeks to determine application. Change cannot be made without BSR approval.
- Notifiable: Applicant submits change control notification to BSR. The BSR has 10 working days to consider the notification. If the BSR has not intervened, the change can be carried out once the prescribed period has elapsed.

Building work complete

Full completion

- Building work on HRB is complete.
- Applicant must submit a completion certificate application to the BSR for approval and golden thread information must be handed over to the accountable person (AP).
- BSR assesses the application and carries out final inspection/s of the building work.
- If satisfied that the building work complies with all applicable building regulations, the BSR will issue a completion certificate.
- This is the end of the building control process.
- AP can then register the building for occupation. This is separate to the building control process.

Partial completion

- Building work on relevant part of HRB is complete.
- Applicant must submit a partial completion certificate application to the BSR for approval and golden thread information must be handed over to the accountable person (AP).
- BSR assesses the application and carries out final inspection/s of the relevant building work.
- If satisfied that the completed part of the HRB including all relevant building work complies with all applicable building regulations, the BSR will issue a partial completion certificate for that specific work.
- AP can then register the building for occupation. Only the part of the building for which there is a completion certificate, can be occupied.
- This is separate to the building control process.
- Building work on other parts of the building continues.
- The above completion certificate application process applies each time HRB work is complete on a new part of the building.
- Fire Safety Order and AP's duty to assess and manage building safety risks apply once occupation commences.
- CDM requirements continue to apply.

Building control application procedure for creating new higher-risk buildings [gateway two]

3.5 As part of the new building control regime for creating new higher-risk buildings, we propose that applications for building control approvals ('gateway two' application) will replace the current 'deposit of full plans' stage under the Building Regulations 2010 and take place before building work begins.

3.6 At this stage, an application for building control approval with plans and new additional documents must be submitted to the Building Safety Regulator as the building control authority for higher-risk buildings. Section 91ZA of the Building Act 1984 makes clear it is the Building Safety Regulator who is the building control authority for higher-risk buildings, it will not be possible for dutyholders to choose which building control body oversees higher-risk building work.

3.7 As part of its building control function, the Building Safety Regulator will work closely with registered building inspectors, fire and rescue authorities (including other fire safety enforcing authorities where appropriate), and other external technical experts as necessary, to make sure the right specialists and regulators are in place at key stages in the design and construction of higher-risk buildings.

3.8 The requirement to submit a building control approval application will be a 'hard stop' as it will be an offence for dutyholders to start building work without approval from the Building Safety Regulator. This requirement will apply to building work that creates a new higher-risk building such as constructing a new build or converting a non higher-risk building into a higher-risk building, such as an office to residential conversion.

3.9 The requirement to seek building control approval from the Building Safety Regulator will apply irrespective of whether building work in a higher-risk building has planning permission before the new building control regime comes into force, as planning permission and building control are two entirely separate regimes. Equally, if proposed building work is subject to permitted development rights, the building work will still be regulated by the new more stringent building control process for higher-risk buildings as any proposed building work must comply with all applicable building regulations regardless of its planning status.

How building control approval applications should be submitted for higher-risk building work

3.10 The application for building control approval must be submitted to the Building Safety Regulator in writing and signed by the applicant. As dutyholders will be required to cooperate with each other, coordinate their work, and communicate and provide information to each other, the client can be assisted by other dutyholders such as the Principal Contractor and Principal Designer in preparing the application and may ask one of them to submit it on their behalf.

3.11 Prior to submitting a building control approval application, we would encourage dutyholders to engage with the Building Safety Regulator early to discuss the development including draft plans and documentation they intend to submit to the Building Safety Regulator formally. This early engagement would be beneficial to both the duty holders of the development and the Building Safety Regulator as design approaches can be discussed before the application is formally submitted. We are keen that the new hard stop gateways process should not slow down build plans and so early dialogue between the Building Safety Regulator and the dutyholders is crucial. In addition to early engagement, we would also encourage dutyholders to provide two

weeks' advance warning to the regulator before submitting their application. This will ensure that the Building Safety Regulator is expecting the application and is ready to start work on it the moment it is submitted.

Question: Do you agree or disagree that the client, Principal Contractor or Principal Designer should be able to submit the required building control approval application to the Building Safety Regulator for higher-risk building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

3.12 We propose that all applications for higher-risk buildings, including all plans, documents and information, should be submitted electronically to the Building Safety Regulator, via a digital system. The government's expectation is that for the overwhelming majority of dutyholders, particularly large developers involved in the design and construction of new higher-risk buildings, an electronic process for building control approval will be preferable. However, we propose that the Building Safety Regulator will have the discretion to accept applications to be submitted in a different way such as through paper copies where applicants cannot submit plans and documents electronically. This proposal will ensure that applications are accessible and meet the needs of all users.

3.13 We propose that this flexibility should also apply to other forms of building control related correspondence with the Building Safety Regulator including change control applications and notifications and completion certificate and partial completion certificate applications. Further details on each of these applications and notifications are provided in the relevant sections of this consultation.

Question: Do you agree or disagree with the proposed approach outlined for electronic submission and directions and that it should apply to all forms of building control related correspondence?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that the Building Safety Regulator should have the discretion to allow applicants to submit building control applications and notifications in different ways where necessary such as through paper copies?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Building control approval application ('gateway two application') information requirements for higher-risk buildings

3.14 Under the new regime for higher-risk buildings, we propose to require applicants to submit a building control approval application to the Building Safety Regulator with plans and new additional documents.

3.15 The proposed list of information to be submitted to the Building Safety Regulator as part of an application for building control approval includes:

Contact Information:

The name, address, telephone number and (if available) an email address of the client, principal contractor (or sole contractor) and the principal designer (or sole or lead designer).

Statement:

A statement confirming that the application for building control approval is made under the proposed new Higher-Risk Building regulations.

Description of an existing building:

Where the higher-risk building work consists of work to an existing building, the applicant must include a description of the existing building. This description should include the details of the current use of the building as well as the current use of each storey, the height of the building and the number of storeys.

Description of the proposed building work:

The applicant must provide a description of the proposed higher-risk building work. This should include:

- The details of the intended use of the higher-risk building and the intended use of each storey;
- The height of the higher-risk building;
- The number of storeys in the higher-risk building;
- The provision to be made for the drainage of the higher-risk building;
- Any required precautions to be taken in the building over a drain, sewer or disposal main to comply with applicable building regulations; and
- The steps to be taken to comply with any local enactment that applies.

Plan:

We propose the applicant must provide a plan to a scale of not less than 1:1250. The plan must outline the size and position of the building and its relationship to adjoining boundaries, the boundaries of the curtilage of the building, and the size, position and

use of every other building or proposed building within the curtilage of the building. The applicant should also provide such other plans as is necessary to show that the higher-risk building work would comply with all applicable requirements of the building regulations.

Prescribed Documents:

As part of the building control approval application the applicant will be required to provide the following prescribed documents (further detail on prescribed documents can be found below:

- A competence declaration confirming that the client is satisfied that their Principal Designer and Principal Contractor are competent to carry out their roles; and written records of the steps the client has taken to be satisfied of their competence;
- A planning statement setting out the status of planning permission (if required for the development);
- A design and build approach document setting out the proposed standards to be used;
- A fire and emergency file setting out fire and structural safety information about the proposal;
- A construction control plan describing the strategies for managing building work to maintain building regulations compliance;
- A change control plan setting out how changes during construction will be considered, recorded and when the Building Safety Regulator should be notified or consulted;
- A description of the mandatory occurrence reporting framework; and,
- A partial completion strategy (where the applicant proposes occupation of part of the building before completion of the higher-risk building work).

Question: Do you agree or disagree with the proposed information requirements for building control approval applications for new higher-risk buildings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Prescribed documents for building control approval applications for higher-risk buildings

3.16 With regards to the prescribed documents that should accompany a building control approval application for higher-risk buildings, we have gone further than Dame Judith Hackitt's recommendation in terms of the information that dutyholders will need to develop to demonstrate how proposals will comply with building regulations' requirements and are realistic for the building in use.

3.17 The proposed requirement for dutyholders to submit a building control approval application with plans and new prescribed documents will support dutyholders to meet

their duty holder duties and carefully consider how the proposed building work will comply with building regulations requirements. This includes the requirement on dutyholders to demonstrate to the Building Safety Regulator how their proposals are realistic for the building when it is use. A dutyholder will be required to explain their assumptions about the management and maintenance of the building once in use, as well as the behaviours and characteristics of residents or other users, such as whether there are likely to be mobility impaired residents who may have difficulties in escaping a building unescorted in an emergency. This approach should support industry culture change by encouraging dutyholders to move away from seeing building regulations compliance as a 'tick box' exercise, towards an outcomes focused approach.

3.18 The comprehensive building control approval application proposed for building work in a higher-risk building under the new regime will help dutyholders meet these duties by ensuring:

- Clients have assessed and are content that their Principal Designer and Principal Contractor have the necessary competence to discharge their responsibilities effectively;
- The planning status of the proposed building work is known;
- Dutyholders have considered how each applicable building regulation requirement will be met before construction starts;
- Appropriate consideration has been given to building safety once the building is in use through the development of fire and structural safety information about the proposal;
- Dutyholders have defined strategies in place for managing building work during construction to ensure compliance with applicable building regulations is maintained; and,
- Dutyholders have a framework in place for mandatory occurrence reporting during construction.

Competence declaration

3.19 We propose that the new building regulations relating to dutyholders and competence should require the Principal Designers, Principal Contractors and anyone carrying out any design or building work to be competent for their roles. They would also place a duty on those who appoint them to take reasonable steps to ensure that the people they appoint meet this requirement. For higher-risk building work, the regulations would require the client to record the steps taken to consider whether the Principal Designer and Principal Contractor was competent for their roles.

3.20 To support these requirements, we intend to require a signed declaration from the client, or someone on behalf of the client, at the building control approval application stage that they have assessed and are content that the Principal Designer and Principal Contractor has the necessary competence to discharge their responsibilities effectively. The declaration must be accompanied by documentation setting out the step the client has taken to satisfy themselves of the competence of the Principal Designer and Principal Contractor. This must include the steps taken to determine whether the person has a serious infraction, and the detailed consideration of their previous conduct, in particular any serious infraction, which might call into question their competence in relation to the work in question, their reasons for appointing them nonetheless and the

measures the duty holder who made the appointment will take to mitigate the effects of the appointment.

3.21 The signed declaration will confirm that the client is content that the Principal Designer (or sole or lead designer) and Principal Contractor (or sole contractor) fulfils the duty holder requirements.

3.22 In the interests of public safety, we propose that in assessing an application for building control approval for higher-risk building work the Building Safety Regulator should consider carefully whether the client has taken all reasonable steps to determine whether the Principal Designer or the Principal Contractor is a person who has a serious infraction or previous conduct which might call into question their competence in relation to the work in question.

3.23 As outlined in later sections of this consultation, the Building Safety Regulator will be able to approve building control approval applications subject to specific requirements placed on dutyholders; require that duty holder do not cover up certain work for a period of time during the construction phase so it can carry out a bespoke and targeted inspection regime. The Building Safety Regulator will also be able to carry out inspections without warning, where deemed necessary, and require access to information such as change control logs maintained by Dutyholders. These proposed powers will enable the Building Safety Regulator to increase their scrutiny on higher-risk building work where the competence of an appointed individual has been called into question.

3.24 In addition, during the construction phase, where the Building Safety Regulator finds building work not to be in compliance with relevant building regulations, the Building Safety Regulator should check that there are suitable arrangements in place for assessing the competence of the person, including whether the person who designed or carried out the work has a serious infraction.

Question: Do you agree or disagree with the proposed information that must be contained within a competence declaration?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that when assessing an application for building control approval the Building Safety Regulator should consider the steps taken to determine whether a person has a serious infraction, and the detailed consideration of their previous conduct?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Planning statement

3.25 The purpose of the proposed planning statement is to ensure the Building Safety Regulator is aware of the planning status (if any) of the proposed building work. We propose it should either:

- a. Confirm that planning permission is not required,
- b. Confirm that planning permission has been granted and specify if any optional requirement applies to the work, and if so, which, or
- c. Confirm that planning permission has not yet been granted, and that the relevant information will be supplied within 28 days after the date on which planning permission is granted.

3.26 Where a building control approval application is accompanied by a planning statement in accordance with scenario (c) as above, a supplementary statement in the terms required by scenario (b) must be provided to the Building Safety Regulator within 28 days after the date on which planning permission is granted, and the statement must state that it is made under this paragraph and is supplementary to the planning statement.

3.27 The Building Safety Regulator will not, however, make a determination about the planning status of the proposed building work as the planning permission regime focuses on land use matters, rather than compliance with building regulations' requirements and is an entirely separate legislative regime. The planning statement is for the Building Safety Regulator's information only and applicants will need to ensure that the proposed building work complies with both planning and building regulations' requirements.

Question: Do you agree or disagree with the proposed list of information that must be contained within a planning statement?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you've answered disagree, please explain what changes you think should be made.

Design and build approach document

3.28 The purpose of the proposed design and build approach document is to encourage dutyholders to carefully consider how compliance will be achieved for each applicable building regulation requirement before construction starts. As part of the design and build approach document, they will be required to set out whether they intend to follow

any guidance to meet the building regulations requirements (e.g. Approved Documents, British Standards, Design Codes, etc.).

3.29 We consider this vital as following Approved Documents is a common means to try to ensure building work complies with building regulations and whilst this approach may be entirely appropriate for typical building work scenarios, it does not guarantee compliance, as the Approved Documents are not relevant to all situations. It is therefore important that dutyholders carefully consider their approach to complying with building regulations and whether it is appropriate for their specific project.

3.30 The design and build approach document will also enable the Building Safety Regulator to determine a building control approval application more easily by clearly demonstrating the proposed approach to compliance with building regulations, including where alternative approaches are being taken, and whether they are suitable for the proposed building.

3.31 We propose that a design and build approach document must set out the approach taken in designing the higher-risk building and the building standards to be applied, in particular:

- The approach taken in relation to each element of the building to ensure compliance with all applicable requirements of the building regulations and why it is appropriate; and,
- Where compliance is not intended to be achieved by following an approach specified in an approved document, the reasons for adopting an alternative approach to compliance together with an explanation of why the alternative approach is appropriate for the building and how it ensures compliance with all applicable requirements of the building regulations.

Question: Do you agree or disagree with the proposed list of information that must be contained within a design and build approach document?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Fire and emergency file

3.32 The purpose of the proposed fire and emergency file is to ensure that building safety risks are appropriately considered before construction starts and that assumptions behind the designs and how the building will be used are realistic and carefully considered, with a clear rationale behind those assumptions. Dutyholders will need to set out fire and structural safety information about the proposal and provide assurance that occupants would be safe in the event of an emergency, and that they could be safely evacuated.

3.33 We propose that a fire and emergency file must explain:

- The matters that were considered when assessing how the building safety risks identified during design and construction could impact the proposed building when in use;
- The proposals adopted and approach taken in relation to designing the proposed building to ensure compliance with the applicable requirements of the building regulations relating to the building safety risks and why it is appropriate;
- The measures, strategies and policies it is proposed the building owner should adopt in order to manage and maintain the proposed building once in use to ensure residents and users can be safely evacuated in an emergency. This should include any assumptions made as to the intended occupiers of the building and their likely characteristics and behaviours; and,
- The proposed fire strategy demonstrating compliance with functional requirements A3 and B1 to B5 of Schedule 1 to the Building Regulations 2010.

Question: Do you agree or disagree with the proposed list of information that must be contained within a fire and emergency file?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Construction control plan

3.34 The purpose of the proposed construction control plan to be submitted as part of a building control approval application is to ensure that, before construction even starts,, dutyholders have clear strategies in place to ensure compliance with all applicable building regulations will be maintained during building work. This includes setting out how compliance with building regulations will be evidenced by dutyholders, which will in turn support them to meet their design and construction golden thread information requirements.

3.35 We propose that the strategies within the construction control plan should focus on cooperation, coordination, communication and competence and that a construction control plan must set out:

- The strategies, policies and procedures the client has adopted for planning, managing and monitoring the higher-risk building work so as to ensure compliance with:
- The applicable requirements of the building regulations and to record evidence of that compliance; and,
- Which duty holder is responsible for meeting the duty holder duties.
- The strategies, policies and procedures the client has adopted to identify, assess and keep under review the competence of the persons carrying out the higher-risk building work or involved in the design of the higher-risk building. This must include the steps taken to determine whether the person has a serious infraction, and the detailed consideration of their previous conduct, in particular any serious

infraction, which might call into question their competence in relation to the work in question, their reasons for appointing them nonetheless, and the measures the duty holder who made the appointment will take to mitigate the effects of the appointment.

- The strategies, policies and procedures the client has adopted to support co-operation between designers, contractors and any other persons involved in the higher-risk building work, including the sharing of all necessary information;
- A schedule giving the name of each person who at the date of the application was appointed by the client, the Principal Contractor (or sole contractor), and the Principal Designer (or sole or lead designer) to work on the project and a summary of their responsibilities; and,
- The policies the client has adopted to review the construction control plan.

3.36 The construction control plan will set out the strategies and arrangements the client will put in place to ensure building regulations compliance and to record evidence of that compliance. We propose that this requirement will include the need to maintain and manage the golden thread information.

Question: Do you agree or disagree with the proposed list of information that must be contained within a construction control plan?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that the Construction Control Plan should set out plans for how the client will maintain and manage the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Change control plan

3.37 There should be a clearer change control process during construction to ensure there is an accurate record of changes; that the impact of changes is carefully considered and discussed with other parties as required; and those changes are subject to appropriate regulatory oversight.

3.38 The purpose of the proposed change control plan is, therefore, to ensure that dutyholders carefully consider the implications of changes from their original building control approval plan before they are made, and that all controlled changes are recorded to ensure that plans and prescribed documents are updated to reflect the building work

'as built' rather than 'as-designed'. Maintaining accurate records during construction will also be vital to ensuring that the golden thread contains up-to-date information about the building work, which will be particularly important when it is handed over to the Principal Accountable Person on completion of the building work and/or the Responsible Person for non-residential higher-risk building or non-residential parts of higher-risk buildings.

3.39 We propose that the change control plan should include:

- The strategies, policies and procedures the client has adopted to ensure any controlled change takes place in accordance with change control requirements, and to log each controlled change in accordance with record-keeping requirements. This must explain:
 - How proposed changes will be identified and to whom they must be reported;
 - How the impacts of proposed changes are identified and considered;
 - In relation to proposed changes, the decision-making procedures adopted for agreeing a change including whose advice is to be sought;
 - How changes are recorded and by when;
 - The procedure to identify which changes require notification to the Building Safety Regulator and which changes require a change control application to the Building Safety Regulator before the change can occur; and,
 - How the effectiveness of the change control strategy will be reviewed by dutyholders.
-

3.40 We also propose that the change control plan should include a change control log.

The change control log will include the following information:

- The name of the individual recording the change;
- A description of the proposed change;
- An explanation of the reason why the change has been proposed;
- Whether the change is a notifiable change or a major change (further information on this can be found in the section on change control);
- A list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a brief summary of any advice provided;
- An assessment of which agreed document is affected by the proposed change and confirmation that a revised version has been produced; and,
- An explanation, in relation to the proposed change, of how— (i) the higher-risk building work will, after the proposed change is carried out, meet all applicable building regulations, and (ii) the strategies, policies and procedures in relation to the higher-risk building work (including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) will, after the proposed change is carried out, meet relevant requirements.

Question: Do you agree or disagree with the proposed list of information that must be contained within the change control plan, including the information requirements in the proposed change control log?

- Agree
- Disagree

- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Description of the mandatory occurrence reporting system

3.41 As part of the new, more stringent building safety regime, we propose to introduce mandatory reporting of safety occurrences during the design, construction and occupation stages of higher-risk buildings. Mandatory occurrence reporting will require dutyholders to report certain fire and structural safety issues ('safety occurrences') to the Building Safety Regulator. This will enable the Building Safety Regulator to capture any risks that could have a potential impact on fire and structural safety and assess its relevance to other buildings, help drive intelligence led enforcement, promote safety-conscious culture change and improve fire and structural safety standards and best practice across the industry.

3.42 Dutyholders will need to establish and operate an effective mandatory occurrence reporting system to enable those on the site or in the building to report safety occurrences to the dutyholders; and report safety occurrences to the Building Safety Regulator in a required manner. Dutyholders will be required to provide a statement describing their mandatory occurrence reporting system as part of a building control approval application to ensure they have arrangements in place before construction starts.

3.43 You can find further information in the later section on mandatory occurrence reporting.

Question: Do you agree or disagree that a statement describing their mandatory occurrence reporting system should be required as part of a building control approval application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Is there any information set out in the prescribed documents that would not be possible to provide before building work commences.

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you have answered yes, please outline what information it would not be possible to provide.

Building control approval applications for new higher-risk buildings following a staged approach

3.44 For most types of building work on a higher-risk building, we expect to see dutyholders endeavouring to provide all the information required in a building control approval application upfront before building work commences. We recognise that this will require industry culture change but consider that it will encourage dutyholders to consider their building work projects holistically, with an outcomes-focused approach.

3.45 We recognise that there may be legitimate scenarios where some information required for building control approval of a higher-risk building is unavailable and waiting for it could delay construction, such as, in complex builds. In these scenarios, we propose that the Building Safety Regulator will be able to allow a 'staged approach' to building control approval for construction, where it is satisfied that all the information cannot be provided upfront but that the proposed building work will comply with all applicable building regulations' requirements.

3.46 Where a staged approach is proposed, dutyholders must still provide a comprehensive building control approval application with plans and all prescribed documents, as well as a staged work statement providing a detailed description of the proposed stages of the work, including an estimate of the time when each stage of the work will commence. This will enable the Building Safety Regulator to assess the building work holistically when determining the application.

3.47 The difference with the staged approach, is that the plans included in the building control approval application would need to show how the work up to the specified stage would comply with all applicable building regulations requirements. The design and build approach document would need to set out the design principles and building standards to be applied to the work up to that specified stage. The detailed plans and design and build approach document covering workup to the specified stage must, however, be accompanied by outline plans for the whole building. This is to ensure that dutyholders take a holistic approach to building work and consider how compliance with building regulations' requirements will be achieved. It will also ensure that the Building Safety Regulator does not have to consider each stage of building work in isolation.

3.48 A staged approach will still represent a 'hard stop' but will be managed through 'hard stops in stages' which are bespoke to the specific higher-risk building project. Building control approval will be strictly limited to the approved detailed plans and stages of work the Building Safety Regulator has approved. It will be an offence to proceed with building work beyond a specified stage and the Building Safety Regulator will have enforcement powers to deal with such a breach.

3.49 In order to approve an application where a staged approach is proposed, we envisage the Building Safety Regulator will approve the building control application subject to requirements such as that the work does not proceed beyond a certain stage until it has approved a particular plan, such as plans covering the next stage of work, or other prescribed documents such as the updated design and build approach document. If such requirements cannot be agreed with the developer, the application may be rejected by the Building Safety Regulator. In a staged approach, to move onto the next stage of construction, the Building Safety Regulator would need to have inspected any agreed building work and the dutyholder would need to have submitted plans and a

design and build approach document for the next stage/s of work and obtained approval from the Building Safety Regulator to commence work on those stages.

Question: Do you agree or disagree that the specific requirements for an applicant proposing to build a higher-risk building in stages are sufficient for ensuring dutyholders demonstrate how they will comply with all applicable building regulations requirements?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Should there be any additional modifications (beyond those proposed for plans and the design and build approach document) to the prescribed documents where the applicant has provided a “staged work” statement?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you've answered yes, please explain what changes you think should be made.

Question: Do you agree or disagree with the additional notification requirements imposed on dutyholders constructing a new higher-risk building in stages?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Partial completion

3.50 Many new high-rise residential buildings are currently completed and occupied in phases, while building work continues elsewhere in the same building. Equally in the case of large developments, occupation might begin in one building while building work continues on other buildings within that site.

3.51 As outlined in the response to the [Building a Safer Future consultation](#), the government intends to permit partial completion for higher-risk buildings. However, the government is very clear that the intention to occupy a higher-risk building in phases must never come at the expense of resident safety and that it must not introduce greater risk than only allowing occupation once all building work is complete.

3.52 Section 76 of the Building Safety Act 2022 ensures that no residential unit within a new higher-risk building can be occupied without a relevant completion certificate, as evidence that the building work in that part complies with building regulations' requirements. This will ensure that there is a 'hard stop' for buildings occupied in stages.

3.53 We are also proposing to introduce the following further stringent safeguards for partial completion in higher-risk buildings to ensure that residents are safe and feel safe in their homes when parts of their building remain under construction.

Partial Completion Strategy

3.54 We propose that where a dutyholder intends to occupy a higher-risk building in phases, a partial completion strategy is provided at the building control approval stage before building work commences to compel dutyholders to think ahead to the safety of residents in the occupied building right from the design stage. We propose that a Partial Completion Strategy must explain the following:

- The proposals adopted in designing for occupation of each part of the proposed building to be completed to ensure compliance with the applicable requirements of the building regulations;
- The measures, strategies and policies it is proposed the building owner should adopt in order to manage and maintain each such part of the proposed building; and,
- Any assumptions made in those measures, strategies and proposals as to the intended occupiers of each such part of the proposed building and their likely characteristics and behaviours, and the intended management or maintenance of each such part of the proposed building.
-

Question: Do you agree or disagree with the proposed list of information that should be contained within a partial completion strategy?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you've answered disagree, please explain what changes you think should be made.

Assessing building control approval applications

3.55 Under the proposed regime, the Building Safety Regulator, working with local regulators and other specialists as required, will within a reasonable timeframe, assess the application for building control approval against all applicable requirements of the building regulations.

Consultation with relevant enforcing authorities

3.56 Before determining an application for building control approval, we intend to require that the Building Safety Regulator consults relevant enforcing authorities when determining building control approval applications, building on existing practice. For

buildings that are, or will be covered, by the Regulatory Reform (Fire Safety) Order 2005, there are currently requirements for the relevant enforcing authority under the Fire Safety Order (usually the fire and rescue authority) to be consulted by building control bodies on plans for building work. Similar requirements are made for building control bodies to consult the relevant sewerage undertaker, where it is appropriate to do so. We intend to build on these existing requirements, however, for higher-risk buildings the Building Safety Regulator will be the building control authority.

Fire and Rescue Authorities

3.57 Article 45 of the Fire Safety Order places a duty on local authorities to consult with the enforcing authority where it is proposed to erect, extend or structurally alter a building or where there is a change of use that would bring the Fire Safety Order into force on the building (or a part of the building to which the order applies). As set out in the government's [fire safety consultation](#), the government intends to move the requirements to consult fire and rescue authorities into building regulations. This action will bring the legislation together in one place, making the legislative framework clearer and more adaptable to accommodate any future changes.

3.58 For higher-risk buildings we propose that the Building Safety Regulator must consult with the relevant fire and rescue authority before making its decision on an application for building control approval. In consulting the fire and rescue authority, the Building Safety Regulator will need to provide sufficient plans to show whether the higher-risk building work would, if carried out in accordance with those plans, comply with the requirements of the Fire Safety Order. In providing this requirement in Building regulations, the remit of the consultation process should be unequivocally clear for fire and rescue authorities and the Building Safety Regulator. As discussed in subsequent sections, the government intends to prescribe in regulations exactly when the Building Safety Regulator should consult fire and rescue authorities. This will be before determining an application for building control approval, before determining a change control application and before determining a completion certificate application. This proposal aims to clarify the consultation process for all relevant parties and ensure that fire and rescue authorities are consulted at key times during the design and construction of higher-risk buildings.

3.59 The government intends to impose statutory timeframes for fire and rescue authorities to provide advice. In line with the current building regulations fire safety procedural guidance, we propose that the Building Safety Regulator must not determine an application for building control approval before 15 working days after the date on which the plans were provided to the fire and rescue authority has passed, or until the fire and rescue authority has provided its response (if sooner than the 15 working days). We believe 15 working days is a reasonable and viable statutory timeframe to require a response from fire and rescue authorities.

3.60 We expect there to be early and ongoing dialogue between the Building Safety Regulator and the fire and rescue authorities to ensure that these timelines are met, and where possible responses are delivered ahead of the deadline. This dialogue should also allow for these timescales to be varied should either party consider they need more time to consider the application before a decision can be made.

Question: Do you agree or disagree that the Building Safety Regulator should consult the fire and rescue authority on compliance with the Fire Safety Order on

building control approval applications, change control applications and completion certificate applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made including what else you consider the fire and rescue authority should be consulted on.

Question: Do you agree or disagree that a building control approval application must not be determined before 15 working days after the date on which the plans are given to the fire and rescue authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

**Question: Please provide an explanation for your answer. If you have answered disagree, what do you consider a reasonable timeframe?
Sewerage undertaker**

3.61 In line with existing practice, we propose that the Building Safety Regulator will also need to consult with the sewerage undertaker where currently required under regulation 15 of the Building Regulations 2010 where building work affects a drain, sewer or disposal main. In these cases, the Building Safety Regulator will need to consult the sewerage undertaker by providing sufficient plans to show whether the higher-risk building would, if carried out in accordance with those plans, comply with the requirements of paragraph H4 of Schedule 1 to the Building Regulations 2010.

3.62 We propose that the Building Safety Regulator must not determine the application for building control approval before 15 working days after the date on which the plans were provided to the sewerage undertaker has passed, or until the sewerage undertaker has provided its response (if sooner than the 15 working days). We recognise that 15 working days is a change to the current timeframe of 15 days under Building Regulations 2010, however, we want to ensure there is consistency in the approach to consultations and the proposed timeframe is appropriate. We expect both fire and rescue authorities and sewerage undertakers to respond quicker than that in most cases.

Question: Do you agree or disagree that the Building Safety Regulator should consult the sewerage undertaker on Part H of Schedule 1 of the Building Regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that an application must not be determined until at least 15 working days after the date on which the plans are given to the Sewerage Undertaker?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Building Safety Regulator decisions

3.63 Following consultation with relevant enforcing authorities, we propose the Building Safety Regulator will be able to approve a building control approval application (with or without requirements – see below) or reject it. The Building Safety Regulator also has the power in sections 8 to 10 of the Building Act 1984 (as amended by the Building Safety Act 2022) to dispense with or relax specific building regulations requirements, following an application, if it considers the operation of a requirement would be unreasonable in relation to a specific development.

3.64 Where a building control approval application is successful the proposed effect is that from the date of the Building Safety Regulator's notice confirming that the application has been approved, the building control approval for the building work is granted and the application, including the plans and prescribed documents are approved.

3.65 We also propose that the Building Safety Regulator should be able to approve an application subject to specific requirements. For example:

- A requirement to provide the Building Safety Regulator with a particular document, or revised version of a particular document by a certain date. For example, if some relatively minor details were missing from the building control approval application, the Building Safety Regulator will have the option to approve the application on the basis that the additional information is provided by a certain date.
- A requirement that building work does not proceed beyond a specified stage until a particular document, or revised version of a particular document has been approved by the Building Safety Regulator. For example, if a dutyholder has opted for the staged approach, the Building Safety Regulator may require that building work does not proceed beyond a specified stage such as laying the foundations until the dutyholder has provided detailed plans and a design and build approach document covering the superstructure.

3.66 This power will ensure that the Building Safety Regulator does not have to automatically reject building control approval applications where relatively minor details are missing. In these situations, the [Building Safety Regulator](#) could first request information and identify requirements that enable an application to be approved, rather than reject the application straightaway. The Building Safety Regulator will act in

accordance with the Regulator's Code of Practice including by ensuring that they are acting in away that is proportionate and consistent.

Question: Do you agree or disagree with the proposed types of requirements which can be imposed by the Building Safety Regulator when approving an application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

3.67 Where an application for building control approval has been granted subject to a requirement that a particular document must be revised and provided to the Building Safety Regulator by a certain date, we propose that the effect would be that the original plan or document is not approved. The plan or document would not be considered approved until it has been updated and formally accepted by the Building Safety Regulator in accordance with the requirement. Furthermore, the client must ensure that building work does not commence until the revised document is provided to the Building Safety Regulator.

Question: Do you agree or disagree with the proposal to enable the Building Safety Regulator to prohibit building work from commencing until a requirement of a type described above have been met by the applicant?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

3.68 Under the proposed regime, where an application for building control approval has been granted subject to a requirement that building work does not proceed beyond a specified point, we propose that the client must notify the Building Safety Regulator when that stage has been reached. The Building Safety Regulator will have the power to determine when the client must notify them and also whether further work can proceed. They can also require that the client does not cover up certain work for a specified period to ensure it is able to carry out inspections of specific building work during the construction phase. It would be an offence for a dutyholder to contravene any requirement imposed by the Building Safety Regulator and it may issue compliance notices or stop notices depending on the type of contravention.

3.69 In addition to being able to approve an application (with or without requirements), the Building Safety Regulator will be able to reject applications where necessary. We propose the following grounds for rejection:

- An application does not comply with the requirements for submitting the application or prescribed documents;
- An application is not sufficiently detailed to enable the Building Safety Regulator to determine whether the proposed building work would contravene any applicable building regulations requirements;
- An application shows that the building work would contravene any applicable building regulations requirements; or,
- An application shows the strategies, policies and procedures in relation to the building work(including in relation to controlled changes, mandatory occurrence reporting, competence of persons or sharing of information and co-operation) would contravene or would be likely to contravene relevant building regulations.
-

Question: Do you agree or disagree with the proposed grounds for rejecting a building control approval application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

3.70 After assessing an application and coming to a decision, we propose that the Building Safety Regulator provides notice of its decision in writing, setting out any requirements it has imposed where applicable, or the grounds for rejection. We propose that the notice is provided in an electronic format, but that the Building Safety Regulator should provide applicants with a paper copy on request, if needed.

Question: Do you agree or disagree with the proposed approach outlined for the Building Safety Regulator to provide notice of its decision to applicants?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Time limit for Building Safety Regulator decisions

3.71 In line with existing practice, the Building Safety Regulator will have to decide an application for building control approval within a statutory time-limit. We propose a prescribed timescale of 12 weeks to provide sufficient time for the Building Safety Regulator to carefully consider building control approval applications for higher-risk buildings, including the new prescribed documents we are proposing, whilst avoiding unduly delaying projects. We propose that the 12-week time limits should also apply to building control approval applications made under the 'staged' approach.

3.72 Under the proposed regime, the Building Safety Regulator and applicant will be able to agree an extension to the prescribed timescale, providing flexibility where

needed such as for complex proposals or where the Building Safety Regulator requires further information from the applicant before being able to determine the application. If an extension is not agreed, and the Building Safety Regulator has not decided an application within the prescribed timescale, the applicant can opt to use the non-determinations procedure under section 30A of the Building Act 1984 to secure a decision.

3.73 Where the Building Safety Regulator has not reached a decision within the prescribed timescale and the applicant has not taken action – either by agreeing to an extension or submitting their application to the Secretary of State under the section 30A non-determinations procedure, we propose to provide in the regulations that the application will be deemed refused. This represents a significant shift from the current regime and will ensure that proposals that have not been subject to appropriate regulatory oversight are not approved by default and that the ‘hard stop’ before building work commences intended by Dame Judith Hackitt is always implemented.

Question: Do you agree or disagree that 12 weeks is an appropriate timeframe to require the Building Safety Regulator to determine a building control approval application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

Use of Competent Person Schemes when creating a new higher-risk building

3.74 Under the existing regime, most notifiable building work, around 3.4 million jobs per year, are undertaken by installers from competent person schemes and third-party certifiers. Certain types of building work can be carried out under an authorised competent person scheme and third-party certifiers (as specified in Schedules 3 and 3A to the Building Regulations 2010), where the incidence of risk of these types of building work is considered low. Such persons can be used in relation to standalone building work, or as part of wider building projects for which building control oversight is required.

3.75 Competent person scheme and third-party certifiers allow a consumer to select an authorised installer to self-certify that the work complies with building regulations. It removes the burden from installers and consumers of having to notify the work to a building control body in advance and automatically having the work checked by them when completed.

3.76 The person carrying out the work must, however, within 30 days of its completion give the occupier a certificate and must also issue the local authority with the certificate, or a notice to that effect. Local authorities then have the option to inspect such building work from a building control perspective should they wish.

3.77 In the government response to the [Building a Safer Future consultation](#), the government confirmed its intention to explore how competence person schemes and

third-party certifiers will work for higher-risk buildings under the supervision of the Building Safety Regulator.

3.78 In addition to using such installers to carry out standalone building work, we propose that it should be possible for them to be used as part of wider building work for which a building control approval application to the Building Safety Regulator is required - for example, if a developer is building a higher-risk building and commissions a competent person scheme installer to install all the gas boilers in flats and then self-certify that specific work.

3.79 For higher-risk buildings we are proposing that the competent person scheme and third-party certifier work to be included in the building control approval application. This would encourage dutyholders to consider building work projects holistically, rather than consider individual elements in isolation, and this in turn would give the Building Safety Regulator oversight of all building work to be carried out. We envisage that the process would be as follows:

Before building work commences

– the applicant would submit a building control approval application to the Building Safety Regulator which would cover all the building work including the work to be carried out under self-certification. For example, the plans would include the gas boilers to be fitted by a competent person scheme or third-party certified installer, and electrical work to be carried out by another such installer. The Building Safety Regulator would consider the work proposed to be carried out by installers as part of its assessment of the overall building control approval application. The Building Safety Regulator and applicant will also agree an inspection schedule bespoke to the project. As part of this, the Building Safety Regulator will decide whether to inspect the work to be carried out by competent person scheme and third-party certified installers or omit such work from the planned inspection schedule as it will be subject to self-certification (although it will be able to carry out inspections without warning when deemed appropriate). The Building Safety Regulator's decision to inspect may be based upon different matters such as mandatory occurrence reports, previous non-compliance from an installer, or emerging concerns about a particular type of building work. The Building Safety Regulator will have enforcement powers where breaches of the building regulations are identified, including where work has been carried out by a competent person scheme or third-party certified installer.

During construction

- all dutyholders including designers and contractors will need to work together to plan, manage and monitor the design work and the building work, ensure they cooperate and communicate with each other, coordinate their work and have systems in place to ensure that building work, including design work, complies with all relevant building regulations. Dutyholders will also need to have the right skills, knowledge, experience and behaviours to undertake work and ensure that those they appoint (including competent person scheme and third-party certified installers) are also competent. The building work will also be subject to the statutory change control process, an inspection schedule and mandatory occurrence reporting requirements.

On completion of all the building work or stages of building work

- the applicant must submit a completion certificate application to the Building Safety Regulator which reflects the as-built, rather than as-designed building work. The Building Safety Regulator must assess the application, carry out a final inspection of the building work and if satisfied, issue a completion certificate. The Building Safety Regulator will need to decide whether to inspect any work carried out under a competent person scheme or third-party certifier as part of its final inspection. The installer would equally issue a notice/certificate to the Building Safety Regulator (rather than local authority) as building control authority for higher-risk buildings within 30 days of completing the work and the Building Safety Regulator would not issue a completion certificate for the whole building work until all such notices/certificates had been received.

Question: Do you agree or disagree that competent person scheme work should be reflected in building control approval applications where such work forms part of a wider higher-risk building work project?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Commencement notices

3.80 Once building control approval has been granted, we propose that in line with existing practice, the client, or someone on their behalf, must give notice to the Building Safety Regulator at least five working days before the day they intend to commence higher-risk building work. This is to ensure that the Building Safety Regulator is aware of the commencement of work and can begin its operational oversight of the construction phase, including assembling its team as necessary.

Question: Do you agree or disagree that where building control approval for higher-risk building work is granted, the client, or someone on their behalf, must give notice to the Building Safety Regulator at least five working days before the day they intend to commence higher-risk building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Site inspections during construction

3.81 The Building Safety Regulator will run a bespoke inspection and enforcement regime for higher-risk buildings during the design and build stage. The Health and Safety Executive, in which the Building Safety Regulator will sit, has extensive experience of conducting inspections and enforcing regulatory requirements, and will ensure that the full range of duties are being met.

3.82 We do not intend to mandate particular stages of work for inspection in legislation as this will be project specific and will depend on the scope and complexity of the proposed works. We, instead, expect the Building Safety Regulator and applicant to work together to agree an inspection schedule tailored to the individual higher-risk building project when the building control approval application is approved. The Building Safety Regulator will, however, produce guidance setting out when inspections are likely to be required to provide industry with more certainty about requirements whilst still allowing a flexible approach to be taken towards individual higher-risk building projects.

3.83 In addition, we intend to provide the Building Safety Regulator with the power to require a client, by notice in writing, to notify the Building Safety Regulator when a specified stage or point of the higher-risk building work has been reached and to not cover up specified work for a specified period of time. It will also be able to carry out additional inspection at its discretion, including without notice, for example, based on mandatory occurrence reports. These powers will enable the Building Safety Regulator to implement a robust inspection regime during construction and will equally apply where the staged approach is taken.

3.84 While an inspection schedule during construction will be project-specific, the government proposes to require the Building Safety Regulator to arrange the final inspection or inspections of the completed higher-risk building work before determining a completion certificate application. The purpose of the final inspection is to assess whether the building work complies with all applicable requirements of the building regulations, not just fire and structural aspects, and reflects the information contained in the completion certificate application before the Building Safety Regulator (if satisfied) issues a completion certificate. Further details on this can be found later in this consultation.

Question: Do you agree or disagree with the proposed approach to site inspections of higher-risk building work, including the requirement for the Building Safety Regulator to inspect completed higher-risk building work before determining a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Should typical stages of inspection of building work be set out in guidance to help provide industry with more certainty?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you answered yes, please outline what those stages should be?

Completion certificate applications for new higher-risk buildings

3.85 Currently when building work is complete, the relevant building control body undertakes a final inspection to ensure the work complies with all applicable building regulations' requirements before issuing a completion certificate (in the case of local authority building control) or final certificate (in the case of approved inspectors). Immediately prior to occupation, and as part of this completion process, the relevant fire safety information should be handed over (as required under regulation 38 of the Building Regulations 2010) to the person who will be responsible for the occupied building and ensuring the management and minimisation of fire risks under the Regulatory Reform (Fire Safety) Order 2005 - 'the Fire Safety Order'.

3.86 For higher-risk buildings we are introducing a new building control gateway (gateway three) at the current completion certification / final notice stage. We propose that on completion of building work, applicants will be required to submit a completion certificate application to the Building Safety Regulator with updated plans and prescribed documents. This will build upon the existing regime by putting in place additional requirements for dutyholders to demonstrate that building work complies with all applicable building regulations' requirements, including those relating to structure and fire, before building control approval will be granted.

3.87 The completion certificate application stage will increase regulatory oversight by introducing a more thorough assessment of 'as-built' (rather than 'as-planned') building work and ensuring that any changes that occurred during construction are reflected in the final plans and prescribed documents and information submitted to the Building Safety Regulator for approval. The Building Safety Regulator will assess the application, carry out any final inspections of the building work, and if satisfied that as far as it has been able to determine, the building work complies with all applicable building regulations requirements, issue a completion certificate.

3.88 This represents another 'hard-stop' during the design and construction process for higher-risk buildings because as provided for in section 76 of the Building Safety Act 2022, it is a criminal offence to occupy a new residential unit in a higher-risk building or part of a higher-risk building before a completion certificate has been granted for that building or part of a higher-risk building. Occupying a new higher-risk building that has not been registered will be an offence under section 77 of the Building Safety Act 2022. For further information please see the consultation on the new safety regime for occupied higher-risk buildings.

3.89 The completion certification application stage will also ensure there is accurate, high-quality and up-to-date information available to the building owner in order to help them manage building safety risks when the building is in use.

Completion notices

3.90 Under the proposed regime, we intend to require dutyholders to submit a completion notice on completion of higher-risk building work. We propose that after the higher-risk building work is completed, and before or at the same time as the completion certificate application for the work is submitted, the client, or someone on their behalf must notify the Building Safety Regulator in writing that the higher-risk building work has

been completed. The requirement for a completion notice is in keeping with the approach to building control oversight across the whole built environment and therefore, should be provided for within the new more stringent regime.

Question: Do you agree or disagree with the proposed requirement that the client, or someone on behalf of the client, must notify the regulator in writing that the higher-risk building work has been completed in addition to making a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Deciding when work has been completed for the purpose of submitting a completion notice and making a completion certificate application to the Building Safety Regulator

3.91 We propose that the client, or someone on their behalf, such as the Principal Contractor and Principal Designer, submits the application to the Building Safety Regulator after building work is complete. We understand the importance of the timing of this application for the developer. It is our intention for the completion notice and completion certificate application to be made once all the building work has been completed. However, we know that after building work has completed there are sometimes elements that need to be redone (snagging). We therefore consider that the application should be made either after all notifiable work is completed or when all work including snagging is completed and would welcome views on which approach is most appropriate and why.

Question: At what point should a dutyholder be able to submit a completion certificate application?

- When all notifiable building work has been completed
- When all work (including snagging etc.) is completed
- Other
- Don't know

Question: Please provide an explanation for your answer.

Information requirements for completion certificate applications for new higher-risk buildings

3.92 We propose that the client must make a completion certificate application in writing, signed by the client, or someone on their behalf. As part of the application, we intend for the client to submit key information and prescribed documents to the Building Safety Regulator, which builds upon the building control approval application they submitted before commencing building work. The proposed list of key information to be submitted to the Building Safety Regulator includes:

Contact Information:

The name, address, telephone number and (if available) an email address of the client, principal contractor (or sole contractor) and the principal designer (or sole or lead designer);

Statement:

A statement confirming that the completion certificate application is made under the new regulations;

Description of the higher-risk building work:

The applicant must provide a description of the higher-risk building work. This should include:

- The location of the higher-risk building created by the higher-risk building work;
- The details of the intended use of the higher-risk building and the intended use of each storey;
- The height of the higher-risk building;
- The number of storeys in the higher-risk building;
- The provision to be made for the drainage of the higher-risk building;
- Any required precautions taken in the building over a drain, sewer or disposal main to comply with applicable building regulations; and,
- The steps taken to comply with any local enactment that applies.
-

Compliance with building regulations statement:

A statement, signed by the client or someone on their behalf, confirming that to the best of the client's knowledge the higher-risk building, as built, complies with all applicable requirements of the building regulations.

Golden thread statement:

A statement, signed by both the client, or someone on their behalf, and the relevant person, confirming that a copy of the golden thread information was appropriately provided to the relevant person and the relevant person has received them.

Plan:

The applicant must provide a plan to a scale of not less than 1:1250. The plan must outline the size and position of the building and its relationship to adjoining boundaries; the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage of the building; and the width and position of any street on or within the boundaries of the curtilage of the building. The applicant should also provide such other plans as is necessary to show that the higher-risk building work would comply with all applicable requirements of the building regulations.

Prescribed Documents:

As part of the completion certificate application the applicant will be required to provide updated prescribed documents reflecting the building 'as-built' as well as compliance declarations from the client, Principal Designer and Principal Contractor, and a list of all the written mandatory occurrence reports submitted to the Building Safety Regulator (please see further details below).

Prescribed documents for completion certificate applications

3.93 To ensure that completed building work complies with all applicable building regulations' requirements, the completion certificate application must include updated plans, prescribed documents and information on the final, as-built (rather than as-planned) building. This is to reflect any changes that occurred during construction as all changes must be recorded in change control logs and the prescribed documents submitted in the building control approval application must be updated if affected by a change to ensure they remain accurate and up to date. The completion certificate application will therefore largely build upon the original building control approval application submitted before building work commenced.

3.94 The following prescribed documents should be included in a completion certificate application alongside plans of the completed building work:

- Construction control plan and confirmation it has been followed;
- Change control plan and confirmation it has been followed;
- Design and build approach document and confirmation it has been followed;
- fire and emergency file; and,
- Compliance declarations (please see further details below).

Compliance declarations

3.95 In addition to including updated versions of the prescribed documents from the original building control approval application, the Completion Certificate Application must also include individual compliance declarations from the client, Principal Designer and Principal Contractor. We have proposed this new requirement to promote industry culture change and strengthen dutyholder accountability by reinforcing that responsibility for ensuring compliance with building regulations' requirements rests entirely with the people carrying out the work.

3.96 In its response to the [Building a Safer Future consultation](#), the government indicated its intention to require the client, Principal Designer and Principal Contractor to co-sign a final declaration confirming that to the best of their knowledge, the building complies with building regulations' requirements.

3.97 However, in reflecting on views from stakeholders, we now propose that each of these dutyholders should be required to sign individual declarations of compliance to further strengthen accountability and avoid causing professional indemnity insurance and contractual liability issues. We propose that the following must be included in a completion certificate application for a higher-risk building:

- A statement, signed by the client or someone on their behalf such as the company's director, confirming that to the best of the client's knowledge the

higher-risk building, as built, complies with all applicable requirements of the building regulation. The client will not be able to delegate

- responsibility for signing the statement to an external organisation such as the Principal Designer or Principal Contractor;
- A compliance declaration signed by each Principal Designer involved in the project at any stage with their contact details; dates of appointment; and a statement confirming that they took all reasonable steps to fulfil their duties as a Principal Designer under the proposals set out in the previous section on dutyholders; and,
- A compliance declaration signed by each Principal Contractor involved in the project at any stage with their contact details; dates of appointment; and a statement confirming that they took all reasonable steps to fulfil their duties as a Principal Contractor under the proposals set out in the previous section on dutyholders.

3.98 Where a Principal Contractor or Principal Designer is unable to make a compliance declaration, the completion certificate application must be accompanied by a statement explaining why a compliance declaration for that person has not been provided – for example, because they have died or become incapacitated. The expectation is not that a dutyholder can avoid accountability by refusing to provide a signed compliance declaration without a legitimate reason.

Question: Do you agree or disagree that the prescribed information and documents outlined above should be required in a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question Is there any additional information or documentation that may be necessary for a completion certificate application?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you have answered yes, please outline additional information or documentation you think may be necessary.

Assessing completion certificate applications

3.99 As we propose should be the case with building control approval applications and change control applications, it is expected that the Building Safety Regulator must also consult relevant enforcing authorities, for example fire and rescue authorities.

Question: Do you agree or disagree that the Building Safety Regulator should consult fire and rescue authorities on compliance with the requirements of the Fire Safety Order?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

3.100 In line with existing practice, we propose that the Building Safety Regulator will also be required to consult with the sewerage undertaker where building work affects a drain, sewer or disposal main under regulation 15 of the Building Regulations 2010. In these cases, the Building Safety Regulator will need to consult the sewerage undertaker by providing sufficient plans to show whether the higher-risk building, as built, complies with the requirements of paragraph H4 of Schedule 1 to the Building Regulations 2010.

Question: Do you agree or disagree that the Building Safety Regulator should consult the sewerage undertaker on Part H of Schedule 1 of the building regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made

3.101 In line with the approach taken for building control approval applications, we propose that the Building Safety Regulator must not determine the completion certificate application before 15 working days after the date on which the plans were provided to the fire and rescue authority and sewerage undertaker has passed, or until both parties have provided a response (if soon than the 15 working days). We expect both fire and rescue authorities and sewerage undertakers to respond quicker than 15 working days in most cases.

Question: Do you agree or disagree that an application must not be determined until at least 15 working days after the date on which the plans are given to consultees unless they have both responded before the 15 working days deadline?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Decisions

3.102 Under the proposed regime, following consultation, the Building Safety Regulator will carry out final inspections of the building work and assess whether the completion certificate application meets the following requirements:

- The higher-risk building work is complete and complies with all applicable building regulations;
- The required information and prescribed documents submitted as part of the completion certificate application are complete and accurate; and,
- The golden thread information required to be handed over to the relevant person is complete and has been provided.

3.103 If the Building Safety Regulator is satisfied, after taking all reasonable steps, that these requirements are met, we propose it would approve the application and issue a completion certificate. If it is not satisfied that these requirements have been met, we propose that it must reject the application. This would mean that a completion certificate is not issued to the applicant and therefore, the building cannot be legally occupied.

3.104 As we propose should be the case with building control approval applications and change control applications, the Building Safety Regulator will be able to agree an extension with the applicant to provide time for them to correct errors and/or provide additional information, rather than reject an application straight away. Where an application is rejected, the Building Safety Regulator must inform the applicant in writing and explain the reason for rejection. The Building Safety Regulator's approach will be proportionate in accordance with section 3 of the Building Safety Act 2022 and [the Regulator's Code](#).

Question: Do you agree or disagree with the proposed reasons for which a completion certificate application should be rejected?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Time limit for determining completion certificate applications

3.105 In line with existing practice, the Building Safety Regulator will have to decide an application for a completion certificate within a statutory time-limit. We propose a prescribed timescale of 12weeks to provide sufficient time for the Building Safety Regulator, with input from its multi-disciplinary team as needed, to carefully consider completion certificate applications for higher-risk buildings, including the new prescribed documents we are proposing, whilst avoiding unduly delaying projects.

3.106 Under the proposed regime, the Building Safety Regulator and applicant will be able to agree an extension where needed, or where necessary, the applicant can opt to use the non-determinations procedure under section 30A of the Building Act 1984 to secure a decision. Further information on section 30A application / non-determinations can be found later in this consultation. Where the Building Safety Regulator has not

reached a decision within the prescribed timescale and the applicant has not taken action to use this procedure, the application will be deemed refused.

Question: Do you agree or disagree that 12 weeks is an appropriate timescale to require the Building Safety Regulator to determine a completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation to your answer. If you have answered disagree, please outline what you consider to be an appropriate timescale.

3.107 Where a completion certificate application is approved, we propose that the Building Safety Regulator should issue a completion certificate at the same time as giving the notice of its decision. In line with existing building regulations, receiving a completion certificate is not a complete guarantee of compliance with the building regulations. The legal meaning of the certificate is that it is 'evidence but not conclusive evidence' of compliance. The Building Safety Regulator will inspect the work on site at appropriate stages, but inspections cannot be relied on as the only method of ensuring work complies with the requirements of the building regulations, particularly as the Building Safety Regulator will not have checked every construction product or material, or how it has been installed. Responsibility for compliance with building regulations' requirements rests exclusively with those carrying out the work.

Partial completion

Introduction to partial completion certificates

3.108 Where a dutyholder intends to partially complete a new higher-risk building and occupy parts of it before building work on other parts is complete, we propose there are additional requirements that they will need to meet to ensure it is safe to occupy.

3.109 We propose that the Building Safety Regulator should be able to permit partial occupation in higher-risk buildings before all building work is complete on a case-by-case basis, but only where it is satisfied that these specific safeguards have been met. This will ensure that even where a building is occupied in phases, the 'hard stop' to occupation recommended by Dame Judith Hackitt, will still apply.

3.110 In addition, through section 76 of the Building Safety Act 2022, the government has created an offence for a principal accountable person or an accountable person to permit occupation of any residential unit within a higher-risk building without a completion certificate as evidence that the building work in that part of the building complies with all applicable building regulations' requirements. Before occupation can commence, the building must be registered with the Building Safety Regulator. This ensures that the 'hard stop' to occupation at the completion certificate stage applies to higher-risk buildings. Furthermore, once occupation commences, the principal accountable person or accountable person's duty to assess and manage building safety risks for the entire building (not just the part that is occupied) applies. Further information

on the duties of the principal accountable person and accountable person can be found in the consultation on the new safety regime for occupied higher-risk buildings. This consultation can be found on the [building safety citizen space homepage](#).

Other legislative regimes that will apply when an occupied building is subject to building work

3.111 There are a number of legislative regimes that will be operating when a building is following the partial completion route. The Construction (Design and Management) Regulations 2015 cover the management of health, safety and welfare when carrying out construction projects and already require that a principal contractor ensures that 'the necessary steps are taken to prevent access by unauthorised persons to the construction site'. In the case of building work in residential buildings, this therefore serves to ensure that occupants are physically separated from ongoing building work and applies when buildings are occupied in phases.

3.112 In addition, the Fire Safety Order separately places a duty to keep people safe from fire upon the Responsible Person and applies to non-domestic parts (common areas) of multi-occupied residential buildings including balconies, structures, external walls and flat front doors, as well as workplaces and commercial buildings. The Fire Safety Order will apply during the course of partial completion as parts of the building will be occupied whilst building work is still underway. In a partial completion scenario, the common parts and any other non-residential part of higher-risk buildings are subject to the Fire Safety Order and the local fire and rescue authority's fire safety inspection regime. There will be a regulatory 'overlap' in these parts because the whole building will be subject to the new regime and enforcement by the Building Safety Regulator.

3.113 Part 1 of the Housing Act 2004 applies to all types and tenures of residential accommodation and introduced the [Housing Health and Safety Rating System \(HHSRS\)](#), used for assessing housing conditions and enforcing housing standards. The HHSRS does not set out a minimum standard but instead focuses on reducing the risk associated with potential hazards, including fire, in individual dwellings and the building as a whole. The Housing Act 2004 is enforced by the local housing authority and will apply during the course of partial completion once a part of the higher-risk building becomes occupied.

3.114 Building control requirements will not therefore operate in isolation when building work is carried out in an occupied higher-risk building. As outlined above, a number of legislative regimes will apply which collectively will work to keep residents safe from building safety risks. The Construction (Design and Management) Regulations 2015, the Housing Act 2004 and the Fire Safety Order are outside the scope of this consultation.

Requirements for partial completion certificate applications

3.115 As set out earlier in the consultation we have proposed additional safeguards at the application for building control approval stage to ensure that in most cases the planning for partial completion is included in the information and prescribed documents submitted before construction even begins.

3.116 We propose that dutyholders must consider the building holistically and provide the full suite of prescribed documents and information submitted at the completion certificate application stage. Furthermore, we intend to require the applicant

demonstrates how the building's design and construction supports safe use, including while building work continues while other parts are occupied.

3.117 The government does not intend to mandate how many phases of occupation there can be as this will be project-specific and should be considered on a case-by-case basis. However, we do expect the dutyholder and Building Safety Regulator to agree how many phases a specific building will be occupied in.

3.118 Furthermore, we do not intend to mandate particular requirements that must be met for each and every higher-risk building where partial completion is sought. Nonetheless, we would expect dutyholders to demonstrate to the Building Safety Regulator, through the prescribed documents, that there are adequate building safety measures in place, such as:

- Appropriate compartmentation for the floor or floors deemed ready for occupation, and between the completed and unfinished parts of the building;
- Sufficient evacuation route or routes out of the building to a place of safety (and these evacuation route or routes must not be impeded by the ongoing building work);
- Sufficient ventilation in the completed parts of the building including the evacuation route or routes to and from the building;
- Appropriate fire service access and equipment; and,
- Services provided to upper floors in the building.

3.119 Where partial completion is sought, we propose that the client, or someone on their behalf, will be required to submit a partial completion certificate application when building work on the part or parts of the building intended for occupation are complete with updated plans and prescribed documents reflecting the 'as-built' building work.

3.120 Our proposed approach to partial completion certificate applications is similar, but not identical to the approach taken as set out in the consultation section on completion certificate applications. Therefore, many of the requirements for partial completion certificate applications are the same as for completion certificate applications, but with a few variations that reflects the characteristics of projects that are completed and occupied in phases. The similarities of these two application processes and the additional information required for a partial completion certificate application are summarised in the below tables:

Similarities with completion certificate applications

- The application must be submitted on completion of building work and final inspection carried out by the Building Safety Regulator.
- Contact information of the client, Principal Contractor and the Principal Designer are provided as part of the application.
- A statement is provided confirming the application for a completion certificate is made under the new proposed Higher-Risk Building regulations
- The applicant must provide a plan to a scale of not less than 1:1250. The plan must outline the size and position of the building, together with the higher-risk building works as completed at the occupation date, and the building relationship to adjoining boundaries, the boundaries of the curtilage of the buildings, and the size, position and use of every other building within the curtilage, and the width and position of any street on or within the boundaries of the curtilage of the

building. The applicant should also provide such other plans as is necessary to show the higher-risk building work would comply with all applicable requirements of the building regulations.

- As part of the application, the applicant will be required to provide the full suite of prescribed completion certificate application documents. These include:
- A construction control plan describing the strategies taken for managing building work to maintain building regulations compliance;
- A change control plan setting out how changes during construction were considered and recorded;
- A design and build approach document setting out the proposed standards used;
- A fire and emergency file setting out fire and structural safety information about the proposal;
- A compliance declaration signed by each principal contractor and each principal designer for the higher-risk building work.
- A completion certificate will only be issued if the Building Safety Regulator is satisfied that as far as it has been able to determine, the building work, complies with all applicable building regulations' requirements.

Additional information required for partial completion certificate applications

Occupation date:

The applicant must provide the date when the proposed occupation of the part of the building to which the application relates will begin.

Additional plans:

The applicant must provide a plan showing the part of the building that is to be occupied indicating the intended use of that part and the location of dwellings (if any) to be occupied.

Description of the proposed building work at occupation date:

As with completion certificate applications, the applicant must provide a description of the higher-risk building work including the details of the intended use of the higher-risk building and the intended use of each storey, the height of the higher-risk building and the number of storeys in the higher-risk building. However, for partial completion certificate applications the description must only cover the higher-risk building work as completed at the occupation date.

Compliance with building regulations statement:

As with completion certificate applications, the applicant must provide a statement, signed by the client or someone on their behalf, confirming that to the best of the client's knowledge the part of the higher-risk building work completed, complies with all applicable requirements of the building regulations. However, for partial completion certificate applications this statement must only cover the completed part of the higher-risk building work.

Golden thread statement:

As with completion certificate applications, the applicant must provide a statement, signed by both the client or someone on their behalf and the relevant person, confirming

that a copy of the golden thread information was appropriately provided to the relevant person and the relevant person has received them. However, for partial completion certificate applications this statement must only cover the handover of golden thread information collected as at the occupation date.

Partial completion strategy:

As set out earlier in this consultation, the applicant will be required to submit a partial completion strategy as part of the building control approval application before building work commences to demonstrate how partial completion can be managed safely. The applicant will also be required to submit an updated partial completion strategy at the partial completion certificate application stage. This strategy will set out the proposals adopted in designing for occupation of each part of the proposed building to be completed to ensure compliance with building regulations. It will also set out the measures, strategies, and policies it is proposed the building owner should adopt in order to manage and maintain the proposed building to ensure residents can be safely evacuated in an emergency when the building is in use. Furthermore, the strategy will outline any assumptions in those measures, strategies and proposals to ensure they are realistic based on the intended occupiers and intended management of the proposed building when in use.

Question: Do you agree or disagree that the proposed requirements and prescribed documents for partial completion certificate applications are sufficient to ensure building work complies with building regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made

Question: Is there any further information that should be required as part of a partial completion certificate application?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you have answered yes, please explain what further information should be required.

Assessment of partial completion certificate application

3.121 As with full completion certificate applications, before determining a partial completion application, we propose that the Building Safety Regulator must consult the relevant fire and rescue authority and the sewerage undertaker. The Building Safety Regulator must assess the partial completion application and carry out a final inspection of the completed part of the higher-risk building work.

Question: Do you agree or disagree with the proposed consultation requirements for partial completion certificate applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

3.122 We propose the Building Safety Regulator will carry out final inspections of the building work and assess whether the partial completion certificate application meets the following requirements:

- The completed part of the higher-risk building including all relevant building work complies with all applicable building regulations;
- The required information and prescribed documents submitted as part of the partial completion certificate application are complete and accurate; and
- The golden thread information required to be handed over to the relevant person is complete and provided.
-

3.123 If the Building Safety Regulator is satisfied, after taking all reasonable steps, that these requirements are met for the work in question, we propose they will approve the application and issue a partial completion certificate. If the Building Safety Regulator is not satisfied that the above requirements have been met, we propose it must reject the application.

3.124 The Building Safety Regulator will also be able to agree an extension with the applicant to provide time to correct errors and/or provide additional information, rather than reject an application straight away. Where an application is rejected, the Building Safety Regulator must inform the applicant in writing and explain the reason for rejection. We propose that the decision notice is provided electronically, but there will be discretion for notices to be provided in different ways, such as through paper copies, to ensure information is accessible and meets the needs of all users.

Question: Do you agree or disagree with the proposed approach to inspections for partial completion certificate applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made

Question: Do you agree or disagree with the proposed reasons for which a partial completion certificate application should be rejected?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Question: Do you agree or disagree with the proposed approach outlined for the Building Safety Regulator to provide notice of their decision to applicants?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Time limit for partial completion certificate applications

3.125 The Building Safety Regulator will have to decide a partial completion certificate application within a statutory time-limit. The government proposes a prescribed timescale of 12 weeks to provide sufficient time for the Building Safety Regulator to determine an application. As with full completion certificate applications, we propose that the Building Safety Regulator and applicant can agree an extension to the prescribed timescale and that where an extension is not agreed, and the Building Safety Regulator has not made a decision, the applicant can opt to use the non-determinations procedure under section 30A of the Building Act 1984 to secure a decision. Where the Building Safety Regulator has not reached a decision within the prescribed timescale and the applicant has not taken action under that procedure, the application will be deemed refused.

Question: Do you agree or disagree that 12 weeks is an appropriate timescale to require the building safety regulator to determine a partial completion certificate application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

Requirement for completion certificate for registration

3.126 Once the new, more stringent regime comes into force, a completion certificate for higher-risk building work will be needed to register the building for occupation with the Building Safety Regulator. The registration process is distinct to the building control application process for completion certificates and is not therefore covered in detail in this consultation but both processes must be completed before occupation of a new higher-risk building is allowed to commence.

3.127 Section 76 of the Building Safety Act 2022 creates an offence for an accountable person, without reasonable excuse, to allow a single residential unit or more within a higher-risk building to be occupied without a completion certificate as evidence that the

building work in that part of the building complies with all applicable requirements of building regulations. Section 77 of the Building Safety Act 2022 also creates an offence for the principal accountable person, without a reasonable excuse, to fail to register the building with the Building Safety Regulator before it becomes occupied.

3.128 To ensure the Building Safety Regulator can verify that a new higher-risk building has a valid completion certificate we propose to make it a requirement for the principal accountable person to provide proof of a valid completion or final certificate as part of the registration process. For new higher-risk buildings that go through the new, more stringent building control regime, the principal accountable person will be required to provide a reference of their completion certificate provided by the Building Safety Regulator.

3.129 The government is consulting on several proposals related to the registration of higher-risk buildings. You can find further detail on this in the consultation on the new safety regime for occupied higher-risk buildings. This consultation can be found on the [building safety citizen space homepage](#).

4. Regulator's notices

4.1 Section 32 of the Building Safety Act 2022 provides that where an applicant intends to carry out building work, they can with the Building Safety Regulator's agreement, issue a joint notice (regulator's notice) to the relevant local authority, so that the Building Safety Regulator acts as building control authority for building work on a building that is not a higher-risk building.

4.2 The intention is to enable a regulator's notice to be used where a project comprises both higher-risk building work and non higher-risk building work and the developer would prefer to have only one building control body overseeing all building work within that project. A regulator's notice cannot be issued where a project does not also include higher-risk building work. It is for the developer to determine whether they wish to have the Building Safety Regulator undertake the building control function for all building work on that site, but they must gain the agreement of the Building Safety Regulator to take on the building control role for that particular development.

4.3 If both the developer and Building Safety Regulator are in agreement, they will issue a joint notice to the relevant local authority. We propose that a regulator's notice must include:

- Confirmation that the development includes higher-risk building work;
- Details of the person intending to carry out the work (i.e. the client);
- Address of the site;
- Site location plan; and,
- Description of the work including specifying which work relates to the non higher-risk buildings.

4.4 The Building Safety Regulator's notice should be given to the relevant local authority by the Building Safety Regulator. We envisage that this would be issued in electronic form.

4.5 We propose that a local authority should only be able to reject a Building Safety Regulator's notice on the following grounds:

- The notice is not in the correct form (e.g. the form does not include the developer's consent);
- The notice has been issued to the wrong local authority;
- The notice does not contain all required information (as specified above);
- A building control application (or initial notice) has already been made to a local authority in respect of the work;
- The proposed project does not have the required 'connection' to higher-risk building work. We propose that in order for work to be regarded as connected with a higher-risk building, it must be carried out by the same principal contractor on behalf of the same client on the same site as the higher-risk building or building.

4.6 We propose that a notice of rejection from the local authority must be issued within five working days beginning on the day in which the notice is given, otherwise the Building Safety Regulator's notice is treated as being accepted. We also propose that rejection of a Building Safety Regulator's notice by the relevant local authority may be appealed by the person carrying out the work. This appeal is to be made to the tribunal. The government intends to stipulate that the grounds for an appeal are that the notice is erroneous in fact, wrong in law, unreasonable, or procedurally flawed. Finally, the appeal must be lodged within 21 calendar days of the local authority issuing the notice.

4.7 Where the Building Safety Regulator is acting as the building control authority for a non higher-risk building, it will operate the same building control functions for that building as would a local authority where a building control approval application has been made. Once work on a non higher-risk building has completed, the Building Safety Regulator will issue a completion certificate as provided for under Building Regulations 2010.

Question: Do you agree or disagree with the proposed information that must be included in a regulator's notice?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Question: Do you agree or disagree with the proposed grounds on which a local authority could refuse a regulator's notice?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Question: Do you agree or disagree that the rejection of a regulator's notice must be issued within five working days?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

5. Building work carried out in existing higher-risk buildings (refurbishments)

5.1 Dame Judith Hackitt identified in her final report the need for a continued and determined focus on driving improvements in fire safety in the existing housing stock. Not only is it fundamental that we have a robust gateways process for the design and construction of higher-risk buildings, it is equally important that we have stringent processes in place for building work (as defined in regulation 3 of the Building Regulations 2010) carried out in existing higher-risk buildings (refurbishments). This means having appropriate building control oversight to ensure that the building is considered holistically, taking account of initial construction and any other works that have been undertaken. It is also necessary to ensure the safety of residents during building work as residents will often occupy the building whilst building work is carried out.

5.2 It is therefore essential that residents and occupants of higher-risk buildings feel safe, and are safe, from building safety risks when building work (as defined in regulation 3 of the Building Regulations 2010) is carried out in their building, particularly as building work is often carried out while the building remains occupied.

5.3 We are therefore introducing a new, more stringent building control regime for building work in existing higher-risk buildings (refurbishment) to ensure such work is subject to appropriate regulatory oversight.

5.4 Building work in existing buildings follows different building control routes depending on the work that is being carried out. Many refurbishment building works are carried out either by a person certified under a third-party certification scheme or under a competent person scheme. These works are carried out by a certified person and the local authority is notified of the work; notifiable building work that is carried out under these two routes is sent to a building control body for approval. We propose to take a similar approach for higher-risk buildings.

Building work as defined in regulation 3 of the Building Regulations 2010 is to be carried out. Applicant must determine which route to follow based on the nature of the proposed building work

Schedule 3A work – can be carried out under a third-party certification scheme

- If work is proposed by a resident, in line with their lease arrangements, they must notify the accountable person of their intention
- Work can be certified by third-party certification registrant
- Notification sent to the Building Safety Regulator (BSR) and issued to occupier

Schedule 3 work – can be carried out under a competent person scheme (CPS)

- If work is proposed by a resident, they must notify the accountable person of their intention
- Work can be carried out by CPS installer (although applicant can choose to submit building control approval application)
- Notification sent to the Building Safety Regulator (BSR) and issued to occupier.
- BSR can decide whether to inspect

Neither schedule 3 or 3A work. Building control application must be submitted.

- If work is proposed by a resident, they must also notify the accountable person of their intention
- Applicant must submit application with plans and prescribed documents reflecting the 'category' of work. Please see hierarchy of proposed building work section.
- If application is approved, the Building Safety Regulator (BSR) will agree a bespoke inspection schedule with the applicant.
- During construction, BSR carries out inspections at agreed stages, and without notice, if necessary.
- Dutyholders must comply with dutyholder and competence duties; mandatory occurrence reporting requirements; statutory change control requirements (including for 'major' and 'notifiable' changes) and golden thread requirements.
- Construction (Design and Management) Regulations 2015 (CDM), Fire Safety Order and accountable person's duty to assess and manage building safety risks also separately apply.
- Building work is complete. Applicant must submit a completion certificate application to the BSR for approval and golden thread information must be handed over to the accountable person.
- BSR assesses the application and carries out final inspection/s of the building work. If satisfied that the building work complies with all applicable building regulations, the BSR will issue a completion certificate

Third-party certification schemes and competent person schemes

Third-party certification schemes for building work in a higher-risk building

5.5 Under the current regime, all electrical work in dwellings must be carried out in line with Part P of Schedule 1 to the Building Regulations 2010. Currently, a person who is registered with a third-party certification scheme for electrical installations in dwellings will be able to check domestic electrical work that is undertaken by others and certify that it is compliant with the building regulations. In order to be registered with a third-party certification scheme, electricians need to demonstrate that they meet the relevant [minimum technical competence requirements](#).

5.6 In line with existing practice, third-party certification schemes will also be permitted in higher-risk buildings in relation to building work specified in Schedule 3A of the Building Regulations 2010 such as domestic electrical work, and that those certifying the work should continue to be subject to Conditions of Authorisation. Where such schemes are used, it will not be necessary for individuals to submit a building notice or initial notice, or deposit full plans for the work. Under the new regime for higher-risk buildings, we propose the scheme operator would need to notify the work to the Building Safety Regulator, rather than the relevant local authority.

Question: Do you agree or disagree that notification of building work in Schedule 3A should go to the Building Safety Regulator?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you've answered disagree, please explain why you do not consider Schedule 3A work in higher-risk buildings should be carried out by third-party certification schemes.

5.7 For work carried out under third-party certification, we propose that it will be for the principal accountable person or accountable person(s) to consider whether the building work changes their assessment of building safety risks and how they manage those risks. [\[footnote 2\]](#)

We propose that the principal accountable person or the accountable person(s) will be able to request further information from the person who has commissioned the building work and to store this information in the golden thread. The level of information requested will depend on the nature of the building work. It would be for the principal accountable person / accountable person to decide what information to request and what information should be stored in the golden thread.

Question: Do you agree or disagree with the proposals on the information about building work through third-party certification to be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Competent person schemes for building work in a higher-risk building

5.8 Under the current system, most notifiable building work, around 3.4 million jobs per year, is undertaken by installers from authorised competent person schemes. Certain types of building work (as specified in Schedule 3 of the Building Regulations 2010) can be carried out under competent person schemes. This allows a consumer to select an authorised installer to self-certify that the work complies with building regulations and removes the burden of having to notify the work to a building control body in advance and automatically having the work checked by them when completed.

5.9 The installer must within 30 days of its completion, give the occupier a certificate evidencing that the requirements of regulations 4 and 7 of the Building Regulations 2010 have been satisfied, and they must also issue the local authority with the certificate, or a notice to that effect. Local authorities can then inspect the work from a building control perspective should they deem this necessary.

5.10 In the government response to the [Building a Safer Future consultation](#), the government confirmed its intention to explore how competent person schemes will work for higher-risk buildings under the supervision of the Building Safety Regulator. The government considers the use of competent person schemes in higher-risk buildings to be a proportionate approach to specified types of building work because the incidence of risk is considered low whilst the high volume of work carried out under competent person schemes means that mandating building control involvement would potentially divert building control source from areas of high risk.

5.11 Unlike for new builds, where we are seeking views on including the competent person schemes under the building control approval application, to ensure proportionality and to align with the existing approach to competent person schemes, we propose that it will not be a requirement to submit a building control application seeking permission to carry out such building work in a higher-risk building in advance. We propose to build on existing practice and require that where building work is carried out under a competent person scheme in a higher-risk building, the installer must issue a certificate to the occupier, and separately notify or provide a copy of the certificate to the Building Safety Regulator as building control authority for higher-risk buildings, rather than the local authority, within 30 days of completion of the building work. Given the requirements in relation to dutyholders and competence we expect that the competent person should be aware that they are working on a higher-risk building. The person requesting the work – either the accountable person or a resident – should also make them aware.

5.12 The Building Safety Regulator will then be able to decide whether to inspect the building work as it will have enforcement powers if the work contravenes the building regulations. We are also considering whether it is necessary for a notification to be sent to the local authority for reasons outside of providing a building control function – for example, for conveyancing purposes.

5.13 Under the new regime, the [Conditions of Authorisation](#), currently set by the Department for Levelling Up, Housing and Communities, will continue to apply to installers operating under a competent person scheme when carrying out building work in a higher-risk building. Scheme applicants cannot be certified until they have been assessed against these requirements. Applicants will need to demonstrate that they meet the relevant [minimum technical competence \(MTC\) requirements](#).

5.14 Under the new regime, an installer operating under an approved competent person scheme will also have duties to plan, manage and monitor the building work they undertake to ensure compliance with all relevant aspects of the building regulations. They must also have the right competence for the work to be undertaken and cooperate with the client, other contractors and designers (including the Principal Designer and the Principal Contractor) to the extent necessary to ensure the work is in compliance with all relevant requirements.

Question: Do you agree or disagree that competent person scheme certification notices should be sent to the Building Safety Regulator when work is carried out in a higher-risk building?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Should the notification also be sent to the local authority for reasons outside of providing a building control function?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer.

5.15 For work carried out under competent person schemes we propose that it will be for the principal accountable person or accountable persons to consider whether the building work changes their assessment of building safety risks and how they manage those risks. We propose that the principal accountable person or the accountable persons will be able to request further information from the person who has commissioned the building work and to store this information in the golden thread. The level of information requested will depend on the nature of the building work. For example, if a resident has commissioned building work through a competent person scheme, the principal accountable person or the relevant accountable person will decide whether to request a copy of the certificate issued by the competent person scheme installer on completion of the building work and store this in the golden thread.

Question: Do you agree or disagree with the proposals on the information about building work through competent person schemes to be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Residents carrying out refurbishment work in a higher-risk building

5.16 We also recognise that residents equally have an important part to play in the safety of their building, with a responsibility to make sure their actions do not undermine the safety of others. To ensure the safety of residents and that the principal accountable person and accountable persons are able to effectively assess and manage their

building's safety risks, the Building Safety Act 2022 places three obligations on residents. They must:

- Not act in a way that creates a significant risk of a spreading fire or structural failure;
- Not interfere with a relevant safety item; and
- Comply with a request by the principal accountable person / accountable persons for information reasonably required to perform their duties to assess and manage building safety risks.

5.17 We expect that the combination of better information and improved engagement by the principal accountable person / accountable persons in higher-risk building will increase residents' co-operation in these matters to help maintain the safety of the building. More details about engagement with duties on residents can be found in the consultation on the new safety regime for occupied higher-risk buildings. This consultation can be found on the [building safety citizen space homepage](#).

Building control approval applications for refurbishment building work

5.18 We propose that where building work in an existing higher-risk building ("refurbishment building work") is not going to be carried out under a third-party certification or competent persons scheme, the applicant will be required to submit a building control approval application to the Building Safety Regulator as it is vital that the building control process for refurbishment building work is as rigorous as the process for creating new higher-risk buildings. Our proposed approach to such refurbishment building work will therefore largely be the same as the gateways process for creating new higher-risk buildings, but with a few variations that reflects the versatility of refurbishments as outlined below:

Similarities with gateways building control process

- Building control approval application must be submitted to the Building Safety Regulator as building control authority before building work commences.
- Offence to commence building work without Building Safety Regulator approval (hard stop).
- Building Safety Regulator will consult multi-disciplinary team when determining building control applications.
- Statutory timescales for the Building Safety Regulator to determine building control approval applications (although the timescale for determining a refurbishment application will be eight weeks), and extensions can be agreed where necessary.
- Same grounds for approving (with or without requirements) or rejecting an application.
- Section 30A (non-determinations) procedure will apply.
- Where an extension has not been agreed and the applicant has not taken action, applications will be deemed refused, rather than approved, once the prescribed period has passed.
- Bespoke site inspection schedule agreed by the Building Safety Regulator and applicant and statutory change control process will apply.

- Dutyholder and competence requirements will apply to all design work and building work. This will include golden thread information requirements, and dutyholders will also need to ensure there is an effective mandatory occurrence reporting system.
- Reviews and appeals procedures will apply.
- Enforcement provisions will apply.
- Completion certificate application submitted on completion of building work and final inspection carried out by the Building Safety Regulator.
- A completion certificate will only be issued if the Building Safety Regulator is satisfied that as far as it has been able to determine, the building work, complies with all applicable building regulations' requirements.

Differences from gateways building control process

- Scale of the work could vary significantly from the replacement of a gas boiler to adding storeys to the building. Requirements must be proportionate.
- The minimum requirements for information and documents to be included in the building control approval application will depend on the category of building work.
- Using a power in the Building Safety Act 2022, the Building Safety Regulator can require that an applicant provides additional prescribed documents (beyond minimum requirements) where necessary and reject an application if they are not provided.

Differences between gateways and refurbishment processes and requirements

5.19 As outlined above, as refurbishment building work varies significantly in scale and impact and can be commissioned by different parties, a one-size-fits-all approach is not suitable. For example, building control approval applications could be made by:

- A resident or occupant such as a leaseholder or buy-to-let landlord who wishes to make alterations to a flat they own such as having a new gas boiler installed; changing their front door; having their kitchen replaced; or changing the layout within their flat such as knocking down a wall between their kitchen and lounge so that it is open plan;
- A principal accountable person who wishes to carry out extensive work to the common parts of the building such as adding storeys; adding flats; or replacing the building's external wall system; or
- An accountable person(s) who wishes to make improvements to the specific part of the building they are responsible for (where there are multiple accountable persons) such as upgrading active fire safety systems on the floors they have responsibility for.

5.20 We therefore need to ensure building control requirements are appropriate to the scale and nature of the building work and propose to introduce a building control regime which strikes a balance between setting out minimum expectations for building control approval applications for different types of building work whilst giving the Building Safety Regulator and dutyholders the flexibility to go beyond these minimum requirements on a case-by-case basis as needed.

5.21 We propose to create a hierarchy of categories of refurbishment building work and outline the prescribed documents always needed as a minimum requirement in a building control approval application for each category. This will help provide certainty to

the Building Safety Regulator, its multi-disciplinary teams and industry about the information requirements for different types of refurbishments while recognising that a one-size-fits-all approach is not appropriate and that requiring all prescribed documents for all types of building work would not be proportionate. Please see the proposed hierarchy of building work below and mandatory information requirements for each category:

Proposed hierarchy of categories of building work

Category A building work

- Change in vertical dimensions to the overall building including change in number of storeys (including adding or removing a gallery floor and/or underground storeys).
- Change in number of residential units (flats as defined in regulation 2 of the Building Regulations 2010).
- Change in the number and/or the location/positioning and/or widths of corridors and/or staircases (including exit passageways) as escape routes.
- Certain (to be defined) building work on the external wall (as defined in regulation 2 of the Building Regulations 2010) of the building including installation of cladding, insulation, and fire breaks.
- Certain (to be defined) changes in layout and/or horizontal dimensions to the overall building, or its common parts such as extending the building sideways.
-

Minimum prescribed documents required in building control approval application

- Plans
- Competence Declaration
- Construction Control Plan
- Design and Build Approach Document
- Fire and Emergency File
- Partial Completion Strategy (if applicable)
- Planning Statement

Category B building work

- Building work affecting passive fire safety systems and compartmentation (compartment floor, ceilings, compartment walls, roof, rooflights and fire doors)
- Building work affecting active fire safety systems (i.e. sprinklers, fire and smoke dampers, fire alarm systems, smoke ventilation in escape routes)
- Building work affecting common areas (including work on lifts, openings in compartment walls or floors for pipes, ducts and cables etc, change in roofing coverings, change of location and/or positioning of fire mains and hydrants and change in fire-fighting shafts).
- This does not apply to building work listed in Schedule 3 of the Building Regulations 2010.

Minimum prescribed documents required in building control approval application

- Plans
- Competence Declaration

- Design and Build Approach Document
- Fire and Emergency File.

Question: Do you agree or disagree with the proposed categories of building work and the proposed information requirements for each proposed category?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made, and whether there are additional categories of work that should be listed.

Question: Do you agree or disagree with the prescribed period of eight weeks for the Building Safety Regulator to determine building control approval applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: We intend to establish these categories and non-exhaustive list of what might be in each category in guidance to accompany the relations so that it can be updated overtime quickly. Do you agree or disagree that this should be in guidance?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

5.22 As mentioned above, even where a prescribed document is not listed as a minimum requirement for a prescribed type of building work, we propose the Building Safety Regulator will be able to request additional prescribed documents and refuse applications where they are not provided, using powers under paragraph 1B(5) of Schedule 1 to the Building Act 1984. We consider that this strikes an appropriate balance between ensuring information requirements are proportionate and tailored to different types of building work whilst enabling the Building Safety Regulator to request the information it needs to determine a building control application on a case-by-case basis. Where such information is not provided and the Building Safety Regulator is unable to determine whether the proposed work would contravene building regulations' requirements, we propose it will be able to reject the application (hard stop).

5.23 In addition, to the new more stringent building control regime we are introducing for higher-risk building work, we separately proposing to place a duty on the accountable person to assess and manage building safety risks when the building is occupied. Where an accountable person's assessment of building safety risks shows that improvements to the safety arrangements are needed to manage those risks, they will be required to make these improvements, including where it is necessary to carry out building work. Where those improvements do involve building work, they will also need to meet applicable building regulations' requirements, including that the building work does not affect other parts of the building detrimentally.

5.24 Should the Building Safety Regulator on receipt of a building control approval application have wider concerns about the safety systems in the building, they can ask to see the safety case for the building and, if needed, require accountable persons to make improvements, including through building work, where reasonable steps have not been taken to manage building safety risks. For example, if the Building Safety Regulator considers that building safety risks are not being managed effectively or the current arrangements are insufficient, it will be able to use its enforcement powers under part four of the Building Safety Act 2022 to ensure the accountable person takes reasonable steps to reduce and manage risks. The duty placed on accountable persons to manage building safety risks will not therefore be constrained by the 'non-worsening' clause in the Building Regulations 2010, which itself only applies where building work is being carried out on a building. Further information can be found in the consultation on the new safety regime for occupied higher-risk buildings. This consultation can be found on the [building safety citizen space homepage](#).

5.25 As is the case when a building is occupied in phases, the Construction Design and Management (CDM) Regulations 2015 will require that a principal contractor ensures that 'the necessary steps are taken to prevent access by unauthorised persons to the construction site' and will ensure occupants are physically separated from ongoing building work and the Fire Safety Order separately places a duty to keep people safe from fire upon the Responsible Person and applies to non-domestic parts of higher-risk buildings. CDM and Fire Safety Order requirements are however outside the scope of this consultation.

5.26 We propose that the information and prescribed documents required in an individual building control approval application for building work in an existing higher-risk building for a particular refurbishment project should be stored in the golden thread.

Question: Do you agree or disagree with the proposals about the information about building work in an existing building to be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

6. A stronger change control process for higher-risk buildings

6.1 In her Independent Review of Building Regulations and Fire Safety Final Report, Dame Judith Hackitt called for a 'stronger change control process' during design and construction, more stringent record-keeping, and a requirement to have 'permission' before significant changes are made in recognising that what is built often does not reflect what was originally planned.

6.2 We therefore propose to introduce a robust statutory change control process for higher-risk building work that dutyholders must follow if they intend to deviate from their original building control approval application. This new statutory change control process will apply when building work requiring a building control approval application to the Building Safety Regulator is carried out in existing higher-risk buildings as well as when building work is carried out to create a new higher-risk building through the gateways process. All changes during construction, such as a change to cladding material, will have to be recorded, evaluated and evidenced to show that they comply with all applicable building regulations' requirements.

Record-keeping

6.3 To make sure there is robust record keeping during higher-risk building work, we propose that the client or someone on their behalf must ensure there is a record of all the controlled changes that have been made. All changes from the original building control approval application must be recorded in a change control log or logs. We propose that the following information should be included in the change control log or logs:

- The name of the individual recording the change;
- A description of the proposed change;
- An explanation of the reason why the change has been proposed;
- Whether the change is a notifiable change or a major change;
- A list of the name and occupation of each person, if any, whose advice was sought in relation to the proposed change and a brief summary of any advice provided;
- An assessment of which agreed document is affected by the proposed change and confirmation that a revised version has been produced;
- An explanation, in relation to the proposed change, of how the building work will, after the proposed change is carried out, meet all applicable building regulations; and,
- A revised version of any agreed document affected by the change.

Question: Do you agree or disagree with the contents of the change control log?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Types of changes to building control approval applications

6.4 We agree with Dame Judith's recommendation that there needs to be appropriate regulatory oversight of changes to the original building control approval application approved and that the approach should be proportionate to the expected impact of an individual change. We consider that this will enable the Building Safety Regulator to focus on changes that have the greatest impact on compliance with all applicable building regulations' requirements (not just structure and fire safety).

6.5 We therefore propose to introduce two categories of work requiring oversight from the Building Safety Regulator - 'major' and 'notifiable' changes. Where a change is deemed 'major', applicants will need to submit a change control application to the Building Safety Regulator and the change cannot be made without approval (hard stop). Major changes could have an impact on compliance with all applicable building regulations' requirements to a great extent.

'Major changes'

6.6 We propose that the following changes should be categorised as major:

Change in proposed use of the higher-risk building, including:

- Change involving the inclusion of a commercial unit or units, where the original plans did not include commercial unit/s;
- Change in proposed number of commercial units (in the case of a mixed-use higher-risk building) where the original proposal did include a commercial unit or units, but the number of proposed commercial units has changed; and,
- Change in proposed use of a commercial unit or units.
- Change in vertical dimensions to the overall building (that affects the approved design element or principle such that the design approach is affected), which may include changes in proposed number of storeys (including adding or removing a gallery and/or underground storey or storeys including car parks);
- Certain changes in layout and/or horizontal dimensions to the overall building, or its common parts such as extending the building sideways, that affects the structural design or fire safety provision. This does not include changes in layout within individual flats provided that those changes could not potentially result in a breach in compartmentation with the common parts;
- Change in the number of proposed fire compartments in the building, either by changing the number of residential units (flats as defined in regulation 2 of the Building Regulations 2010) or by making changes to the layout of the common parts;
- Change in the number and/or the location/positioning and/or widths of evacuation routes, including staircases;
- Certain (to be defined) building work on the external wall (as defined in regulation 2 of the Building Regulations 2010) of the building including installation of cladding, insulation, and firebreaks;
- Changes in the proposed fire strategy within the fire and emergency file for the building. This is not an exhaustive list, but this could be due to changes:

- To the active fire safety systems - i.e. sprinklers, fire and smoke dampers, fire alarm systems, smoke ventilation in escape routes, lifts and lift shafts (including evacuation lifts and firefighting lifts) and a change of location and/or positioning of fire mains and hydrants;
- To the passive fire systems in the building – compartment floor, ceilings, compartment walls, roof (including opening for pipes, ducts etc.) rooflights, roofing coverings, fire-fighting shafts, fire doors and protected shafts; and,
- Intended management or maintenance of the building (including training and maintenance programs about fire protection approach, maintaining compliance with fire risk assessments; maintenance and testing of internal systems; implementing in house fire door checks and arranging planned preventative maintenance (PPM) schedules for the fire protection systems and any other relevant services).
- Change in product where the proposed replacement product has a lower fire performance classification or specification than the previous product that was used– e.g. substituting a product classified as A1 under BS EN 13501-1 in terms of reaction to fire with a product classified as F;
- Change or changes from the method of complying with regulations or functional requirements from the method set out in the Design and Build Approach Document. This includes a change in the method to follow alternative guidance or installation standards;
- Change where partial completion is proposed when it was not proposed in the original building control approval application;
- Changes to the structural design and/or loads of the proposed building work including the foundations, load-bearing walls/beams etc.; and,
- Changes to introduce large panel systems.

Question: Do you agree or disagree with the list of major changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. Are there additional changes that you think should be added to the list?

Question: Do you agree or disagree that categories and a list is the clearest way to display the major changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation to your answer. If you have answered disagree, please explain what you deem to be the right approach for clearly displaying major changes.

Question: What types of horizontal changes to the overall building would you consider should be major?

Question: Are there some types of horizontal changes that you consider would be notifiable, if so, why?

Question: What building work on the external wall of the building work you consider should be major?

Question: Are there certain types of building work on the external wall of the building that you consider to be notifiable, if so, why?

6.7 Where a change is major, the applicant will need to submit a change control application to the Building Safety Regulator and the change cannot be made without its approval. We propose that the Building Safety Regulator will need to decide the application within six weeks, or within a longer period if agreed with the applicant. The Building Safety Regulator will consult its multi-disciplinary team as needed when determining the application and where no decision has been given by the Building Safety Regulator and no further action has been taken by the applicant in the relevant time period, the application will be deemed refused.

Question: Do you agree or disagree with the prescribed period of six weeks for the Building Safety Regulator to determine change control applications for major changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe. 'Notifiable changes'

6.8 In addition, we also propose that there should be a category of 'notifiable' changes where such changes could have an impact on compliance with all applicable building regulations' requirements, but to a lesser extent than 'major' changes. The level of regulatory oversight will therefore be proportionate to the types of change reflected in this category.

6.9 Where a change is 'notifiable', we propose that the applicant must submit a notification to the Building Safety Regulator so that it is aware of the proposed change and can intervene where it deems this necessary. It will not be possible for applicants to carry out notifiable changes before a certain period has passed to ensure the Building Safety Regulator has had the opportunity to assess the notification. We propose that the following changes will be categorised as notifiable:

- Change/s of dutyholder as will be defined in regulations and dutyholders on industry competence Change/s to Construction Control Plan including:
- 'Change control strategy' including changes to the strategies, policies and procedures the client has adopted to ensure any controlled change takes place in accordance with change control requirements;
- Change/s to schedule outlining each person appointed to work on the project and a summary of their responsibilities;

- Change/s to the strategies, policies and procedures the client has adopted to identify, assess and keep under review the competence of the persons carrying out the higher-risk building work or involved in the design of the higher-risk building; and,
- Change/s to the strategies, policies and procedures the client has adopted for managing the higher-risk building work so as to ensure compliance with the applicable requirements of the building regulations and to record evidence of that compliance; and their Competence and Dutyholder duties.
- Change/s to stages in which plans for building work will be submitted for approval where a staged approach to building control approval has been agreed by the Building Safety Regulator;
- Change/s to layout and/or dimensions within an individual flat (as defined in regulation 2 of the building regulations 2010) that does not impact the dimensions of the common parts;
- Substituting a 'like for like' product where the new product has the same specification/performance classification as the original specified in the original building control approval application; and
- Change/s to partial completion strategy submitted at building control approval where the applicant proposes to change the number of stages in which the building is occupied.

Question: Do you agree or disagree with the list of notifiable changes?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain whether there are any additional changes that you think should be added to the list.

6.10 We propose that the notification period where a change cannot be made should be 10 working days [\[footnote 3\]](#), or within a longer period if an extension is agreed with the notification. This will provide the Building Safety Regulator with the opportunity to assess the proposed change and there are different scenarios as to how this might work:

- The Building Safety Regulator does not have concerns with the proposed change. It is not required to take any action and the applicant can make the change once the prescribed period of 10 working days has passed;
- The Building Safety Regulator does not have sufficient information upon which to determine the proposed change so requests further information from the applicant, (the 10-working day period will start again from when the information is provided); and,
- The Building Safety Regulator considers the proposed change to be major in this circumstance. It advises the applicant that a change control application is needed. The proposed change cannot then be made without approval from the Building Safety Regulator.

Question: Do you agree or disagree with the prescribed period of 10 working days for notifiable changes before the change can be made?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you deem to be an appropriate timeframe.

Change of client

New client: notification

6.11 A change in client could arise for several reasons including that the original client has died or become incapacitated, the company has been sold or restructured, or the company has gone into administration, bankruptcy or liquidation. We propose that where a change of client occurs after building control approval for a higher-risk building has been granted:

- The Building Safety Regulator must be notified so that it is aware that the project will be overseen by a new client; and,
- The golden thread about the higher-risk building work must be handed over to the new client.
-

Notification to the Building Safety Regulator

6.12 We propose that the Building Safety Regulator must be notified of a change of client responsible for a higher-risk building project as the dutyholder for whom the building work is carried out.

6.13 Where there is a change of client due to death, we propose that either the administrator of the estate or the person/entity who has inherited the higher-risk building asset must notify the Building Safety Regulator no later than 28 days after the date when they become the client, or as part of their next formal engagement with the Building Safety Regulator (e.g. submitting a building control application), whichever is sooner, that they are the new client for the higher-risk building work.

6.14 Where a client is entering into administration, liquidation, bankruptcy, or a receiver has been appointed under the Law of Property Act, we propose that the person in 'control' of the higher-risk building at this point (office holder or law of property act receiver depending on the circumstances), must notify the Building Safety Regulator as soon as is reasonably practicable of this fact. This is to ensure the Building Safety Regulator is aware from a building control perspective that the client is in financial trouble and that the higher-risk building work they have commissioned may be paused, handed over to a new client, or stopped entirely.

6.15 We propose that the notification to the Building Safety Regulator must:

- Confirm that the necessary documentation (prescribed documents; documentation regarding suitable arrangements for compliance; and declaration that design/building work complies with building regulations' requirements) has been received from the original client;
- Confirm that this information has or will be handed over to any new client;

- Confirm that the new client will honour anything that has already been approved by the Building Safety Regulator or that the new client will follow the statutory change control process if they wish to deviate from the original building control approval application;
- Include a signed declaration from the outgoing client that to the best of their knowledge, the building work at point of handover complies with all applicable building regulations' requirements.

6.16 We recognise that there may however be circumstances where the insolvency practitioner or law of property act receiver is unable to provide this information, for example, if they have been unable to obtain it from the client. In these scenarios, we propose that they explain why it has not been possible to provide the information listed above as part of their notification to the Building Safety Regulator.

Question: Do you agree or disagree that a notification with the information set out above must be made to the Building Safety Regulator where there is a change of client?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Time limit for notifications

6.17 We propose that the new client (or appropriate office holder in the event of a client entering into administration, liquidation, bankruptcy or a receiver has been appointed under the Law of Property Act as set out above - 'the person in control') must then notify the Building Safety Regulator no later than 28 calendar days after the date when they become the client, or as part of their next formal engagement with the Building Safety Regulator (e.g. submitting a change control application), whichever is sooner, that they are the new client for the higher-risk building work.

6.18 The Building Safety Regulator could then request that the new client (or the person in control) shares with it, the prescribed documents; documentation regarding suitable arrangements for compliance; and declaration that design/building work to date complies with building regulations' requirements provided by the previous client if necessary. As above, if the new client (or the person in control) has been unable to obtain this information from the original client, we propose that they explain why it has not been possible to provide this information as part of their notification to the Building Safety Regulator.

6.19 Upon taking on responsibility for the higher-risk building project, the new client (or the person in control) will need to meet the building control requirements for higher-risk buildings, including developing and maintaining a golden thread about the building work.

New principal contractor or principal designer etc: notification

6.20 We also propose that if a client appoints a new Principal Contractor or Principal Designer for higher-risk building work, the client must notify the Building Safety Regulator so that it is aware from a building control perspective. We propose that this notification should be made within 28calendar days of the appointment and include:

- The name, address, telephone number and (if available) an email address of the person appointed;
- A statement that the client is satisfied that the principal contactor or principal designer has the necessary competence;
- A record of the steps the client took to satisfy itself with the competence of the principal designer or principal contractor; and,
- A compliance declaration that they have complied with their dutyholder duties signed by the person who previously was the principal contractor or principal designer, and where that person is unable to give a compliance declaration to the client, a statement explaining why a compliance declaration for that person has not been provided, for example, because they have died or are incapacitated.

Question: Do you agree or disagree that a notification with the information outlined above must be made to the Building Safety Regulator where there is a change of Principal Designer or Principal Contractor for a higher-risk building project?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Question: If you answered agree to the question above, do you consider 28 days to be a reasonable timeframe for this notification?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you've answered no, please explain what you deem to be an appropriate timeframe.

7. Regularisation of building work

7.1 Regularisation refers to the process of certifying building works that have been carried out without building regulations approval. The process enables the submission of a retrospective application relating to the previously unauthorised works.

7.2 Under the current regime in regulation 18 of the Building Regulations 2010, it may be possible to obtain a regularisation certificate from the local authority where unauthorised building work has already been carried out. Regulation 18 further lists the information that is required in an application for a regularisation certificate:

- A description, preferably including drawings, of the unauthorised work; and,

- A plan showing any additional work needed to ensure compliance with the building regulations which were in force when the work was originally carried out.

7.3 When applying for a regularisation certificate under the current regime, the local authority may require the building owner to take reasonable steps so that it can decide what work, if any, is needed to comply with the building regulations, including laying open work or carrying out tests. When the local authority has sufficient information, it will tell the building owner what work, if any, is needed to comply with the building regulations. If the specified work has been completed to its satisfaction, the local authority can issue a regularisation certificate to the building owner. However, the local authority has no obligation to issue a regularisation certificate.

7.4 Government proposes to permit developers to apply to the Building Safety Regulator for a regularisation certificate for building work in higher-risk buildings to allow for scenarios where building work was not notified when it should have been. There could be various examples of where building work has not been notified:

- Work undertaken without regulatory approval before the new regulatory framework comes into force. A principal accountable person/ relevant accountable person may identify unauthorised building work in an existing higher-risk building when carrying out their safety case review;
- Work under the new framework is undertaken without appropriate approval. For example, minor work carried out in a resident's home, which they did not realise was notifiable and was not subject to building control oversight, a competent person scheme or third-party certification scheme;
- Work is mistakenly not carried out in accordance with the new more stringent regulations for higher-risk buildings once they come into effect.

7.5 The government intends to apply the current regularisation procedure to higher-risk buildings but with the Building Safety Regulator as the building control authority, rather than the local authority. We propose that the Building Safety Regulator will have the discretion to determine whether to permit regularisation and / or take enforcement action, acknowledging that the two are not mutually exclusive. The government would not expect the Building Safety Regulator to allow regularisation for larger projects or significant works such as creating a new higher-risk building after the new more stringent regime comes into force as the design and construction dutyholders such as a client, Principal Designer and Principal Contractor should be aware of the requirement to notify the work or to seek building control approval. Regularisation should not be a means for dutyholders to game the building control system.

7.6 We intend for the Building Safety Regulator to have the power to refuse a regularisation application, for example where it does not consider the building work to comply with the building regulations' requirements in force at the time the work was carried out. In these situations, the Building Safety Regulator will have the power under section 36 of the Building Act 1984 to require the applicant alters or removes the work so that it complies with the standards at that time. Once non-compliant work is removed a refurbishment building control approval application will need to be made to the Building Safety Regulator in respect of the building work needed to bring the workup to the correct standard.

Question: Do you agree with the proposal to apply the current regularisation procedure to higher-risk buildings but with the Building Safety Regulator as the building control authority, rather than the local authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

8. Golden thread of information – having the right people at the right time to have information to support compliance with all applicable building regulations

8.1 In the Independent Review of Building Regulations and Fire Safety Final Report, Dame Judith Hackitt called for a golden thread. The government supports these recommendations and through the Building Safety Act 2022 requires a “golden thread” for all buildings in scope of the new regulatory system (higher-risk buildings). The golden thread during design and construction of higher-risk buildings should enable the right people at the right time to have information to support compliance with all applicable building regulations, including those relating to building safety. Managing the information is a key part of the golden thread to ensure that people can trust that the information is accurate and up to date and can access and share this information as required.

Duty holder duties in relation to the golden thread during the design and construction of new builds and building work in existing buildings

8.2 The client is the person for whom the building work is done, and they have a major influence over the way a project is procured, managed and funded. We propose that the client is responsible for ensuring there are suitable arrangements in place for the creation, maintenance and management of the golden thread.

8.3 With the golden thread we propose the client will be responsible for:

- Ensuring the Principal Designer and the Principal Contractor’s arrangements for managing the golden thread are maintained;
- Accepting on completion of construction (completion certificate or partial completion application stage) the finalised golden thread from the Principal Contractor;
- Handing over, (completion certificate or partial completion application handover stage) the golden thread to the relevant person; [\[footnote 4\]](#) and,
- Ensuring if they cease to be the client, there are arrangements in place for the handover of the golden thread to the new client.

Question: Do you agree or disagree with the proposed duties on the client in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

8.4 When building work is carried out in an existing higher-risk building, the client may be the same person as the principal accountable person or an accountable person(s). However, they may also be different people. We propose that the client would have the same responsibilities as above (in relation to the golden thread), but they would also be responsible for:

Deciding with the principal accountable person or the relevant accountable person whether to use the existing golden thread information management system for the current building or whether to use a different separate information management system specifically for the building work. This decision is likely to be driven by the scale of the building work and the systems used by all parties. If they use a different system, they will need to ensure that they (and the Principal Designer and the Principal Contractor) have access to the relevant parts of the existing golden thread for the current building (as necessary); and, Ensuring they share information with the principal accountable person and the relevant accountable person so that the principal accountable person and the relevant accountable person can continue to meet their broader duties to ensure the building is safe.

Question: Do you agree or disagree with the proposed duties on the client in regard to building work in an existing, occupied, higher-risk building in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

8.5 We propose that although the client has a high-level overall responsibility for ensuring the arrangements are in place to create and manage the golden thread through design and construction, it is the Principal Designer who will manage the golden thread on a day-to-day basis through the design phase of the project, and the Principal Contractor who will manage it through the building phase.

8.6 It is expected that the design and construction phases will overlap and influence each other, rather than run consecutively. The Principal Designer should be responsible for updating and managing the golden thread during the design phase. We propose that they will be specifically responsible for:

- Creating and developing the golden thread (although initial information about the building maybe provided by the client) and managing and updating this throughout the design phase;
- Finalising the golden thread and handing it over to the Principal Contractor on completion of the design phase;
- Collaborating with the Principal Contractor to ensure any design work done during the construction phase is captured in the golden thread;
- Ensuring that the golden thread meets the required standards/principles; and,
- Cooperating and sharing information with the Principal Contractor as necessary.
- 8.7 The Principal Contractor is responsible for managing the golden thread in the construction phase of the project and will be specifically responsible for:
 - Managing and updating the golden thread throughout the construction phase;
 - Finalising the golden thread and handing it over to the client at building completion;
 - Ensuring that the golden thread meets the required standards/principles; and,
 - Cooperating, collaborating and sharing information with the Principal Designer as necessary

8.8 As outlined above, the client is responsible for ensuring there are suitable arrangements in place for the creation, maintenance and management of the golden thread, including ensuring the Principal Designer and the Principal Contractor's arrangements for managing the golden thread are maintained.

8.9 More information on proposed golden thread requirements is set out in later in this consultation on the contents of the golden thread and how the golden thread should be stored and managed.

Question: Do you agree or disagree with the proposed duties on the Principal Designer and Principal Contractor in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

8.10 We propose that the client, Principal Designer and Principal Contractor are placed under a duty to ensure that the information and prescribed documents in the golden thread should be maintained and managed so that the golden thread remains relevant, useful and proportionate. This aligns with change control requirements and requirements around ensuring a record is kept of mandatory occurrence reports. We understand that some information will need to be permanently kept and handed over on building completion, whilst other information may only be needed for a limited period.

8.11 We consider it is critical that only relevant information is kept in the golden thread. We have defined 'relevant' as supporting compliance with all applicable building regulations. Having unnecessary information in the golden thread would make it more difficult to navigate the golden thread and to filter and identify the relevant information.

This could be counterproductive, as if it is difficult to use the golden thread it will disincentivise record keeping.

8.12 We intend to provide guidance to help the client, Principal Designer and Principal Contractor identify what information/copy documentation is relevant and should be retained in the golden thread. It is important to note that information may not always remain relevant and therefore it is important that information and documents in the golden thread are regularly reviewed.

Question: Do you agree or disagree with the proposal that through the design and construction process there should be a duty on all dutyholders to review the information within the golden thread to ensure it remains relevant and proportionate and supports compliance with building regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

8.13 When building work is carried out in an existing higher-risk building, we propose that the Principal Designer and Principal Contractor would have the same responsibilities as above (in relation to the golden thread) but they would also be responsible for:

- Obtaining information about the existing building
- Ensure they meet the duty to cooperate and share information with the principal accountable person and the relevant accountable person so that the principal accountable person and the relevant accountable person can continue to meet their broader duties to ensure the building is safe.

Question: Do you agree or disagree with the proposed duties on the Principal Designer and Principal Contractor regarding building work in an existing, occupied, higher-risk building in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

8.14 Other dutyholders will be required to provide information and be responsible for updating information when necessary. They may not interact directly with the golden thread IT/digital system- they may instead provide information to be inputted into the system by the Principal Designer or the Principal Contractor.

Question: Do you agree or disagree with the proposed duties on other dutyholders in relation to the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

The new more stringent building control process and the golden thread

Building control approval application and the golden thread of information

8.15 We propose that all the information that the applicant has to submit as part of the building control approval application should be stored in the golden thread. This information is needed by the client, Principal Designer, Principal Contractor and any other relevant dutyholders in order to ensure that they are complying with building regulations and to demonstrate this compliance to the Building Safety Regulator. Having accurate and accessible information about a building is essential to understand a building and ensure that it is safe.

Question: Do you agree or disagree with the proposal that all the information to be submitted in a building control approval application should be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: If you answered disagree, what information do you suggest is stored in the golden thread to support compliance with relevant building regulations?

8.16 Dutyholders will be required to submit an application for building control approval to the Building Safety Regulator with plans and new prescribed documents before building work commences. This information must be stored in the golden thread.

8.17 We consider this information should be stored in the golden thread as it is the information that is needed by the client, Principal Designer, Principal Contractor and any other relevant dutyholders in order to ensure that they are complying with building regulations and to demonstrate this compliance to the Regulator. Having accurate and accessible information about a building is essential to understand a building and ensure that it is safe.

Question: Do you agree or disagree with the proposal that all the information to be submitted in a building control approval application should be stored in the golden thread?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Information handover on building completion

8.18 It is important that building owners and dutyholders (the principle accountable person, accountable person(s) and Responsible Persons) have the information they need in an accessible and useable format to manage building and fire safety during occupation.

8.19 We therefore propose that as part of the completion certificate application, the client must handover the golden thread to the relevant person. The relevant person will be different depending on whether the building is in scope of the occupation regime.

8.20 Every building in scope of the new regime to which part four of the Building Safety Act 2022 will apply (multi-occupied high-rise residential buildings) will have a principal accountable person who will be required to meet numerous duties during the occupation phase to ensure resident safety, including conducting assessments of building safety risks, taking proportionate steps to reduce and manage risks, summarising these in a safety case report for the building and storing information in the golden thread. The principal accountable person will be the relevant person. More detail can be found in the consultation on the new safety regime for occupied higher-risk buildings. This consultation can be found on the [building safety citizen space homepage here](#). If there are multiple accountable persons, the principal accountable person will be responsible for ensuring that other accountable person(s) have access to the golden thread. For some buildings the principal accountable person will not be the same person as the Responsible Person. In this situation it will be the duty of the principal accountable person to ensure the Responsible Person has access to fire safety information.

8.21 For buildings that are in scope of the design and construction regime but are not in scope of the occupation regime (for instance, in-scope hospitals and care home), the Fire Safety Order and the Housing Act 2004 will continue to regulate how standards are enforced to manage the overall safety of residents. Therefore, for these buildings the relevant person will be the Responsible Person, there will be no principal accountable person or accountable person(s).

8.22 For both buildings in scope of the new regime to which part four of the Act will apply, and for buildings that are only in scope of the design and construction regime, we propose that the client hands over to the relevant person:

- The information required to be submitted to the Building Safety Regulator in a completion certificate application (the prescribed documents);
- The relevant information/evidence required to support the prescribed documents;
- Completion certificate issued by the Building Safety Regulator under the building regulations; and,
- Any further information that is relevant to the ongoing safety of the building and is not covered by the material above – this could include documents/information required to be submitted to the Building Safety Regulator at building control approval stage, and information required through the statutory change control

process during the construction phase. We would expect that most information would be covered in the bullets above.

8.23 For buildings that are only in scope of the design and construction regime we also propose that the client extracts the fire safety information and also hands that over to the Responsible Person as standalone information.

8.24 We also propose that the client and relevant person must co-sign a statement confirming that a copy of the design and construction golden thread information was provided to the relevant person, and the relevant person has received that information. Although high-rise hospitals and care homes are not proposed to be in scope of the occupation regime, we consider it is important that the golden thread is handed over to the Responsible Person as it provides them with useful information for managing fire safety in their building. However, as the Responsible Person will only have ongoing requirements regarding fire safety (under the Fire Safety Order) we considered it would be sensible for the fire safety information to also be extracted from the golden thread so that it could be more easily utilised and accessed.

Question: Do you agree or disagree that with the proposals for the golden thread information that should be handed over to the relevant person?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

Question: Do you agree or disagree that as part of the building completion certificate application, the client and the relevant person should co-sign a statement confirming that the client has handed over the golden thread to the relevant person, and that the relevant person has received the golden thread?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please outline what changes you think should be made.

8.25 We propose that the golden thread should be handed over to the relevant person no later than the date of completion.

Question: Do you agree or disagree with the proposal that golden thread should be provided to the relevant person for the higher-risk buildings no later than the date of completion?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

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Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made

Golden thread and partial completion

8.26 With partial completion, the focus of the golden thread, information handover and shared information should be on ensuring that everyone has access to the information they need. When part of a building has been completed (i.e. passed the partial completion certificate application stage) we propose that information required in the partial completion certificate application, should be handed over to the principal accountable person and the relevant accountable person(s) (i.e. the accountable person(s) responsible for that part of the building). This information should provide an accurate, and up-to-date view of that section of the building. As more sections of the building are completed (i.e. pass the completion certificate application stage) then more information will be handed over to the principal accountable person and the relevant accountable person each time a partial completion certificate application is approved by the Building Safety Regulator.

8.27 We also propose that there should be an ongoing duty to cooperate on the client and the principal accountable person, beyond the requirement to handover information when sections of the building pass the partial completion certificate application stage. This is because during the process of partial completion there could be issues around the construction or management of the building that could impact on both the compliance with building regulations and managing a safe building. Therefore, we intend to put in place an ongoing duty on the client and the principal accountable person to cooperate and share information.

8.28 The golden thread principles set out that we intend to require the client to set out a 'transfer agreement' at the beginning of the project which would have to outline how information will be transferred and what information must be shared though partial completion. More detail can be found in the consultation section on how the golden thread is managed and stored. Furthermore, the transfer agreement will set out any technical requirements on how information will be handed over and any exchange mechanisms that will be used to ensure information can be handed over (as the client and the principal accountable person are likely to be using different IT systems).

Question: Do you agree or disagree with the proposal for information sharing and access to the golden thread between the client, the principal accountable person and accountable person(s) when a building goes through partial completion?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree with the need for an ongoing duty to cooperate on the Client the principal accountable person and the accountable person(s) through the process of partial completion?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Handover of information in Higher-Risk Buildings (new build and refurbishments) and regulations 38 to 40 of the Building Regulations 2010

8.29 Currently Regulations 38, 39 and 40 of the Building Regulations 2010 apply on completion of building work on a building to which the Fire Safety Order 2005 applies or will apply after the completion of building work. Under these regulations, the person carrying out the work is responsible for handing over fire safety information to the Responsible Person (under the Fire Safety Order), and is responsible for handing over information about ventilation and the use of fuel and power to the owner of the building.

8.30 We propose to disapply Regulations 38, 39 and 40 for higher-risk buildings because we consider the handover of information will already be covered by the requirement for the client dutyholder to hand over the golden thread.

Question: Do you agree or disagree with the proposal that the golden thread requirements will be sufficient and regulation 38, 39, 40 cannot apply to buildings in scope of the more stringent regime?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Golden thread principles

8.31 The golden thread is a key part of the new more stringent regime. Having a golden thread of accessible and transferrable information will ensure that the right people have the right information at the right time in order to manage the building safety.

8.32 This section focuses on how the golden thread is stored and managed (the golden thread principles) to enable people to access, share and manage the information. The Building Regulations Advisory Committee golden thread working group previously published a report setting out the golden thread principles. This consultation sets out more details on our proposals on how we intend to turn these principles into regulations.

Digital

8.33 To ensure that the client, Principal Designer, Principal Contractor and others have information that is accessible, can be quickly updated and handed over, the golden thread has to be digital. However, we do not want to restrict innovation and hinder industry by setting a definition of digital in regulations that could become outdated.

8.34 In practice, people and organisations may choose to implement the golden thread through very different digital systems. Some parts of the sector are already leading the way and there are many specialised software systems that are already in use. We want to allow for technological developments to be adopted but we also do not want to burden the sector by imposing requirements that would mean people have to invest in new digital systems, when their existing systems are able to support compliance with building regulations.

8.35 As a comparison we have considered the example of the Computer Misuse Act 1990 which purposefully did not provide a definition of a computer because rapid changes in technology would mean any definition would soon become out of date. Definition was therefore left to the Courts. We propose to adopt a similar approach with the golden thread. We propose to require that the golden thread should be digital and that by digital which we mean that information and data is stored electronically and can be transferred electronically. This is a purposefully broad definition. The Building Safety Regulator intends to set out some best practice and examples of how someone could implement the golden thread in guidance.

Question: Do you agree or disagree with the proposal to not define digital in regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what you think changes should be made.

Accurate and up to date

8.36 The consultation sections on building control approval, change control, building completions certificates, building work in existing buildings and mandatory occurrence reports set out the information and documents to be kept in the golden thread.

8.37 We plan to require that these information and documents are kept up to date as far as possible. We also propose to require that they need to be accurate and valid at the point they were created. Some information will always have to be accurate and reflect the building at the present point in time. This means that some information will need to be continually updated. Some information will only need to be accurate at the point it was created, and this information will not need to be kept updated. For instance, the information submitted at the application for building control approval is accurate at the time it was produced. However, as the building is constructed the information will be updated (as is set out in the consultation section on change control). This does not mean that the prescribed documents submitted at building control application are themselves updated. These documents remain the same and need to be retained in the golden thread. This is because it is important for the client, Principal Designer and

Principal Contractor to be able to review the building as designed and the changes that were made through construction. So, we expect the golden thread to comprise:

- Accurate and up to date information/documents about the building at the present moment in time;
- Information/documents that accurately reflect the building at points in the lifecycle of the building(a 'snapshot'); and,
- As set out in consultation section on change control and managing the golden thread throughout design and construction it is important that all information in the golden thread should only be retained if it is relevant to ensuring either complying with applicable building regulations or managing the safety of the building.

Question: Do you agree or disagree with the proposal that not all the information in the golden thread needs to be updated but may still be relevant to enable someone to have a clear understanding of the building at the present moment in time and support compliance with building regulations?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Single source of truth and ensuring information can be shared and transferred with other people

8.38 We propose that the golden thread should operate as a single point of truth. This means that all relevant people working on the building can access the same information even though they are working on different systems/software/platforms as the different systems interact and work together.

8.39 The benefits of operating as a single source of truth are that people can update the information/documents and other people can see these changes (in a timely manner). This avoids duplication of information and potential for error as it avoids documents being emailed between different companies and therefore creating multiple versions of the same document.

8.40 This means that the golden thread needs to be interoperable - the information in the golden thread needs to be able to be exchanged and used on different software systems whilst retaining its structured format and ensuring that no information is lost or distorted. The digital solution maybe different for different organisations but will enable the information in the golden thread to be shared by and updated by people using different software platform and based in different organisations.

8.41 In practice this means the information should be able to be shared and accessed by designers and contractors who may use different software. Once the building has been designed and built the golden thread will be handed over to the relevant person (either the principal accountable person or the Responsible Person) who will be responsible for the building once it is occupied. The information and documents,

therefore, needs to be accessible to them although they may use a different digital solution.

8.42 Furthermore, given the length of life of these buildings it is likely that in the future the golden thread information will need to be transferred to systems that have not been developed.

8.43 For these reasons, we do not want to require particular software and technical solutions which would rapidly become outdated.

8.44 Our approach aligns with the broad requirements of the International Standard ISO 19650 series and the guidance produced by the UK BIM Framework. These standards and guidance define digital information management principles in the built environment and are already used within certain parts of the sector.

8.45 We, therefore, want to require that the following elements are in place:

- All information management process – which should set out the process or steps that enables all those who need to provide, access, modify information to do so;
- All relevant persons (i.e., people who need to use the information) understand these processes and their responsibilities around information and documents (i.e. what they are responsible for creating, commenting on, contributing to, clearing, verifying, archiving); and,
- A digital solution that enables the information management process to work.

8.46 We also propose that the client(s) is responsible for setting out a transfer plan which sets out how information and documents will be transferred throughout the building lifecycle. This is because the digital solutions used for designing a building will not usually be the same as those used when managing a building. Also, often when a management company changes, there maybe a change in software providers.

8.47 It would not be reasonable to mandate that people use the same systems throughout the building lifecycle – as people are likely to have already invested in software systems, and certain systems are more appropriate for different phases. Instead, we consider there needs to be a clearly understood process in place for how information will be transferred. We consider that the transfer plan should set out clearly how the client(s) are meeting the requirements to ensure that golden thread information can be transferred. We propose that transfer plan should set out how they plan to ensure:

- That the data/information in the golden thread retain its structured format (i.e. the information should retain fidelity with its original format – its shouldn't be changed or lose anything by being transferred); and,
- That the data and/or information remains accessible and any files containing data/information can be opened and are still accessible and useable following transfer:
- The client will need to keep the transfer plan updated.
- We will work with the Building Safety Regulator to support them in developing guidance. From early discussions, the intention is that it sets out the different types of exchange solution in guidance and not in regulations. This is because it would be too prescriptive and likely to become quickly out of date (as new exchange solutions/software is developed). We consider the regulations should focus on the outcome (i.e. that information is transferred) and not how the outcome is delivered.

- Although we do not want to regulate a particular technical or software solution, the Building Safety Regulator intends to provide guidance on how people might meet these requirements.

Question: Do you agree or disagree with the proposed approach for the golden thread operating as a single point of truth and ensuring the information kept within it is one that allows for transfer of information and interoperability as described?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree with proposals around ensuring that information is able to be transferred?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Secure

8.48 The golden thread has to be secure from both illicit internal and external access. This means that the golden thread has to have sufficient protocols in place to protect personal information and control access to maintain the security of the building/ local area/residents. Having a secure system means people can use and store sensitive information in the golden thread. This means people will not have to use a separate system for sensitive information and ensures that the golden thread operates as a single system.

8.49 A secure system means protected against external access (e.g., hacking) and protected (with security mechanism and protocols) against untoward internal access. So, for instance staff members would only be given access to parts of the golden thread that they require. This can be done through having information stored on different linked systems or different security level accesses.

8.50 We intend to regulate that the client has to do 'as much as is reasonably practicable to ensure the golden thread is secure'.

8.51 The government has already published extensive guidance on digital security and ensuring compliance with GDPR (as set out below). We are going to consider whether any additional guidance is required.

[NCSC guidance on cyber security in managing critical national infrastructure](#)

[NCSC guidance on protecting organisations from cyberattack](#)

[CPNI guidance on cyberattacks](#)

Question: Do you agree or disagree with proposed approach to ensure the golden thread is secure?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes should be made.

Accessible

8.52 The golden thread needs to be accessible and navigable, so that people can easily find the right information at the right time. This means that the information needs to be stored in a structured way and managed so people can easily find, update and extract the right information. However, we do not want to set out prescriptive requirements on how people should structure and organise their information. We consider this would be burdensome and not be proportionate. It also would impose a 'one size fits all' solution on the sector.

8.53 We, therefore, propose to require that the client, Principal Designer, Principal Contractor and other dutyholders must keep info/copy documentation in such a way as to ensure so far as possible that persons who need to (i.e. relevant persons):

- Are able to access the golden thread;
- Are able to do this in a timely manner;
- Are able to navigate the golden thread to easily find the relevant information within it; and,
- Are able to access and use the information in a form that is useable for their purpose.

8.54 We understand that relevant persons may alter through the lifecycle of a building and that different organisations may have different definitions of who is a relevant person. For instance, some organisations may have multiple people interacting and updating the golden thread, whereas others may prefer to utilise a data manager to be the nominated person to manage the golden thread.

8.55 We consider setting the high-level requirement in regulations will deliver the outcome of an accessible golden thread whilst enabling people to have the flexibility to determine how the golden thread should work for their organisation/building. The government intends to set out more details on how to ensure systems are accessible in guidance.

Question: Do you agree or disagree with proposed approach to ensure the golden thread is accessible?

- Agree
- Disagree

- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Understandable and consistent

8.56 The information in the golden thread needs to be understandable and consistent for the people who need to use the information. If people cannot understand the information, then they cannot effectively use the golden thread to help them. We want to require that the language/information in the golden thread is consistent for that project/building and that the language in the golden thread should be consistent and appropriate for the people who need to use it. People who input information in the golden thread need to be mindful that this information needs to be understood and used by others.

8.57 We do not want to mandate in detail any specific data dictionaries or data standards – as we consider that would be too prescription and burdensome.

Question: Do you agree or disagree with the proposed approach to ensuring the language/information in the golden thread is consistent for the building and that the language in the golden thread should be consistent and appropriate for the people who need to use it?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree with the approach not to mandate that the golden thread needs to comply with a particular British standard or International standard or data dictionary?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Accountability

8.58 The golden thread is part of how the new more stringent regime is ensuring driving greater accountability within the sector. We propose that the client will have to ensure the following:

- That there is a record in the golden thread of who inputs information/documents into the golden thread (for instance this could be done automatically as the system records when documents are uploaded), or that the information management strategy should make clear who is responsible for inputting information into the golden thread. To note, it may not be that the information management strategy names a particular person it could specify a role(s) or team(s) who are responsible for inputting information to the golden thread;
- That the golden thread should record when information/documents are changed/updated, or the information management strategy should set out how this will be recorded. To note, it may not be appropriate to record every change to a document, it may just be that major changes are recorded. The information management strategy should make this clear; and,
- That the information management strategy sets out responsibilities for approving when changes are made (not just the person who makes the change in a document).

Question: Do you agree or disagree with the approach for ensuring accountability?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

9. Mandatory occurrence reporting

9.1 We propose the mandatory occurrence reporting regime during the design and construction (or refurbishment) of higher-risk buildings will place duties on the Principal Designer and the Principal Contractor after the building control approval application stage:

- To establish and operate an effective mandatory occurrence reporting system to enable those undertaking design work or building work to report safety occurrences to the dutyholder(s); and,
- To report safety occurrences to the Building Safety Regulator in a required manner.

9.2 We intend to place a duty on the client to ensure they take all reasonable steps to satisfy themselves that the Principal Contractor and Principal Designer appointed is able to fulfil the mandatory occurrence reporting requirements and have a mandatory occurrence reporting system in place. However, in our proposal the client will have no responsibility themselves for establishing, maintaining or operating the system(s).

9.3 We further propose that the principal dutyholders take reasonable steps to ensure each reporting person is provided with adequate instruction and information on the system established and the incidents or situations that must be reported by the reporting person throughout the system. In addition, we intend to require that the Principal

Contractor and Principal Designer must ensure that an appropriate frequency of inspections of higher-risk building work for safety occurrences throughout the construction phase.

9.4 We do not intend to be overly prescriptive (beyond the duties set out above) in terms of how a reporting system should be implemented nor how it is operated or maintained. However, we propose that the principles of an effective reporting system should be:

- Be known to, understood by, and accessible to dutyholders;
- Form an ongoing, integral, and regular part of the design and construction safety management process;
- Maintain an approach which facilitates urgent reporting of occurrences
- Identify and capture mandatory occurrences; and,
- Allow mandatory occurrences to be formally reported to the regulator as soon as is practicably possible and within the mandated time.

9.5 Where the dutyholder becomes aware of a safety occurrence, we intend to require that they notify the regulator of the safety occurrence without undue delay and provide the regulator with a written report containing required information within 10 calendar days of becoming aware of the occurrence.

9.6 If a dutyholder contravenes this requirement, we propose that they will have a defence if they believe another dutyholder has already notified the Building Safety Regulator, or they have already provided the Regulator with a written report.

Question: Do you agree or disagree that, when a dutyholder has become aware of an occurrence they must report the occurrence to the Building Safety Regulator without undue delay and provide a written report within 10 calendar days?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

9.7 The Building Safety Regulator will produce guidance detailing the circumstances of safety occurrences which should be reported [\[footnote 5\]](#) to the Building Safety Regulator during the design and construction process. However, this will not be a definitive list and the dutyholder will need to use its own judgement to determine whether the incident meets the definition as detailed below.

9.8 Under the proposed regime, a safety occurrence is defined as:

- In relation to a design, an aspect of the design relating to the structural integrity or fire safety of a higher-risk building that would, if built, meet the risk condition;
- Otherwise, an incident or situation relating to the structural integrity or fire safety of a higher-risk building that meets the risk condition.
-

9.9 In our proposed definition of “safety occurrence”, the proposed definition of the “risk condition” is that use of the building in question without the incident or situation being

remedied would belikely to present a risk of a significant number of deaths, or serious injury to a significant number of people.

9.10 We understand that the current definition leaves some room for interpretation, and this is intentional. The intention of mandatory occurrence reporting is to drive a proactive safety and reporting culture and to capture serious incidences which may be indicative of a larger systemic issue across fire and structural building safety.

Question: Do you agree or disagree with the proposed definitions of safety occurrence and risk condition?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

9.11 The Building Safety Regulator will implement a reporting procedure to facilitate the submission of information about the safety occurrence by the dutyholders. This is likely to be carried out via an online digital solution specified in the regulations.

9.12 We propose that the required information for mandatory occurrence reporting that must be shared with the Building Safety Regulator is:

- The date and time of the safety occurrence;
- The address of the site at which the occurrence happened; and
- Name and contact details of the principal dutyholder making the report; and,
- The details of the occurrence, including the nature of the risk.

Question: Do you agree or disagree that the proposed information required when reporting a safety occurrence is appropriate?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

10. More rigorous enforcement powers. A wider and more flexible range of powers will be created to focus incentives on the creation of reliably safe buildings from the outset. This includes compliance and appeals.

Enforcement in the Building Safety Act 2022

10.1 The Building Safety Act 2022 is giving regulators stronger enforcement powers. This will make sure those responsible for non-compliance are held accountable and provide a strong deterrent against non-compliant action.

10.2 By doing this, we are taking forward Dame Judith Hackitt's recommendation of stronger enforcement measures during the design and construction of buildings to underpin the new regulatory regime.

10.3 We have included the following enforcement measures in the Building Safety Act 2022 to be used during the design and construction of all buildings:

- We have increased the penalty for a breach of building regulations under section 35 of the Building Act 1984 to a maximum penalty of an unlimited fine and/or two years in prison;
- We have expanded section 35 of the Building Act 1984 so that it applies not only to breach of provisions of building regulations, but also to breach of individual requirements imposed under building regulations. For example, this will mean that where building control authorities impose requirements at the time of granting building control approval (such as a requirement to provide more plans before a particular stage of work begins), then breach of those requirements will also be an offence under section 35;
- We have amended section 36 of the Building Act 1984 to extend the time limit to take action to correct non-compliant work under this section to ten years and, of course, to the Building Safety Regulator as a building control authority will have powers under this section; and,
- The Building Safety Regulator and local authorities can issue compliance and stop notices against non-compliant work. Compliance notices will require work to be corrected by a certain date, and stop notices will require non-compliant work to be stopped until the non-compliant action has been addressed. Failure to comply with either notice will be a criminal offence, with a maximum penalty of up to two years in prison and an unlimited fine.

10.4 We are now proposing the procedural and administrative requirements around the use of compliance and stop notices. We are also setting out options concerning existing building regulations which are exemptions to enforcement action. We will do this using the powers in sections 35, 35B, 35C and 35D of the Building Act 1984 (as inserted or amended by the Building Safety Act 2022).

Enforcement: service and content of compliance and stop notices

10.5 Compliance and stop notices will be available for the Building Safety Regulator to use for the design and construction of higher-risk buildings, and also for local authorities to use for the design and construction of non higher-risk buildings.

10.6 It is important that where notices are issued, they are served with the correct information and to the relevant individuals. This will make sure notices are complied with and are not disregarded on the basis that the notices are misleading or confusing.

10.7 We have modelled compliance and stop notices after section 23 of the Health and Safety at Work etc Act 1974. Section 23 sets out the content of improvement and prohibition notices served by Health & Safety Executive inspectors.

Compliance notices

10.8 Compliance notices should contain the following information:

- The date the notice is issued on to set out the period of appeal;
- Name or description of the recipient;
- A statement setting out the consequences of failing to comply with the notice;
- A statement that it is a compliance notice under section 35B of the Building Act 1984;
- A description of the work where the breach has occurred;
- The provision of building regulations which has been contravened;
- Details of the contravention; and,
- Details of the route of appeal to the First-tier Tribunal

10.9 A compliance notice must only be issued against one contravention of building regulations or one requirement imposed under building regulations. This means that where there are multiple contraventions of building regulations, a compliance notice must be served for each contravention of a building regulation or requirement imposed under regulations.

Stop notices

10.10 Stop notices should contain the following information:

- The date the notice is issued on to set out the period of appeal;
- Name or description of the recipient;
- A statement setting out the consequences of failing to comply with the notice;
- A statement that it is a stop notice under section 35C of the Building Act 1984;
- Make clear whether the stop notice is being issued under s35C(1)(a), (b) or (c) i.e., against a contravention of specific building regulations, breach of a compliance notice or a contravention of building regulations which has led to or will lead to serious harm;
- Details of the contravention and, where relevant, a description of the serious harm that is anticipated; and,
- Details of the route of appeal to the First-tier Tribunal and how to apply to the Tribunal to suspend the notice so it has no effect during appeal proceedings.

10.11 As mentioned above, new section 35C of the Building Act 1984 states that a stop notice can only be issued against a) a contravention of specific building regulations; b) a contravention of a compliance notice or c) a contravention of building regulations which can cause serious harm (this means that there is a risk of serious harm to people in or around a building if the contravention is not corrected).

10.12 Under section 35C(1)(a), contravention of specific building regulations, we are proposing that stop notices can only be issued against the contravention of the following building regulations:

- Starting work on a new higher-risk building before the Building Safety Regulator has approved a building control application with plans for the building;
- Starting certain [\[footnote 6\]](#) building work on an existing higher-risk building before the Building Safety Regulator has approved a building control application with plans for the building work, and
- Carrying out a 'major' change before a change control application is granted – both in relation to creating a new higher-risk building or when carrying out building work in an existing higher-risk building (refurbishment).

10.13 Under section 35C(1)(b) or (c), building control authorities will be able to issue stop notices in relation to any building regulation, not just the ones mentioned in the paragraph above.

10.14 Compliance and stop notices must be served in accordance with section 94 of the Building Act 1984.

10.15 Notices may include directions on how to remedy the breach, however this will be at the discretion of the building control authority. It will not be a requirement; they could just state in general terms that the contravention must be remedied.

Question: Do you agree or disagree with the contents of compliance and stop notices detailed above? Is it fit for purpose?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you have answered disagree, please explain what changes you think should be made.

Enforcement: notification of interested parties

10.16 For the purposes of section 35D(3), we propose the following persons/bodies should be notified after a compliance or stop notice is issued:

- The client, Principal Contractor and Principal Designer, as they have an active interest in the building's construction and should be aware of an act of non-compliance on the premises;
- The relevant fire safety enforcing authority for the area in question where the contravention specified in the notice relates to Part B (fire safety) of Schedule 1 of Building Regulations 2010, to make sure that fire and rescue authorities are aware of fire safety breaches in their capacity as the regulator for fire safety; and,
- The Building Safety Regulator where the contravention specified in the notice relates to Part B (fire safety) of Schedule 1 of Building Regulations 2010 and the building to which the notice relates is over 11m (or will be when completed), as we want to make sure the most significant breaches are alerted to the Building Safety Regulator in its role as having oversight over building control authorities and the buildings they regulate.

Question: Do you agree or disagree that the persons/bodies mentioned above should be notified after a compliance or stop notice is issued?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you answered disagree, please explain whether any other bodies/persons should be notified after a compliance or stop is issued?

Enforcement: withdrawal, extension & amendment of notices

10.17 We want building control authorities to be able to withdraw compliance or stop notices at any time, even where an appeal is pending. The ability to withdraw notices at any time will simplify legal proceedings for the building control authority, recipient and First-tier Tribunal.

10.18 We also want building control authorities to be able to amend notices, including extending the compliance period for notices, at any time, except where an appeal is pending.

10.19 The reason for this difference during appeal proceedings is because we want to avoid notices being amended or extended whilst tribunal proceedings are in progress. If the building control authority wants to amend or extend notices during an appeal, they can withdraw and issue a new notice.

10.20 The final decision to issue, amend, extend or withdraw a notice will remain with the building control authority. We do not want to prescribe any further requirements on requests for the amendment/extension/withdrawal of notices. This is to allow for flexibility within the approach and not tie building control authorities and recipients to legal procedural timings.

Question: Would you like to provide any comments on our proposed approach for amending, extending and withdrawing compliance and stop notices?

Exceptions to enforcement action

10.21 Under regulation 47 of the Building Regulations 2010, contravention of regulations 17, 17A, 25A, 27, 27A, 37, 41, 42, 43 and 44 of the Building Regulations 2010 are currently exempt from prosecution under section 35 of the Building Act 1984. These regulations set out administrative procedures, such as CO2 emission rate calculations (regulation 27) and sound insulation testing (regulation 41).

10.22 We are considering whether some or all of the regulations listed above should be removed entirely from the exemption. This means it will be enforceable under section 35 of the Building Act 1984. We also propose that similar exclusions from section 35B (compliance notices) should be introduced.

10.23 This would be in line with broader work the Department is doing in raising standards in the technical guidance to building regulations.

10.24 We therefore propose two options for prosecutions under s35 and compliance notices under s35B:

Not to have exemptions in relation to some or all the regulations between 25A to 44, in line with the effort to raise standards across the building control regime; or, Replicate some or all the exceptions mentioned above as exceptions to enforcement action through compliance notices.

10.25 Currently, duties on building control authorities and approved inspectors in building regulations are exempt from prosecution under section 35 of the Building Act 1984. These duties are set out in the Building (Approved Inspectors etc) Regulations 2010 (except regulation 19), Building (Local Authority Charges) Regulations 2010 and regulations 17 and 17A of the Building Regulations 2010.

10.26 We do not propose to remove the exemption on building control authority or approved inspectors duties. We propose that any new procedural provisions of building control authorities in the new regulations will be added to this list.

Question: Which proposed option outlined for prosecutions under s35 and compliance notices under s35B do you prefer?

- Option 1: Not to have exemptions in relation to some or all the regulations between 25A to 44, inline with the effort to raise standards across the building control regime
- Option 2: Replicate some or all the exceptions mentioned above as exceptions to enforcement action through compliance notices.
- Other
- Don't know

Question: Please explain your answer. If you prefer option 1, which regulations should be exempt?

Dutyholder and competence requirements – Enforcement

10.27 We propose that breach of the dutyholder's duties and the competence requirements will be a criminal offence, contrary to section 35 of the Building Act 1984.

10.28 For higher-risk building work, and work under a Regulator's Notice such as mixed development of higher-risk buildings and non higher-risk buildings, enforcement of these duties will be by the Building Safety Regulator as the building control authority for such buildings.

10.29 For non higher-risk building work that is not overseen by the Building Safety Regulator, we expect the local authority building control teams and the registered building control approvers to take a risk-based approach, in a way that is proportionate to the nature and scale of the project, and the level of risks involved. The Building Safety Regulator will outline requirements of building control teams and registered building control approvers on regulatory approaches that will support proportionate, consistent, transparent, accountable and targeted regulation.

10.30 Our intention is that both private and public sector inspectors/approvers should play a crucial part in the enforcement of these regulations. We expect that the enforcement of these duties will occur through a reactive approach to regulations, which includes observations made during site inspections undertaken by building control, the collation of evidence, referrals, reversions, complaints from within a local authority by their Trading Standards colleagues etc. Where it is clear that the dutyholder cannot

demonstrate that they are meeting the dutyholder or competence requirements, local authorities can use a range of enforcement tools, from giving verbal advice, serving of a compliance notice, or ultimately prosecution under section 35 of the Building Act 1984.

10.31 Where building control supervision is done by registered building control approvers, we expect them to hold dutyholders to account with regard to their duties and the competence requirements. Breaches of the dutyholders and competence requirements should be dealt with in the same way as other breaches of the building regulations, through the route laid out in section 52(1)(c) and section 52(2) of the Building Act 1984, and regulation 18 of the Building (Approved Inspectors etc.) Regulations 2010. The registered building control approvers will be expected to give notice of contraventions to the person carrying out the work that they intend to cancel the initial notice for the building work unless the contravention of the requirement is remedied within the time provided in the notice. If contraventions are not remedied, registered building control approvers will have the method of cancelling the initial notice, and the work will revert back to the local authority building control for enforcement, who will have the enforcement mechanisms previously mentioned available to them.

10.32 Regulation 18 of the Building (Approved Inspectors etc.) Regulations 2010 refers to work which has been carried out in contravention of requirements of the building regulations. However, it is not clear that this could apply to breaches of the dutyholder or competence requirements. We therefore propose to amend regulation 18 of the Building (Approved Inspectors etc.) Regulations 2010 so it also refers to a breach of the dutyholder's duties or the competence requirements. This will enable a notice of contravention to be given requiring remedial action to rectify the breach. Currently, the period within which the person carrying out the work is to remedy the contravention is three months, beginning with the day on which the notice is given. However, we consider that it may be more appropriate that breaches of the dutyholder duties and competence requirements are remedied as soon as reasonably practicable and are considering whether the period within which these breaches to be remedied should be shorter than three months. We would be interested to hear your views on what an appropriate timescale would be.

Question: Do you agree or disagree with the enforcement approaches proposed for non higher-risk buildings, similar to other contraventions under Regulation 18?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Should the period for remedying the breaches of the dutyholders' duties and competence requirements be similar to other contraventions under Regulation 18 (three months) or shorter?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer. If you have answered no, please explain what you think the reasonable period should be and your reasons.

Approach to appeals

10.33 As part of the new regime, we are setting up a specialist unit within the First-tier Tribunal. This will deal only with building safety matters. We want to align the appeals procedure for all building regulations appeals so that they sit with the Tribunal. That is why we are moving appeals from the magistrates' court to the Tribunal.

10.34 For building control decisions on higher-risk buildings (and other buildings in relation to which the Building Safety Regulator is the building control authority), the Building Safety Act 2022 envisages appeal routes will follow a two-stage process. First, an internal review by the Building Safety Regulator. This appeal route will be available where the Building Safety Regulator makes a decision in relation to building control matters including an application for building control approval, change control, and completion certificates. Where parties are still unhappy with the outcome of the Building Safety Regulator's review, the Tribunal will handle escalated appeals.

10.35 For building control decisions by local authorities, the Building Safety Act 2022 transfers the route of appeal under the Building Act 1984 from the magistrates' court to the Tribunal. There is no internal review process by the Building Safety Regulator for non higher-risk buildings; applicants unhappy with a building control decision will appeal directly to the Tribunal.

10.36 When making these provisions, the government intends that, in general, those affected by the decision can appeal. The grounds we propose are that the decision was erroneous in fact, wrong in law, unreasonable, or procedurally flawed. In terms of timing, the appeal should be made within 21 days of the original decision. When ruling, the tribunal may confirm, vary, or quash the decision.

10.37 The exception to this is non higher-risk buildings appeals about use of materials, relaxation of Building Regulations, and refusal to give a plans certificate. The Building Safety Act 2022 provides this local authority decision will be appealed to the Building Safety Regulator, with a further option to escalate to the Tribunal. This is because the Building Safety Regulator has overall oversight of building control in England.

10.38 In terms of the detailed proposals for these appeals, we propose to make provision that any appeal must be made on the grounds that it was erroneous in fact, wrong in law, unreasonable, or procedurally flawed. On timescales, the appeal must be lodged within 21 days of the original decision. Finally, on deciding on the outcome of the appeal, the tribunal may confirm, vary, or quash the decision.

Question: Do you agree or disagree with the government's approach to appeals?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you have answered disagree, please explain what changes you think should be made.

Section 101A appeals

10.39 Additionally, the Act inserts a new appeal route into the Building Act 1984 (see section 101A) where a local authority refuses to consider an application for building control approval or an initial notice or amendment notice on the grounds that the work is, or includes, higher-risk building work. If this happens, the developer can appeal this refusal on the grounds that they think the building work is not higher-risk building work. We are proposing to set out the procedural requirements for this appeals route in these regulations.

10.40 We are proposing to set a time period in which such an appeal can take place. We suggest setting out in regulations that applicants who wish to bring an appeal of this nature must do so within two weeks of the local authority's refusal to consider their application for building control approval, an initial notice or amendment notice.

10.41 We also propose to set out details about the making of these appeals, including their form and content and the information and documents that should be submitted as part of an appeal. We suggest setting out in regulations that applicants must submit the plans originally submitted to the local authority to the appeals body considering their appeal.

10.42 We also propose to appoint a body to consider these appeals and set a time period in which this body must consider this appeal and make a decision. We are seeking views on who this body should be and the time period they need to consider the appeal in through this consultation.

Question: Do you agree or disagree that applicants who wish to bring an appeal of this nature must do so within two weeks of the local authority's refusal to consider their application for building control approval, an initial notice or amendment notice?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you have answered disagree, please explain what you think this time period should be.

Question: Do you agree or disagree that applicants must submit the plans originally submitted to the local authority to the appeals body considering their appeal?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please explain your answer. If you have answered disagree, please explain what documents you think applicants should submit as part of this appeals route.

Question: Would you like to provide any comments on who the appeals body for this appeals route should be?

Question: Would you like to provide any comments on what the time period in which such an appeal must be brought should be?

Review of decisions and appeals

Review of decisions

10.43 The government proposes to introduce regulations which set out which decisions are eligible for internal review by the Building Safety Regulator. The government also proposes to make regulations about procedural and administrative matters for further appeals to the tribunal. By tribunal we mean, the First-tier Tribunal (Property Chamber).

10.44 In setting up the new building safety regime, we are establishing a specialist unit within the First-tier Tribunal. This will deal exclusively with building matters. We want to align the appeals procedure for all building control decisions in England to sit ultimately with the Tribunal, and to accommodate the Building Safety Regulator's position as a new building control authority and with oversight of building control authority in England.

10.45 We are proposing that the following decisions are in scope for an internal review by the Building Safety Regulator:

- decision to refuse—
- a building control approval application
- a change control application
- a completion certificate application
- a partial completion certificate application
- a decision to refuse a regularisation certificate.
- a refusal by the Building Safety Regulator to vary a requirement in a building control approval application.

Question: Do you agree or disagree with making the decisions outlined above eligible for an internal review by the Building Safety Regulator prior to being appealed to the tribunal?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

10.46 In terms of procedural arrangements, the government is also proposing:

- That only the affected person or person carrying out the work can seek an internal review by the Building Safety Regulator

- That any notice seeking an internal review must be lodged within 21 days of the original decision by the Building Safety Regulator
- That there is a statutory time limit of 13 weeks (“review period”), in which the Building Safety Regulator must respond to any request for a review of a decision. Section 25(8) of the Building Safety Act 2022 provides that if the review period ends without the regulator notifying the outcome of the review then the original decision is treated as upheld.

Question: Do you agree or disagree with the reviews process outlined above?

- Agree
- Disagree
- Neither agree nor disagree
- Don’t know

Question: Please provide an explanation for your answer. If you’ve answered disagree, please explain what changes you think should be made.

Appeals to the tribunal in relation to reviewed decisions

10.47 As we have said above, there is a two-stage approach to challenge of Building Safety Regulator decisions for higher-risk buildings during the gateway stages. Where applicants have appealed a Building Safety Regulator decision, there is a further opportunity to challenge the Building Safety Regulator’s ruling at the tribunal (either the original decision, if upheld at review or the decision as varied at the review). The government therefore also proposes to make regulations that, where there the applicant is not happy with the Building Safety Regulator’s decision following internal review:

- The appeal must be lodged to the tribunal within 21 days of the review decision (or within 21 days of the end of the review period referred to above).
- Appeals to be made on the grounds that the Building Safety Regulator’s decision was erroneous in fact, wrong in law, unreasonable, or procedurally flawed
- On determining the appeal, the tribunal may confirm, vary, or quash the decision.

Question: Do you agree or disagree with the appeals process outlined above relation to reviewed decisions?

- Agree
- Disagree
- Neither agree nor disagree
- Don’t know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Section 30A applications

Introduction to section 30A prescribed applications

10.48 Currently, construction and occupation can commence at a developer’s own risk without obtaining building control approval from building control bodies. However, the new building safety regime of gateways introduces hard stops for prescribed applications. To mitigate potential costs of introducing hard stops, and to provide the

sector with certainty for project and financial planning, there will be statutory timescales in which the Building Safety Regulator should decide applications, which the Building Safety Regulator can agree extensions on with the applicant.

10.49 If the Building Safety Regulator does not reach a decision within the statutory timescales, and an extension has not been agreed, applicants will be eligible to make a non-determinations application to the Secretary of State under section 30A of the Building Act 1984. We propose that this option will be available for all applications which fall under the following prescribed applications (whether in relation to gateways or refurbishment applications):

- Building control approval applications
- Change control applications
- Completion certificate applications
- Partial completion certificate applications

Section 30A applications: procedure

10.50 We propose that a section 30A application must be made electronically to the Secretary of State by the person who made the original application. This must be done within six weeks (starting the day after the expiry of the period for determining the application), or a longer period if agreed in writing between the Secretary of State and applicant.

10.51 We propose the application must be made on a form published by the Secretary of State, together with the following documents:

- A copy of the original application given to the Building Safety Regulator (including all documentation that accompanied the application)
- All information provided to the Building Safety Regulator in relation to the original application by the applicant
- All correspondence between the applicant and the Building Safety Regulator in relation to that application
- A copy of the notice sent to the Building Safety Regulator as described below.

10.52 We propose that at least two working days before submitting the section 30A application, the applicant must give notice to the Building Safety Regulator of their intention to do so. This will ensure that resources of the Building Safety Regulator are not unnecessarily spent on continuing to determine the application and to allow the Building Safety Regulator to prepare to provide documents to the Secretary of State. Further, we propose that this notice to the Building Safety Regulator must not be given before the expiry of the period for determining the original prescribed application.

Question: Do you agree or disagree with the proposed procedure for applications made under section 30A of the 1984 Act?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that an application made under section 30A of the 1984Act must be made in writing to the Secretary of State within six weeks (starting with the day after the expiry of the period for determining the relevant application)?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree with the proposed document requirements outlined in Regulation 40(3) for section 30A applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that an applicant should notify the Building Safety Regulator of their intention to make a section 30A application at least two working days before doing so?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Section 30A applications: electronic submissions

10.53 Section 30A non-determination applications to the Secretary of State should be made electronically by completing and returning an online form. In exceptional circumstances, an applicant will be afforded the option of making an application in paper form containing the same information as required by the online form.

10.54 We propose where an applicant submits a section 30A application electronically, they are taken to have consented to the use of electronic communications for all purposes relating to the section 30A application that are capable of being carried out electronically, that is any correspondence in relation to the application. This deemed consent may be revoked by the applicant giving the Secretary of State two weeks' notice in writing specifying that the notice is given under this regulation.

Question: Do you agree or disagree with the proposed approach taken on electronic submissions for section 30A applications?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Section 30A applications: determinations

10.55 We propose a section 30A application is to be determined by written representations. The Secretary of State must give the Building Safety Regulator the opportunity to make written representations in relation to a section 30A application, and the Secretary of State may give any other person an opportunity to make written representations in relation to the application.

10.56 We propose that the Secretary of State may, by notice in writing, require the Building Safety Regulator to provide specified information, or provide copies of specified documents, by the date specified in the notice (that date must be no fewer than 14 days after the date the notice is given).

10.57 We propose that before determining a section 30A application the Secretary of State may:

- Hold any meeting with the applicant, the Building Safety Regulator or any other person;
- Undertake any site visit, testing, or inspection, as the Secretary of State considers appropriate.

10.58 The Secretary of State's decision in relation to a section 30A application must be given in writing to the applicant. A copy of the Secretary of State's decision must be sent to the Building Safety Regulator.

Question: Do you agree or disagree with the proposed process for determining a section 30A application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you agree or disagree that where the Secretary of State requires the Building Safety Regulator to provide specified information, or provide copies of specified documents, the date specified in the notice for providing this must be no fewer than 14 days after the date the notice is given?

- Agree
- Disagree
- Neither agree nor disagree

- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Section 30A applications: appointed persons

10.59 We propose the Secretary of State may appoint a person to determine a section 30A application instead of the Secretary of State and that at any time before a person appointed under this regulation has determined the application the Secretary of State may:

- Revoke that person's appointment
- Appoint another person to determine the application instead.

10.60 We propose that where a new appointment is made the consideration of the application in question must be started afresh. This does not require any person to be given an opportunity to make fresh representations or modify or withdraw representations previously made.

10.61 We propose that a person appointed under this regulation has the same powers and duties in relation to determination of a section 30A application as the Secretary of State. Where an application is determined by a person appointed under this regulation their decision is to be treated as the decision of the Secretary of State. The particular person or body appointed by the Secretary of State to make decisions on non-determinations applications is still under consideration.

Question: Do you agree or disagree with the proposed approach for appointing persons to determine a section 30A application?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Deemed refusal of applications

10.62 For the prescribed applications relevant to section 30A applications, if the period of six weeks in which an applicant can apply to the Secretary of State has transpired without a section 30A non-determinations application being made, the original application will be deemed refused by the Building Safety Regulator. This will also be the case if the Building Safety Regulator does not determine the original application before the expiry of this six-week period.

Question: Do you agree or disagree that the original application should be treated as refused by the Building Safety Regulator in the proposed circumstances outlined above?

- Agree

- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

11. Wider changes to the building regulations to align the existing system with the new system

11.1 As part of the new regime, we also intend to introduce a number of wider changes to building regulations as it is important that we have legislation which works for all building work - not just for higher-risk building work. This includes specifying that building control approvals, and notices which have been given, lapse automatically after three years if work has not started; defining commencement of work both for new builds and where certain building work is carried out in existing buildings; and replacing the current requirement to deposit plans with a new requirement to submit a building control approval application before commencing non higher-risk building work.

Lapse of building control approval

11.2 Section 36 (lapse of building control approval etc) of the Act amends sections 32 and 53A of, and Schedule 4 to, the Building Act 1984 (lapse of Building Control Approval) and makes equivalent amendments in Part 2 of the Building Act 1984. The following references to lapse of building control under section 32 include lapse of building control under section 53A and Schedule 4 as if references to applications for building control approval were references to initial notices and public body's notices.

11.3 This will mean that any application for building control approval made after new regulations come into force, will have three years to start building work from the date the application was made (provided the application was approved by the relevant building control body). If building work has not commenced by the end of three years from that date, the amendments to section 32 have the effect of automatically treating that building control approval as lapsed. Should a developer wish to commence the building work after the building control approval has lapsed, they will need to re-apply for building control approval and the building regulations which have effect at the date of that new application will apply to the building work.

11.4 The government's intention has always been that building control approvals should lapse where work has not commenced within three years. Principally, because over time building regulations requirements are updated, for example, the 2021 uplift to energy efficiency standards, improved ventilation and new overheating requirement. Under the current building control regime, approval does not however lapse automatically, instead after three years, the local authority has the power to issue a notice if the work has not commenced but in the absence of proactive action from the local authority to issue such a notice, the approval would continue indefinitely.

11.5 This new provision remedies this and will ensure that building control approvals, initial notices, plans certificates, and public body's notices and plans certificates, will

lapse automatically rather than requiring a local authority to take proactive action to declare that approval has no effect, or to cancel the notice.

11.6 In addition, under the current regime, if work starts on one building in a multi-building development, all the buildings in the development can benefit from the transitional arrangements. This enables other buildings within that same project to be built to old regulatory standards, even where work has not commenced on those buildings.

11.7 In response to emerging evidence around gaming of the system, when introducing higher energy efficiency, overheating and ventilation standards in 2021 in England, government therefore strengthened the transitional arrangements in Circular guidance to specify that commencement was related to each individual building or building work, not at a site level, by adding the following to the guidance:

“in some cases, applications will be in respect of a number of buildings on a site, for example a number of houses. In such cases, it is only those individual buildings for which work is commenced which can take advantage of the transitional provisions”.

11.8 We are now going further and making it clear in law that such arrangements apply only to individual buildings within a multi-building development. Section 36 of the Building Safety Act 2022 provides that where the work relates to more than one building, and the work relating to one or more of the buildings has not commenced within the three-year time-limit, that the building control approval for those specific buildings will automatically lapse, even if work on the remainder of the site has commenced. This approach will again be supported by stronger, clearer definitions of ‘commencement’ of work.

Defining commencement of work

11.9 To ensure this works effectively, both industry and building control bodies require clarity and certainty as to when work is to be regarded as commenced. We therefore propose to make regulations using the power in section 32(6) of the Building Act 1984 (as amended) to determine what is meant by “commencement” of building work in different scenarios. It says that “building regulations may make provision about when work, or work relating to a building, is to be regarded as commenced for the purposes of this section”.

11.10 Commencement of work is also relevant to transitional periods under the building regulations. When a change to the building regulations is introduced, plans where building work has not commenced within a certain period are subject to the new uplifted requirements. Further details on the transitional arrangements for higher-risk buildings can be found below.

11.11 Currently the government provides guidance on the definition of commencement in Circular letters in England and Wales to support transitional arrangements attached to specific building regulations. For example, the government recently introduced requirements for Electric Vehicle Charge Points in certain settings, with a 12-month transitional period to allow developers who had commenced work to continue to their current plans. At the end of that 12-month period, where work has not commenced, developers are required to include charge points.

11.12 The Circular guidance that supports transitional provisions provides a list of what government considers may or may not constitute commencement. This currently says: In the Department's opinion the commencement of work would usually be marked by work such as:

- excavation for strip or trench foundations or for pad footings;
- digging out and preparation of ground for raft foundations;
- vibro-floatation (stone columns) piling, boring for piles or pile driving;
- drainage work specific to the building(s) concerned.

We consider that the following sorts of work would not be likely to constitute the commencement of work:

- removal of vegetation
- demolition of any previous buildings on the site;
- removal of top- soil;
- removal or treatment of contaminated soil;
- excavation of trial holes;
- dynamic compaction;
- general site servicing works (e.g. roadways)

[Circular letter](#)

11.13 The government is aware that the current approach to setting out what may or may not constitute commencement in circular letters is too open to interpretation and therefore gaming of the system whereby developers only need meet minimum requirements (for example digging one trench or laying drains), to demonstrate that work has 'commenced'. In addition, as the approach to defining what may or may not constitute commencement is set out in guidance, rather than legislation, it is also difficult/impossible for building control authorities to enforce even where they have concerns that the threshold for commencing work has not been met.

11.14 The government intends to address this issue by clearly defining commencement of work in regulations. This will help ensure that a consistent approach is adopted and that building control bodies can enforce the lapse of building control approval after three years (or under transitional provisions where the new definition is applied in future) where they do not consider the definition has been met.

11.15 We propose that separate definitions should apply to commencing work to create a newbuilding and commencing building work in an existing building in recognising the potentially significant differences between the two as the latter can vary considerably in scale and nature.

Defining commencement of work in relation to new buildings

11.16 We propose that either of the following two definitions for commencing work on new buildings (both higher-risk and non higher-risk) should apply depending on the construction method:

i. Completion of the sub-structure of a building up to and including the foundations and any basement levels the construction of walls up to damp proof course level, the laying of foul and surface water drainage (within the footprint of the building) and the installation of the ground floor structure; or

ii. Completion of the sub-structure of a building up to and including the foundations and any basement levels, the laying of foul and surface water drainage (within the footprint of the building) and the installation of the ground level supporting structure.

11.17 Government considers this approach to all buildings to be suitable as it is reasonable to expect at least this level of commencement work to have started within three years.

Question: Do you agree or disagree with the proposed definition of commencement of work in relation to new building work?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Defining commencement of work in relation to work to existing buildings

11.18 We however consider that a more flexible approach is needed where building work is carried out to existing buildings (both higher-risk buildings and buildings which are not higher-risk buildings) as such work can vary significantly in scale and nature from the addition of storeys and/or residential flats to changing the external wall system.

11.19 We propose to define commencement of work in relation to certain building work in existing buildings (both higher-risk and non higher-risk buildings) where we consider the potential impact to be most significant if work does not commence within specified timescales. We propose to define commencement of work in relation to extending an existing building; replacing the external wall system on an existing building; and carrying out a material change of use.

Extending an existing building

11.20 We propose to define commencement of work in relation to a horizontal extension in an existing building (regulation 3(1)(a) of the Building Regulations 2010) as “the completion of the sub-structure of the building up to and including the foundations and any basement levels, the laying of foul and surface water drainage (within the footprint of the building) and the installation of the ground level supporting structure”.

Question: Do you agree or disagree with the proposed definition of commencement of work in relation to extending existing buildings? Is it reasonable?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Replacing an external wall system

11.21 We propose that either of the following two definitions should apply to defining commencement of work in relation to replacing an external wall system:

- Work undertaken to install a new external wall system up to one complete floor level including the following as applicable: brickwork, cladding, windows, cavity barriers/fire breaks, insulation material, balconies and curtain walling; or
- Work undertaken to remove all components of the existing wall system up to one complete floor level including the following as applicable: brickwork, cladding, windows, cavity barriers/firebreaks, insulation material, balconies and curtain walling.

Question: Do you agree or disagree with the proposed definition of commencement of work in relation to replacing an external wall system? Is it reasonable?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Material change of use

11.22 In recognising the variability of material changes of use (as defined in regulation 5) to existing buildings and the extent to which 'commencing' work might differ, we propose that for the work to be deemed as commenced, at least one of the following conditions must be met, as applicable:

- Removal of the heating or ventilation system throughout the area to undergo the change of use;
- Removal of at least 25% of the façade of the building;
- Removal of the internal fit out, including partitions, ceilings and suspended floors from at least 25% of the area to undergo the change of use;
- Completion of work to an entire floor of the building.

Question: Do you agree or disagree with the proposed definition of commencement of work in relation to a material change of use? Is it reasonable?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Are there other types of building work in existing buildings that we should define commencement in relation to?

- Yes
- No
- Don't know

Question: If you have answered yes, what should the definitions of these types of building work be. Please provide an explanation for your answer.

New procedures for building control approval applications for buildings that are not higher-risk buildings

11.23 The Building Safety Act 2022 repeals section 16 (deposit of plans) of the Building Act 1984 and replaces it with a power to make building regulations which provide for applications for building control approval. Under the new regime, we propose that instead of depositing full plans, applicants intending to carry out building work on a building that is not a higher-risk building will need to submit a building control approval application with full plans to the local authority prior to commencing building work. The building control approval application must demonstrate how the proposed building work complies with all applicable building regulations' requirements.

11.24 Proposals must not rely on unrealistic assumptions as to how the building will be maintained and used during occupation. This includes assumptions about the management and maintenance of the building once in use. This approach should support industry culture change by encouraging dutyholders to move away from seeing building regulations compliance as a 'tick box' exercise, towards an outcomes focused approach.

11.25 We propose that the general requirements for a building control approval application for a building that is not a higher-risk building should be as consistent as possible with the requirements for a higher-risk building in terms of the minimum information required. We therefore propose that a building control approval application for a building that is not a higher-risk building will include:

Contact Information:

- The name, address, telephone number and (if available) an email address of the client, the Principal Designer (or sole or lead designer) and Principal Contractor (or sole contractor) (if known at this stage);

Statement:

- confirming that the application for building control approval is made under the specified Regulations;

Statement:

- confirming whether or not the application is in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the building work;
- Description of an existing building: Where the building work consists of work to an existing building, the applicant must include a description of the existing building. This description should include the details of the current use of the building as

well as the current use of each storey, the height of the building and the number of storeys.

Description of the proposed building work:

The applicant must provide a description of the proposed building work. This should include:

- The details of the intended use of the building and the intended use of each storey;
- The height of the building and the number of storeys;
- The provision to be made for the drainage of the building;
- Any required precautions to be taken in the building over a drain, sewer or disposal main to comply with applicable building regulations; and
- The steps to be taken to comply with any local enactment that applies.

Plan:

We propose the applicant must provide a plan to a scale of not less than 1:1250. The plan must outline the size and position of the building and its relationship to adjoining boundaries, the boundaries of the curtilage of the building, and the size, position and use of every other building or proposed building within the curtilage of the building. The applicant should also provide such other plans as is necessary to show that the building work would comply with all applicable requirements of the building regulations, including Part B (fire safety) i.e. full plans.

11.26 The key difference between building control approval applications for buildings that are not higher-risk buildings and higher-risk buildings is that additional new prescribed documents will also be required in the case of the latter, in recognising that they are in scope of the new more stringent regulatory regime.

11.27 We propose that in line with existing practice, the local authority must provide a substantive assessment of the building control approval application and give a notice to the applicant as to whether the application is approved or rejected within five weeks. We propose that where necessary, for example for complex developments, the local authority and applicant should be able to agree an extension to this five-week period, and that this agreement must be set out in writing.

11.28 We do not intend to prescribe a timeframe for extensions in legislation to give local authorities and applicants the flexibility to determine the approach that is most suitable for both parties on a case by case basis. A building control approval application is not to be considered as either approved or rejected until the local authority has given its notice to the applicant. This means that it should not be deemed as automatically granted should the local authority not issue its decision within five weeks. We however want to ensure that the timeframe for determining applications is not unnecessarily lengthy so would welcome views as to whether there should be a route of appeal for dutyholders if they do not consider the timescale for determining their application to be reasonable.

11.29 Where an applicant commences work without approval, the work will be deemed 'at risk', as is currently the case, and those proceeding on this basis should be aware that the local authority could require them to uncover their work and/or carry out remedial work if it has concerns that the building work does not, or will not on

completion, comply with all applicable building regulations' requirements. Applicants are therefore strongly encouraged to await building control approval before commencing work.

Question: Do you agree or disagree that there should be a route of appeal for dutyholders who consider that the timeframe for determining their application has been extended beyond what they consider to be reasonable?

Agree
Disagree
Neither agree nor disagree
Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made

Building Regulation 2010 provisions not applicable to higher-risk buildings, or only applicable subject to amendment

11.30 We intend to amend regulation 9 of the Building Regulations 2010 (exempt buildings and work) in its application to higher-risk buildings specifically to clarify that the following is not exempt in relation to higher-risk buildings – such as any building work closely connected to the higher-risk building for example the, ducting work, external lighting, bin storage area, provision of services to the building such as water, gas, electricity, broadband, secondary power supplies, hydrants, solar power, combined heat and power energy systems, attenuation tanks, accessible parking.

11.31 We also propose to amend regulation 9 to preclude extensions (class 7) as defined under Schedule 2 of the Building Regulations 2010 from being added to higher-risk buildings without approval from the Building Safety Regulator as building control authority for higher-risk buildings. Where such extensions are to be built at the same time as a new higher-risk building is created, we propose that they should be captured by the gateways building control approval process. While if they are to be added to an existing higher-risk building, they should be captured by the refurbishment building control approval process.

Question: Do you agree or disagree with our proposed amendments to Regulation 9 of the Building Regulations 2010 in terms of its application to higher-risk buildings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

11.32 Regulation 10 of the Building Regulations 2010, based on provisions in section 5 of the Building Act 1984, exempts the Metropolitan Police Service via the Metropolitan Police Authority (now known as the Mayor's Office for Policing and Crime) from the

procedural requirements of the building regulations. This means the Metropolitan Police Service and the Mayor's Office for Policing and Crime act as the building control body for their own building work, and they do not have to notify the local authority that building work is taking place. This exemption was originally granted to the Metropolitan Police Authority when they lost their status as a crown body following the transition of responsibility for the Metropolitan Police from the Home Secretary to the Greater London Authority. No other police force or any other public body benefits from this exemption. We are considering whether the Mayor's Office for Policing and Crime and the Metropolitan Police Service should retain their exemption from the procedural requirements of the building regulation for higher-risk building work.

Question: Do you think that the Mayor's Office for Policing and Crime should be exempt from procedural requirements for higher-risk building work?

Yes

No

Don't know

Question: Please provide an explanation for your answer.

11.33 Regulation 11 of the Building Regulations 2010 (power to dispense with or relax requirements) sets out that the power under section 8(1) of the Building Act 1984 to dispense with or relax any requirement contained in these Regulations shall be exercisable by the local authority.

11.34 The Building Safety Regulator has a power in section 8(3A) of the Building Act 1984 to dispense with or relax building regulation requirements, so we do not need to apply regulation 11(1) and (2) of the Building Regulations 2010 to the Building Safety Regulator. We do however need to determine whether in line with existing practice for local authorities under regulation 11(3), the Building Safety Regulator should not be able to disapply or relax energy efficiency requirements. We do not consider that a different approach for higher-risk buildings is appropriate and therefore propose that the Building Safety Regulator should not be able to disapply or relax energy efficiency requirements in these buildings.

Question: Do you agree or disagree that the Building Safety Regulator should not be able to disapply or relax energy efficiency requirements for higher-risk buildings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

11.35 In the above sections, we have outlined proposals for a more stringent procedural regime for higher-risk buildings. These proposals would mean that the following regulations from the Building Regulations 2010 will not need to apply to higher-risk buildings:

- regulation 12 (giving of a building notice or deposit of plans);
- regulation 13 (particulars and plans where a building notice is given);

- regulation 14 (full plans);
- regulation 15 (consultation with sewerage undertaker);
- regulation 16 (notice of commencement and completion of certain stages of work);
- regulation 17 (completion certificates);
- regulation 17A (certificate occupied before building work is completed); and
- regulation 18 (unauthorised building work)
- regulation 38 (fire safety information);
- regulation 39 (information about ventilation);
- regulation 40, 40A and 40B (information about use of fuel and power).

11.36 These regulations are being replaced with the separate building control procedural requirements we are introducing for higher-risk building work outlined in this consultation, such as the requirement to submit building control approval applications to the Building Safety Regulator, and the requirement to hand golden thread information over to the accountable person in occupation.

Question: Do you agree or disagree that it is unnecessary to apply regulations 12-18 to higher-risk buildings as separate procedural requirements for higher-risk building work are being introduced?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

11.37 We propose that the following regulations in the Building Regulations 2010 should be amended in their application to higher-risk building work so that the required notices are submitted to the Building Safety Regulator as building control authority for higher-risk buildings, rather than the local authority:

- regulation 27 of the Building Regulations 2010 (CO2 emission rate calculations);
- regulation 27A (fabric energy efficiency rate calculations);
- regulation 27C (target primary energy rate calculations for new buildings);
- regulation 37 (wholesome water consumption calculation);
- regulation 41 (sound insulation testing);
- regulation 42 (mechanical ventilation air flow rate testing);
- regulation 43 (pressure testing); and
- regulation 44 (commissioning).

Question: Do you agree or disagree that the notifications currently required under the above regulations should be submitted to the Building Safety Regulator for higher-risk buildings, rather than local authority?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

11.38 We do not propose that regulations 45 (testing of building work) and regulation 46 (sampling of material) of the Building Regulations 2010 should be applied to all building work as we intend to revoke them. We propose that section 33 of the Building Act 1984 which we propose to commence will provide building control authorities, including the Building Safety Regulator in respect to all building work with a power for testing and sampling. We will also consider what transitional arrangements may be needed to ensure local authorities and the Building Safety Regulator are able to inspect and test building work as required when regulations 45 and 46 are revoked.

Question: Do you agree or disagree that as section 33 of the Building Act 1984 is being commenced, regulations 45 and 46 should not be applied to all building work as the Building Safety Regulator and local authorities will have a power under section 33 of the Building Act 1984 for testing and sampling?

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

12. Transitional provisions for higher-risk buildings

12.1 After a change to building regulations, it is common practice to provide a transitional period –normally somewhere between two and twelve months. Under the transitional period, those that have already notified a building control body of their plans are allowed to continue under the old rules provided they have started building work on site. This provides clarity to developers and reduces the risk of retrospective impact resulting from changes to the rules.

12.2 The government does not normally consult on transitional provisions but given the significance of the change in the regulatory regime and oversight we wish to set out the proposed transitional provisions for higher-risk buildings subject to the new more stringent regulatory framework.

12.3 As outlined earlier, the government is becoming increasingly aware of evidence that the current approach to transitional arrangements and the related definition of the commencement of work developers must comply with receive transitional protections is open to gaming. In line with the government's intention to improve the focus on building safety during design and construction, we want to ensure the transitional provisions are sufficiently robust and prevent developers from using them to avoid the more stringent requirements of the new regime. Through previous consultations and the passage of the Building Safety Act 2022 the government has communicated to the industry its intentions to put in place a robust building control regime, including a gateways process for new higher-risk buildings during design and construction. Therefore, we strongly believe industry has had sufficient time to prepare themselves to meet new building control requirements.

12.4 In the [Building a Safer Future consultation](#), the government outlined a proposal that developments in scope of the new regime that are already underway should be required to go through the next relevant stage of the overall gateway process. Following further assessment of this proposal, we have concluded that this approach is not viable. The requirements of the new building control regime for higher-risk buildings are comprehensive and linked to the information provided to the Building Safety Regulator and the prescribed documents. Building control oversight at the completion certification application stage is supported by the provision of information we propose to require from dutyholders when they submit an application for building control approval.

12.5 We recognise that the transitional provisions need to be viable and straightforward for developers to comply with to ensure that the proposed arrangements work in practice. Furthermore, we firmly believe that changing requirements during the construction phase of a project is unfair and disproportionate. Changing requirements during construction would cause a significant amount of disruption to dutyholders and may result in the requirements for these buildings being unviable for both developers and the Building Safety Regulator.

Commencement of work

12.6 The government intends to apply the proposed definition of the commencement of work for new buildings and building work to existing buildings for the purposes of the transitional provisions for higher-risk buildings. We strongly believe this more prescriptive approach will tighten the definition of commencement of work, reduce the opportunities for the transitional arrangements to be gamed by developers and will support greater consistency across the built environment.

Question: Do you agree or disagree we should apply the same definition of commencement to the transitional arrangements for regulations covering higher risk buildings?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Applying transitional provisions to individual buildings

12.7 Through the Building Safety Act 2022, changes are being made to transitional provisions so that in future where there is a multi-site project, work must have started on an individual building for that specific building to benefit from the transitional arrangements. This will prevent dutyholders from being able to start work on one building on a multi-building site and then claim the benefit of transitional provision for all buildings on the site.

12.8 In keeping with the Building Safety Act 2022 and recent transitional arrangements for building regulation changes, such as the transitional provisions for the Building Regulations etc. (Amendment) (England) Regulations 2021, we propose that the

transitional provisions to introduce the new regime should only apply to individual buildings in scope of the new regime when work has commenced within a reasonable period from when the new regime comes into force.

Question: Do you agree or disagree with the proposal for transitional provisions to only apply to individual buildings as opposed to multi-site projects?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Proposed transitional provisions

12.9 Given the significant proposed changes we intend to introduce through our package of secondary legislation, including changing the oversight and enforcement of building regulations, it is important that we establish an appropriate transition that provides clarity on which developments are bound by which legal requirements and who is responsible for enforcement.

12.10 We propose that the below transitional provisions to be included in the building regulations for higher-risk buildings. These transitional provisions will apply for the construction of a new building in scope of the new regime and for building work in an existing building in scope of the new regime.

12.11 For transitional arrangements to apply to an individual building, developers would need to both:

- Submit an initial notice or deposit full plans by the day the new regime comes into force.
- Commence work in line with the proposed new definition of commencement on the individual building within six months from the day the new regime comes into force.

12.12 Developers that fail to give an initial notice or deposit full plans before the new regime comes into force will be subject to the new, more stringent building control regime for higher-risk buildings immediately.

12.13 Where work has commenced on a specific building covered by an initial notice or full plans within six months from the day the new regime comes into force the particular building would not be subject to the requirements of the new more stringent building control regime for higher-risk buildings. The work would instead continue to be supervised by the existing building control body and follow the building regulation requirements in place at the time of the submission of their initial notice or full plans application.

12.14 While the building would not be subject to the new more stringent regime in design and construction, the building will be subject to all requirements under part four of

the Building Safety Act 2022 in relation to its occupation, which will include requiring the building to be registered and the accountable persons managing the building safety risks and keeping residents safe. On registration the principal accountable person will be required to provide a certificate issued under the existing building control regime before the building is registered. This would be a completion certificate issued by a local authority or a final certificate issued by an Approved Inspector. The proposals for registration can be found in the consultation on the new safety regime for occupied higher-risk buildings. This consultation can be found on the [building safety citizen space homepage](#).

12.15 We anticipate that an appropriate period within which work must be commenced is six months from when the regulations come into force. A six month transitional period would reflect the length of time developers will have had notice of the new building control regime and the importance of transitioning to the new regime in a prompt and effective way, while ensuring the transitional period is viable for developers and regulators to comply with. The principles underpinning the new regime were laid out in the Building a Safer Future consultation published June 2019 and draft regulations were published during the passage of the Building Safety Bill. Furthermore, there will be further time for developers to prepare between the regulations being laid in Parliament and the regime coming into force.

12.16 Where an initial notice has been submitted or full plans have been deposited before the new regime comes into force, but work is not commenced within six months from the day the new regime comes into force, we propose to provide in regulations that the building would be transferred to the jurisdiction of the Building Safety Regulator at the end of the transitional period.

12.17 We propose that the transfer to the Building Safety Regulator takes place under the following process:

- The person carrying out the work would be required to send to the regulator the initial notice (including accompanying plans and documents) or the original deposited full plans. This must be submitted to the regulator within 12 weeks of the end of the transitional period. The government expects local authorities and approved inspectors (registered building control approvers) to inform the Building Safety Regulator when work has not commenced, in line with the definition proposed earlier in the consultation, within six months from the day the new regime comes into force. We are considering how best to ensure that the Building Safety Regulator is aware of higher-risk buildings that have failed to commence work before the end of the transitional period. A potential option would be to require, in the regulations, local authorities
- and approved inspectors (registered building control approvers) to notify the Building Safety Regulator when work has not commenced after the transitional period has ended. We are seeking views on the potential challenges of making this requirement in the regulations.
- The Building Safety Regulator will not reassess these projects which transfer to it but it will be given the power to require additional information pertaining to their role as the building control body for the higher-risk building. For these higher-risk buildings, the Building Safety Regulator can require, by written notice, further information in relation to any of the higher-risk building work. Where a written notice has been issued by the Building Safety Regulator to the person carrying out the work, if the higher-risk building work has started it must be paused for 10

days to enable this information to be collected and considered by the Building Safety Regulator. It will be a criminal offence under building regulations not to comply with this requirement. The requirement will support the Building Safety Regulator in their role and will help to prepare the new higher-risk building for meeting the new building control requirements during and on completion of construction.

- We further intend to give the Building Safety Regulator the power to require, by written notice, the person carrying out the higher-risk building work to carry out tests on work which has been built. Section 33 of the Building Act 1984 will be commenced to provide this power to the Building Safety Regulator and other building control authorities.
- The Building Safety Regulator will have enforcement powers in relation to such developments, even where they are works to which an initial notice applies (this is due to the fact that s48(1) of the Building Act 1984 was not amended to refer to the regulator). Section 35 of the Building Act 1984 (as amended by the Building Safety Act 2022) enables the building control authority to issue compliance or stop notices where there is or is likely to be a contravention of building regulations. It provides for it to be criminal offence to contravene the building regulations. A conviction could result in up to two years imprisonment and / or an unlimited fine.

12.18 While the Building Safety Regulator would be considered the building control authority for the building, the transfer process would not represent a new application for building control approval as the existing initial notice or deposited plans would remain in force as per section 36 of the Building Safety Act 2022. Furthermore, the Building Safety Regulator would not be able to reject or refuse the plans or information provided by the developer.

12.19 However, should the Building Safety Regulator have concerns that the plans do not meet the relevant requirements set out in Building regulations and the additional proposed requirements for higher-risk buildings, the Building Safety Regulator can either request further information from the dutyholder to demonstrate compliance or take enforcement action against the dutyholder as appropriate.

12.20 Following the provision of requested information to the Building Safety Regulator and the commencement of work, the building work would follow all of the requirements of the new more stringent building control regime for higher-risk buildings. Section 36 of the Building Safety Act 2022 will still apply and therefore, work would still need to commence within three years of the original plans being made. If work has not commenced within three years, building control approval would lapse and the developer would need to submit a new application to the Building Safety Regulator before work could commence. The building would be subject to the new, more stringent building control regime.

12.21 The proposed requirements of the new building control regime for higher-risk buildings that would be imposed include:

- The relevant functional requirements of the Building regulations
- Commencement notices
- Dutyholder and competence regulations
- Compliance with inspection regime
- New statutory change control process

- Regulations related to a new client / Principal Contractor / Principal Designer
- Mandatory occurrence reporting requirements
- Golden thread information requirements to manage and store information relevant to the building work
- Completion certificate applications / Partial completion certificate applications
- Reviews, appeals and section 30A procedures
- Enforcement powers applicable to higher-risk building work.

12.22 Dutyholders would need to fulfil all of the above requirements during the construction phase and on completion of the higher-risk building work.

12.23 The Building Safety Regulator must issue a completion certificate where they are satisfied the building work complies with all applicable building regulation requirements; the documents and information required part of a completion certificate are complete and accurate' and the golden thread information is complete and has been provided to the 'relevant person'.

12.24 If the Building Safety Regulator considers that the higher-risk building built to the original plans has produced a building which does not comply with all Building regulations' requirements it could lawfully refuse to issue a completion certificate.

12.25 Section 76 of the Building Safety Act 2022 (Requirement for completion certificate before occupation) would apply and it creates an offence for an accountable person to allow occupation of a single residential unit or more in part of a higher-risk building without a relevant completion certificate. Therefore, a principal accountable person or a relevant accountable person would not, therefore, legally be able to allow occupation of a higher-risk building if the building work does not have a completion certificate.

12.26 The relevant building work will be subject to part four requirements once the building is occupied. Therefore, the principal accountable person/ relevant accountable person will have a duty to assess and manage building safety risks from 'day one' of occupation. If they are the client during construction, this should incentivise them to ensure that the building work will not undermine the ability to meet their safety case duties in occupation. Alternatively, if the client intends to hand over the building on completion, the future principal accountable person/ relevant accountable person will want reassurance that the building work complies with all applicable building regulations' requirements and will not undermine their ability to carry out their occupation duties.

Question: Do you agree or disagree with the proposed transitional provisions?

- Agree
- Disagree
- Neither agree nor disagree
- Don't know

Question: Please provide an explanation for your answer. If you have answered disagree, please explain what changes you think should be made.

Question: Do you consider there to be any potential challenges with requiring local authorities and approved inspectors (registered building control approvers) to notify the Building Safety Regulator when building work has not commenced after the transitional period lapses?

- Yes
- No
- Don't know

Question: Please provide an explanation for your answer.

Equalities Assessment

13.1 We are also seeking views on the potential impacts our proposals may have on groups of people with protected characteristics. Protected characteristics include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Question: What do you consider to be the equalities impact on individuals with protected characteristics of any of the policy proposals to be included in the regulations? Please give reasons and any evidence that you consider relevant.

Update to Part 3 of the Building Safety Bill's Regulatory Impact Assessment - Economic Annex

Introduction

1.1 This economic annex relates to the proposals set out in the consultation on proposed changes to the building regulations.

1.2 As set out in the consultation, we intend to introduce secondary legislation to provide the procedural and administrative detail of the new regulatory regime for higher-risk buildings, as well as make wider changes to improve the building control system for all buildings.

1.3 Through this consultation we are seeking views on proposed changes to building regulations that will apply to all building work, proposals to introduce a new building control approval procedure for non higher-risk building work, proposals to introduce the Regulator's Notice procedure for projects comprising of both higher-risk and non higher-risk building work, and the proposed administrative and technical detail underpinning the new more stringent building control regime for higher-risk building work, overseen by the Building Safety Regulator.

1.4 This economic annex provides qualitative and quantitative analytical updates for some areas being consulted on through this consultation. The areas for which we have provided updates include the new requirements for the construction phase of the new more stringent regulatory regime for higher-risk buildings (gateways), building work in existing higher risk buildings(refurbishments), the definition of commencement of works and lapse of building control approval, and policy surrounding non higher-risk buildings.

1.5 Where an area on which we are consulting through this consultation has not been covered by this economic annex, it is because the estimates set out in the Building Safety Bill Regulatory Impact Assessment are still valid. Details on the current estimated costs for these areas can be found in the [Building Safety Bill Regulatory Impact Assessment](#).

1.6 The estimated numbers in this economic annex relate to buildings in England only. The assessment is based on current assumptions, accurate at the time of publication. Our estimates are based on the policy as set out in the consultation document. However, it is possible these impacts may change as a result of feedback through this consultation, and further operationalisation of the policy, including through finalisation of the regulations.

Gateways and building work in existing higher-risk buildings

2.1 This section outlines the impacts of the building control regime for the design and construction of new higher-risk buildings and for building work to existing higher-risk buildings, to both the Regulator and Industry. It provides an update to some of the information in the gateways and refurbishments section of the previous, then Building Safety Bill's, Regulatory Impact Assessment. The majority of what is contained in the published Impact Assessment remains accurate, however as operationalisation of the policy has progressed, we have updated some assumptions to provide more accurate and up to date costings.

2.2 This assessment is based on current assumptions, accurate at the time of publication. However, it is possible these impacts may change with time, particularly as the regulations are developed further responses to this consultation are analysed and considered. For all the analysis in this document, the appraisal period is 15 years, the present value year is 2023 and the price base year is 2019.

Building control regime for the design and construction of new buildings (gateways):

2.3 We have further clarified the operationalisation of the gateways policy, and as a result have made some minor changes to the related assumptions. This has subsequently led to some minor changes to the impact of gateways policy. These developments include:

- Clarification regarding the prescribed documents needed in correspondence with the Regulator at various stages; this has resulted in a change in time requirements for submission by industry and review by the Building Safety Regulator.
- Clarification on the time estimates for inspections by the Building Safety Regulator.
- Refining the change control process during construction into two categories; major and notifiable, and further development of the proposed requirements for each.

Building work in existing higher-risk buildings (Refurbishments):

2.4 For building work in existing higher-risk buildings, previously we used the terms 'major' and 'minor' building work, however, through our engagement with stakeholders we have amended our approach. We now propose to form categories which group together the types of building work which would always require the same prescribed documents in a building control application. We have, therefore, set out the proposed requirements for different types of building work and the categories in the previous Impact Assessment, therefore, required updating. We have changed the assumptions to reflect these changes as appropriate.

Gateways – Costs to Regulators

Pre-application meeting and setup of multi-disciplinary team

2.5 The costing for this aspect includes the Building Safety Regulator providing discretionary advice prior to gateway two submissions at the request of developers.

2.6 This is assumed to involve a meeting between the Principal Designer of the project and representatives from the Building Safety Regulator. It is assumed in the analysis that there will be representatives from the Building Safety Regulator, local building control and FRS in attendance at the meeting. The total time to attend the meeting and correspond with the Principal Designer before and after the meeting is assumed to be around 2.5 days (19 hours) of regulator time.

2.7 The Building Safety Regulator is expected to determine when to set up a multi-disciplinary team with local regulators and enforcement bodies to regulate a building in scope. Such a team may not be set up for pre-commencement meetings, as such discussions could be requested well before applications are submitted at gateway two. However, for the purposes of the analysis we have assumed that before construction begins, the Building Safety Regulator will establish the multidisciplinary team to carry out the required regulator checking at the future gateway points. It is assumed that this will take 2.1 days (15.5 hours) of regulator time and the split between regulators for both establishing the multi-disciplinary team and attending the pre-commencement meeting can be seen in Table 1 below. (Please see Annex A for greater depth.)

Table 1: Resource breakdown for Pre-commencement and setup of Multi-Disciplinary Team(MDT)

Table 1: Resource breakdown for Pre-commencement and setup of Multi-Disciplinary Team (MDT)

Regulatory Body	Resource involved	Hour per Application for meeting and correspondence	Hours per Application to establish MDT
Building Safety Regulator	Inspector	15	7.5
Building Safety Regulator	Administrator	-	0.5
Fire and Rescue Authorities	Watch Manager	2	4
Local building control	Building Control Officer	2	4
	Total Additional Time	19 hours	16 hours

Gateway two:

2.8 We estimate that gateway two will cost the Building Safety Regulator between £14.7m and £34.1m, with a central estimate of £24.3m, in PV terms over the 15-year appraisal period and between £1.2m and £2.9m, with a central estimate of £2.0m, on an EAC basis.

2.9 At gateway two it is assumed that building control approval applications will be made to the Building Safety Regulator before construction commences and after planning permission has been granted at Planning Gateway One (where it was required). We assume that the multi-disciplinary team will be in place and will assess the application, the full plans, and all prescribed documents [\[footnote 7\]](#) and consult with relevant enforcing authorities. Reviewing the application submitted at gateway two is estimated to take around 6 days (45 hours) of regulator time on average.

2.10 It is proposed that there will be the option of a staged approach to submitting building control approval applications at gateway two, where it is not viable to provide detailed plans for the entire proposed building or for all applicable building regulations requirements before construction begins i.e., for complex builds. Where a staged approach is proposed, dutyholders must still provide a comprehensive building control approval application with plans and all prescribed documents, as well as a staged work statement providing a detailed description of the proposed stages of the work. The detailed plans and the design and build approach document included in the application need only show how the work up to the specified stage would comply with all building regulation requirements but must be accompanied by outline plans of the whole building.

Building control approval will be strictly limited to the approved stages of work and applicants will need to submit plans and prescribed documents for other stages of work, obtaining approval to proceed before commencing work on those stages. For the purposes of the analysis, we have assumed that all developments in scope will be required to submit full plans at gateway two.

Table 2: Gateway two regulator resourcing assumption

Regulatory Body	Resource involved	Hours	Proportion
Building Safety Regulator	Administrator	1	2%
Building Safety Regulator	Inspector	15	34%
Building Safety Regulator	Specialist engineers (façade, M&E, Fire, Structure)	1	1%
Local building control	Administration	2	3%
Local building control	Building Control Officer	20	44%
Fire and Rescue Authorities	Administrator	2	3%
Fire and Rescue Authorities	Fire Safety Managers	6	12%
	Total additional time spent	45	100%

Between gateways two and three (Construction Phase):

2.11 We estimate that the construction phase will cost the Regulator between £50.2m and £116.4m, with a central estimate of £83.2m, in PV terms over the 15-year appraisal period and between £4.2m and £9.8m, with a central estimate of £7.0m, on an EAC basis.

2.12 Once construction work has begun, the multi-disciplinary team will review proposed change submissions if they arise. During construction, reviewing and responding to ‘notifiable’ and ‘major’ change submissions is estimated to take around 10 days (76 hours) of regulator time; this includes time needed for inspections in some cases. See Annex A for a full description of Regulator time associated with the Change Control process.

2.13 Each building will have its own bespoke inspection arrangement and, although site inspections are not mandated outside of the final inspection, we expect that inspections

may occur between gateways two and three to ensure that construction is following the agreed plans. Site visits at this stage, if needed, are estimated to take around 10 days (76.5 hours) of regulator time in addition to the site inspections currently carried out by local authority building control authorities or registered building control approvers during construction.

2.14 The breakdown between the different regulators involved in the during construction stage can be seen in Table 3 below.

Table 3: Gateway two – three regulator resourcing assumption

Regulatory Body	Resource involved	Hours	Proportion
Building Safety Regulator	Administrator	0	0%
Building Safety Regulator	Inspector	59	39%
Building Safety Regulator	Specialist engineers (façade, M&E, Fire Structure)	53	34%
Local building control	Administration	0	0%
Local building control	Building Control Officer	37	24%
Fire and Rescue Authorities	Administrator	0	0%
Fire and Rescue Authorities	Fire Safety Managers	4	2%
Total additional time spent		153	100%

Gateway three:

2.15 We estimate that gateway three will cost the Regulator between £19.7m and £45.6m, with a central estimate of £32.6m, in PV terms over the 15-year appraisal period and between £1.7m and £3.8m, with a central estimate of £2.7m, on an EAC basis.

2.16 On the completion of work, applicants will be required to submit a completion certificate application to the Building Safety Regulator with updated plans and prescribed documents. The total regulator time to assess the completion application, review the plans and prescribed documents submitted at gateway three, undertake the final building inspections before issuing a completion certificate and then to issue a

completion certificate is estimated to be around 11 days (82 hours). The breakdown of this time between the regulators can be seen below in Table 4.

2.17 It is worth noting that if the applicant has opted for partial completion, the time taken to review individual applications will remain the same as above, but the time to review all partial completion applications for a development will increase regulator time. We are unable to estimate the extra cost this will result in for the Building Safety Regulator due to a lack of evidence on the current use of partial completions within the industry (see Annex A for additional information.)

Table 4: Gateway three regulator resourcing assumption

Regulatory Body	Resource involved	Time taken per building (hrs)	Proportion
Building Safety Regulator	Inspector	22	27%
Building Safety Regulator	Fire Engineer	11	14%
Building Safety Regulator	Administrator	1	1%
Local building control	Administrator	2	3%
Local building control	Building Control Officer	36	44%
Fire and Rescue Authorities	FRS Watch Manager	9	11%
	Total additional time	82	100%

Gateways - Costs to Industry

Pre-application meeting:

2.18 The government's expectation is that early advice could benefit developers that are required to go through the gateway process. One approach the Building Safety Regulator could take would be providing discretionary advice prior to gateway two submissions at the request of developers. If the developer requested this advice, it would involve a meeting between the principal designer of the project, representatives from the Building Safety Regulator, local building control and FRS. It is assumed that it will take 2.1 days (16 hours) of the Principal Designer's time to attend the meeting and complete subsequent correspondence, the assumptions for regulator time to attend the meeting can be seen in paragraph 2. (Please see Annex A for greater depth on the pre-application meetings.)

Gateway two:

2.19 We estimate that gateway two will cost Industry between £72.9m and £169.1m, with a central estimate of £120.8m, in PV terms over the 15-year appraisal period and between £6.1m and £14.2m, with a central estimate of £10.1m, on an EAC basis.

2.20 At gateway two, developers will be required to submit a building control approval application that demonstrates how the proposed building work complies with all applicable building regulations' requirements. The application must include a comprehensive description of the proposed building work, a detailed plan and several prescribed documents demonstrating compliance with all applicable building regulations. These documents include a competence declaration, a planning statement (if required), a design and build approach document, a fire and emergency file, a construction control plan, a change control plan, and a description of both their mandatory occurrence reporting arrangements and their golden thread arrangements. Where partial completion of the building is sought, a partial completion strategy will also be required (see Annex A).

2.21 The analysis assumes that it will take an estimated 41 days (309 hours) (including a full review of plans) to prepare the application and prescribed documents for submission and submit information at gateway two. This is inclusive of 15 hours to prepare a description of the partial completion strategy, if desired; should this not be required, the time to prepare the application will be 39 days (294 hours). This is additional to the time required to prepare the full plans in all cases.

2.22 Where a staged approach to submitting a building control approval application at gateway two is proposed, dutyholders must still provide a comprehensive application with plans and all prescribed documents, as well as a staged work statement providing a detailed description of the proposed stages of the work. The detailed plans and the design and build approach document included in the application need only show how the work up to the specified stage would comply with all building regulation requirements but must be accompanied by outline plans for the whole building. As mentioned in the Building Safety Regulator section we expect that the staged approach will only be offered to very complex developments. For the purposes of the analysis, we have assumed that all developers will submit a full plans application before construction begins.

Between gateways two and three (Construction Phase):

2.23 We estimate that during construction, gateways' requirements will cost Industry between £127.3m and £295.4m, with a central estimate of £211.0m, in PV terms over the 15-year appraisal period and between £10.7m and £24.8m, with a central estimate of £17.7m, on an EAC basis. 2.24 In addition to gateway two, developers will be required to comply with the change control process during construction. The change control process will require an average of around 10 days (73 hours) additional days of time. (See Annex A for further explanation.)

2.25 We are assuming that the Clerk of Works will spend an additional 1 day a week (780 hours per building on average) undertaking site inspections on top of the 2.5 days a week of inspections they already to provide assurance that the work of subcontractors is compliant.

Cost estimates for the risk of additional time needed to meet 'Gateway' requirements:

2.26 In discussions with stakeholders, many have raised concerns about the additional time needed to meet the gateway requirements prior to construction commencing as the gateways regime will introduce new requirements for dutyholders to meet and a 'hard stop' where building work cannot legally commence without approval from the Building Safety Regulator. We expect stakeholders to factor the additional requirements into their development planning and use the time between planning application approval and submitting a building control approval application, to be ready to meet these new requirements. It is considered that under both a "full application" or staged approach there is a risk of additional time needed to complete the projects which will come at a cost to developers. We expect that this could cost around £150 per flat per week. This results in a per building cost of around £10,000 per week of delay.

2.27 The gateways requirements should however help developers to get things right, which should reduce additional time and costs at later stages and the need to correct non-compliant or defective work. The Building Safety Regulator will also have statutory time-limits to determine gateway two and three applications, with the ability to agree extensions if needed.

Gateway three:

2.28 We estimate that gateway three will cost Industry between £26.4 million and £61.2 million, with a central estimate of £43.7 million, in PV terms over the 15-year appraisal period and between £2.2 million and £5.1 million, with a central estimate of £3.7 million, on an EAC basis.

2.29 We estimate that gateway three activities will require an average of 22 days (164 hours) of industry time at a cost to developers of around £11,000. On completion of building work, applicants will be required to submit a completion certificate application to the Building Safety Regulator with updated as-built plans and prescribed documents before the building can be occupied. This is so that records accurately reflect the 'as-built' development rather than 'as-planned'. This information will also form part of the 'golden thread' that must be handed over to the building owner to help them manage building safety risks when the building is in use.

2.30 The client will be expected to sign a statement confirming that, to the best of their knowledge, the building work complies with all applicable requirements of building regulations. The client will also be required to sign a statement confirming that a copy of the golden thread information was appropriately provided to the relevant person. The Principal Designer and Principal Contractor will be expected to confirm they have met their dutyholder duties.

2.31 The time taken to complete this process includes the preparation of prescribed documents, including: the updated construction control plan, the updated change control plan, an updated design and build approach document, an updated fire and emergency file (including a finalised fires strategy) and compliance declarations. Fire emergency plans, and the finalised evacuation strategy are already required. Going forward the information requirements under Regulation 38 of the building regulations will be no longer applicable but will be covered by the wider golden thread requirements. However,

the cost of preparing the material that was formerly required under Regulation 38 is not included in our gateway costs for industry, as industry already meet this cost.

Familiarisation Costs:

2.32 We have assumed a one-off familiarisation cost to industry that can be associated with gateways, estimated to be between £1.8 million and £5.4 million, with a central estimate of £3.6million. This cost will only be incurred in year 1 and covers raising awareness within firms of the policy change and employees attending external events to become familiar with the new policy.

Summary:

2.33 The cost of gateways to Industry, in PV and EAC terms, are summarised in the below table. Time for resubmission of documents and applications, as per operationalisation of the regime, has also been included in time estimates in all gateways.

Table 5: Gateways costs to industry (mid estimates). Price base year 2019, present value year 2023

Industry costs	15-year NPV (£m)	15-year EAC (£m)
Gateway 2	£120.8m	£10.1m
In between Gateways 2-3 (construction phase)	£211.0m	£17.7m
Gateway 3	£43.7m	£3.7m
Familiarisation	£3.6m	£0.3m
Total [footnote 8]	£385.5m	£32.3m

Building work in existing higher-risk buildings (Refurbishments) – Costs to Regulators

2.34 We estimate that duties linked to building work in existing higher-risk buildings will cost the Regulator between £40.4 million and £94.0 million, with a central estimate of £67.1 million, in PV terms over the 15-year appraisal period and between £3.4 million and £7.9 million, with a central estimate of £5.6 million, on an EAC basis.

2.35 Under the new regime, there will be three main approaches to building work in higher-risk buildings: those works carried out under a third-party certification scheme, works carried out under the competent person scheme (CPS) and the building control application route. The latter category is split into Category A and Category B; Category A requires a more extensive approach to the process, similar to gateways, whereas Category B requires slightly fewer prescribed documents.

2.36 For the purpose of the analysis, we have assumed that the number of building works following the building control approval route per year will be 4% of the stock of buildings in scope. Of this, 35% of these works are considered to be Category A and 65% of these are considered to be Category B, on average. Both categories of work require a building control approval application, but their minimum contents differ. (The proportion of works in each category, and so subsequent analysis, may change based on the outcome of this consultation.)

2.37 Those building works in Category A always require full plans, a competence declaration, a construction control plan, a design and build approach document, a fire and emergency file, a partial completion strategy (if applicable) and a planning statement. The analysis assumes that this type of building work will require a similar amount of time for the Building Safety Regulator for gateway two (45 hours) and gateway three (82 hours); the only difference being Principal Designer review time decreases to 25% of that of new builds. Further, inspections of buildings between gateways two and three (during construction) will only require 10% of new build time, amounting to 2 days (15 hours).

2.38 Those building works in Category B, are considered slightly less substantial and so Building Control Approval applications require fewer prescribed documents. These works require the inclusion of plans, a competence declaration, a design and build approach document, and a fire and emergency file. It is estimated that this will require an additional 1.6 days of regulator checking time throughout an entire project. We estimate that the Building Safety Regulator will undertake inspections during construction in 10% of such building work and that it will take around 4 days of regulator time to undertake this check.

2.39 Building work in existing buildings covered by a competent person scheme do not require building control approval and instead require the competent person carrying out the work to notify the Building Safety Regulator upon completion. We estimate that there is on average 8.5 of these types of works per building in scope per annum. In the large majority of cases the Building Safety regulator will only need to log this notification, however in a very small number of cases (1.5%) we assume that the Building Safety Regulator will deem that further oversight is necessary. In overseeing the works, the Building Safety Regulator will deliver its role as building control body with assistance from building control specialists as needed. We have estimated it will take 3 days of regulator time if oversight is required.

2.40 Building work covered by a third-party certification scheme will require the scheme operator to notify the work to the Building Safety Regulator. Third-party certification scheme building work is currently not very common, so no additional analysis has been included to account for these types of works.

Building work in existing higher-risk buildings (Refurbishments) – Costs to Industry

2.41 We estimate that duties linked to building work in existing higher-risk buildings will cost industry between £46.3m and £107.6m, with a central estimate of £74.8m, in PV terms over the 15-year appraisal period and between £3.9m and £9.0m, with a central estimate of £6.3m, on an EAC basis.

2.42 Under the new regime there will be three main approaches to building work in existing higher risk buildings (see paragraphs 37 & 38 above for more information).

2.43 Those building works in Category A always require full plans, a competence declaration, a construction control plan, a design and build approach document, a fire and emergency file, a partial completion strategy (if applicable) and a planning statement (if applicable). The analysis assumes that this type of building work will require a similar amount of time for industry for gateway two, 20 days (152 hours) and gateway three, 15 days (113 hours); the only difference being that Principal Designer review time decreases to 25% of that of new builds. Further inspections of buildings between gateways two and three (during construction) will only require 10% of new build time, amounting to 11 days (85 hours) for Industry.

2.44 Those building works in Category B require fewer prescribed documents. These works require the inclusion of plans, a competence declaration, a design and build approach document, and a fire and emergency file. It is estimated that this will require an additional 1.4 days of industry time throughout an entire project to prepare documents and comply with the process. Inspections will require on average 4 days of Industry time.

2.45 Building work in existing buildings covered by the competent person scheme will also require that the Building Safety Regulator is notified on completion of the building work. We have assumed an average of 8.5 works of this type per building per annum. Under the current regime, the competent person must give the occupier a certificate and notify the local authority of completion; we have, therefore, not included additional time in the analysis for industry to notify the Building Safety Regulator.

2.46 Building work in existing buildings covered by a third-party certification scheme will require the scheme operator to notify the work to the Building Safety Regulator. Third-party certification scheme building work is currently not very common, so no additional time has been included for industry to notify the Building Safety Regulator.

Annex A: Additional Information

Pre-application meeting:

2.47 Pre-application meetings are not mandatory and, whilst early engagement in the gateways process is encouraged, it is difficult to anticipate which developers might request a meeting and indeed when they might request meetings.

2.48 We have therefore estimated what we think to be a sensible profile of pre-meeting requests across the 15-year appraisal period.

2.49 Pre-application meetings may be warmly received by developers as they seek to avoid any costs associated with delay. We also realise that it may take some time for industry to completely familiarise themselves with the regulations and realise the benefits of early engagement with the Regulator and multi-disciplinary teams.

2.50 It is possible, therefore, that initially the request for pre-application meetings is low but increases over time. An estimate of the profile of requests for meetings across the 15-year appraisal period, on this basis is below, but please note the profile of actual requests may be different.

Table 6: Estimated profile of pre-application meeting requests

Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Year 13	Year 14	Year 15
2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037
75%	80%	90%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%	100%

2.51 If pre-application meetings were requested for 100% of all new builds from year 1, we estimate this would cost industry a central estimate of £6.4m in PV terms, or £0.5m in EAC terms.

The Change Control Process (between gateways two and three):

2.52 In the construction phase, developers will be required to comply with the change control process by either i) notifying the Building Safety Regulator if the change is ‘notifiable’ or ii) making an application for building control approval and waiting for approval if the change is ‘major’(previously known as ‘safety change’ in Building Safety Bill Regulatory Impact Assessment). Types of work which are either major or notifiable can be found in the consultation document.

2.53 The Change Control Plan is a prescribed document to be shared with the Building Safety Regulator at gateway two – this is expected to take 6 hours of industry time to prepare and is included in the time estimates in paragraph 21.

2.54 The Change Control log should be created before construction begins – this is expected to take 1 hour of industry time per building and should occur between gateways two and three. Both types of change then also require record-keeping in the change control log, which is expected to take 0.5 hours per change in both instances.

2.55 Due to the nature of the types of instances in each category, we estimate that there will be, on average, 3 ‘major’ changes per building and 5 notifiable changes per building. We have assumed that 1 ‘notifiable’ change would be considered to be major by the Building Safety Regulator, so our analysis below assumes there will be 4 ‘major’ changes per building.

2.56 For major works, application in writing to the Building Safety Regulator is expected to take 8hours of industry time per change, so on average 32 hours per building.

2.57 For major changes, the Building Safety Regulator has a 4/6-week period in which to reply, or within a longer period if agreed with the applicant. We have estimated that 50% of ‘major’ changes require a site visit for further review and 20% of changes require review by the Fire and Rescue Service., We, therefore, expect that consultation, consideration and, in some cases, site visits by the Building Safety Regulator will take, on average, 39 hours per building.

2.58 Once a decision on the major change applications have been made, we estimate it will take2.5 hours per change (10 hours per building) for industry to review responses and to respond to the Building Safety Regulator where necessary.

2.59 We estimate that the time taken for industry to submit a notification of a notifiable change to be shorter than for a major change, taking 4 hours per change, so on average 20 hours per building.

2.60 If the change is notifiable, the applicant must then allow 10 working days to elapse before any changes can be made; if no response is made by the Building Safety Regulator in this time, then work may continue. If the Building Safety Regulator, however, finds that the application does not contain sufficient information to determine the proposed change, or believes that the proposed change should be classed instead as 'major' and therefore a change control application must be submitted, they must also respond within this 10 working days period. We estimate subsequent review and response by the Building Safety Regulator, if necessary, to take 37 hours per building (with only 10% of these types of changes requiring a visit and 0 requiring Fire and Rescue Service review).

2.61 We expect that 40% of notifiable works will be responded to by the Building Safety Regulator. Where the Building Safety Regulator has requested more information, we expect that industry will use 2.5 hours per change to respond and, on average, 5 hours per building. Partial Completions:

2.62 If partial completion is desired, dutyholders must consider the building holistically and provide plans and the full suite of prescribed documents (see Chapter 8 of this Consultation). We estimate that this will take the same amount of time to prepare as a full completion certificate, and the same amount of time to be reviewed and responded to by the Building Safety Regulator. The time required and costs for individual partial completion certificates can, therefore, be assumed to remain the same, for both the regulator and industry, as a full completion certificate.

2.63 It should be noted that we are proposing to require that a partial completion certificate application is submitted each time a new part of the higher-risk building is completed. A building completed in four equal parts, for example, would require four separate partial completion certificates – with these working together to act as a completion certificate for the entire building. The overall time and cost then of applying for and reviewing certificates for this particular building would be four times that of a building requiring only one completion certificate.

2.64 In all circumstances, full completion is encouraged but the partial completion route allows flexibility should the developer really need it. We are, therefore, proposing that a developer submits a partial completion strategy as part of their Building Control Approval. If a developer wishes to use the partial completion route and this was not proposed in their original application, we propose that they must follow the 'Major' Change Control process. Similarly, if a developer has submitted a partial completion strategy but wishes to increase the number of parts in which the building is completed, they must follow the 'Notifiable' Change Control Process. There is not sufficient evidence to predict in how many parts the average building following the partial completion will be completed.

2.65 At this time, it is not possible to estimate the number of developments that may opt for the partial completion route, due to lack of data, however, we expect that a large proportion of developments using this route may be mixed use buildings (that is, a building comprising residential units and, for example, a commercial unit on the ground floor).

2.66 We also estimate that whilst partial completions are seemingly rare, when they are used, it may be the case that developers will seek partial completions across developments with a very large number of flats.

2.67 Where a dutyholder decides to use the partial completion route, both industry and the Building Safety Regulator will incur greater costs than the normal completion route.

2.68 As we are not able to estimate the number of developments that may opt for the partial completion route, due to lack of data, we have not modelled partial completions and the extra costs that will be incurred by both industry and the Building Safety Regulator have not been included in this impact assessment update.

Transitional arrangements:

2.69 Developers will be able to continue work under their existing building control body and would not be subject to the new, more stringent building control process for that individual HRB work if:

- They have submitted a building/ initial notice or deposited plans by the day the new regime commences, and
- has then commenced within 6 months (the transitional period) of this date.
- 2.70 However, if:
 - a) Plans are not submitted by the day the new regime commences:
The building must follow the new regime completely (i.e., going through gateways),
or
 - b) Plans are submitted but work hasn't commenced within the transitional period of 6 months:
 - The developer must submit their original plans to the Building Safety Regulator
 - The Building Safety Regulator has the power to ask for any additional info they deem necessary to take on the role as the building control body for the building. They are not able to refuse their application (as it has already been made) but they can tell them that they won't receive a completion certificate (if necessary, not likely in most cases).
 - The work cannot commence until a prescribed time period (to be determined) has passed and the original plans and all info requested by the Building Safety Regulator has been provided.

2.71 It is challenging to estimate how many buildings we expect to be built to the previous regime in the years following the commencement of the new regime. Some developers may commence work before the beginning of the regime to avoid additional costs, while developers may deem it more beneficial to follow the new, more stringent regime to offer reassurance to residents and those with a financial interest in the building.

Regulator's notices:

3.1 Under the proposal, a regulator's notice can be used where a project comprises both higher-risk building work and non higher-risk building work and the developer would prefer to have only one building control body overseeing all building work within that project. Under the new regime, only the Building Safety Regulator will be able to act as the building control body for higher-risk building work. Should a developer wish to have only one building control body for their entire project, this role must be taken on by the

Building Safety Regulator. It will not be possible for local authorities to fulfil this role, as they will not be permitted to act as building control body for higher-risk building work under the new regime.

3.2 The content of a regulator's notice is similar to an initial notice provided to Approved Inspectors. It is expected that the cost of preparing a regulator's notice would therefore be the same.

3.3 Developers opting to have the Building Safety Regulator oversee both non higher-risk buildings and higher risk buildings under their projects would be expected to weigh up the costs and benefits of doing so against those from having separate building control bodies oversee higher-risk and non-higher-risk buildings respectively.

3.4 Local authorities are expected to provide a notice of rejection within five working days from the day in which the notice is given. Therefore, developers may need to wait up to an additional five working days before commencing work on a non higher-risk building. The cost of this is expected to be around £150 per dwelling, based on a case-study of flats. This means the average 11-18m residential building with 22 dwellings would have additional costs of around £3,300. This cost may differ for different building typologies.

Non higher-risk buildings

4.1 The Building Safety Act 2022 defines higher-risk buildings for the new design and construction regime as buildings which are at least 18 metres in height or have at least 7 storeys and are of a description specified in regulations. Government is currently consulting on proposals where only buildings containing at least two residential units, hospitals or care homes that meet the height threshold will be higher-risk buildings. Non-higher risk buildings are buildings which do not fall within the higher-risk category.

4.2 The Building Safety Act 2022 repeals section 16 (deposit of plans) of the Building Act 1984 and replaces it with a power to make building regulations which provide for applications for building control approval. Under the new regime, we propose that instead of depositing full plans, applicants intending to carry out building work on a building that is not a higher-risk building will need to submit a building control approval application with full plans to the local authority prior to commencing building work. The building control approval application must demonstrate how the proposed building work complies with all applicable building regulations' requirements.

Building Control Approval Applications:

4.3 The general information required in a building control approval application for a non higher-risk building should be as consistent as possible with the minimum requirements of a higher-risk building. However, none of the additional prescribed documents required in an application for a higher-risk building will be required in an application for a non higher-risk building. This proposal replaces the current requirement for deposit of plans under the current regime.

4.4 The information required in the application includes:

- Contact information
- A statement confirming that the application is made under the specified Regulations

- A statement specifying if the application is in relation to a building to which the Regulatory reform Order 2005 applies to
- A description of the existing building (if work is to an existing building)
- A description of the proposed building work
- Plans (as already required under the current regime)

4.5 Industry is already required under the current regime to prepare this material as part of their application, so we have not included any additional time in our analysis.

4.6 The relevant local authority will review this application. This is a new activity, however, we expect the additional burden for local authorities to be minimal as we understand most of this information is already required under the current regime when applicants deposit plans. The introduction of new building control approval applications will ensure that this information is provided in a consistent way under the new regime. Local authorities will be expected to review the application within 5 (or longer with agreement where necessary), the same allotted time as under the current regime for depositing plans.

4.7 Overall, this policy is expected to have no impacts on costs for developers.

Lapse of approval and defining commencement of works

Background and problem under consideration

4.8 This section qualitatively assesses the impacts of the concept of lapse of building control approval and defining the commencement of work. The analysis will be developed further within a future impact assessment.

4.9 Government is increasingly aware of evidence that developers have aimed to avoid updates to Building Regulations requirements by rushing through applications before they come into force and exploiting current definitions of commencement of works which enable developers to build to the older regulatory requirements. These regulatory requirements can be locked in indefinitely as, beyond the transitional period which developers can currently circumvent by exploiting the current definitions of commencement, there is no further lapse of approval unless building control bodies take proactive action after three years has elapsed. Thus, those developers can build to older regulatory requirements in the future, potentially making houses less safe and less efficient.

4.10 In practice, developers are currently able to avoid regulatory requirements by 'locking-in' sites to older building regulations, for example, by putting a spade in the ground and arguing that it constitutes digging out. This causes leaseholders or buyers to lose out as buyers/leaseholders often possess less knowledge about the quality and safety of the building than the developer, and so may incorrectly assume that it has been completed to the latest regulatory standards.

Policy proposal

4.11 This policy change aims to introduce a clear definition for commencement of works across new build projects and the following types of building work in existing buildings – extending a building horizontally; changing the external wall system; and material change of use. It will also enable the lapse of approval power under the Building Safety Act -if

building works have not been commenced under the definitions of commencement (as set out in the consultation) by the end of three years where an application has been made and approved, the building control approval will automatically lapse. This is to support our intention for building projects to abide by the latest building regulations' requirements, including those relating to building safety.

Analytical approach

4.12 The policy seeks to prevent developers from being able to unnecessarily build to older building regulations by introducing clearer definitions of commencement in legislation. Government is aware of the issue through anecdotal evidence provided by some key stakeholders; however, more data is required to accurately quantify the size of the problem. We have, therefore, drafted a survey targeted at a representative group of local authorities which will enable us to identify spikes in building notifications and commencements of work alongside other areas of concern, ensuring we have the necessary information to better assess the scale of developers avoiding building regulations. This will contribute to the development of a future Impact Assessment for lapse of approval and defining commencement of works.

4.13 In the interim, and given the policy aims to regain the benefits derived from ensuring building work complies with building regulations' requirements, including those related to building safety that have, in some cases, been avoided, this economic analysis has focused on quantifying the potential benefits that homebuyers and leaseholders have missed out on.

4.14 Our analysis so far has focused on identifying building regulations in the last 5 years which, according to anecdotal evidence from local authorities, developers have sought to avoid by commencing work and exploiting the lack of a lapse of approval.

4.15 Following discussions with local authority building control, five building regulations were identified as falling within the above categories [\[footnote 9\]](#):

- Part B - Sprinklers and other fire safety measures in high-rise blocks of flats
- Part F – Ventilation
- Part L – 2021 changes to the energy efficiency requirements of the Building Regulations for domestic & non-domestic buildings
- Part O – Overheating
- Part S – Residential Charging Infrastructure Provision

4.16 We reviewed these building regulations and conducted high-level analysis to extrapolate the benefits per dwelling for domestic buildings and benefits per building for non-domestic buildings. While this is a relatively rudimentary approach, we deemed quantifying the potential impact on households the most effective indicator of societal impact, prior to consultation and given current data constraints. Data from the local authority survey combined will enable us to conduct a more rigorous analysis aimed at quantifying the scale of the problem.

4.17 The benefit per dwelling figures for each building regulation was calculated by dividing the Present Benefit Value by the number of dwellings in scope over the policy appraisal period. In some instances where a monetised benefit was not available due to high levels of uncertainty within the original analysis, non-monetised benefits have been identified. While more indicative they provide a useful insight into the potential range of benefits for non-monetised building regulations.

Building Regulations – Benefit per Dwelling

4.18 The per dwelling/building benefit figures for each of the five building regulations in scope are outlined in Table 1. All per dwelling benefit figures for each building regulation are high level estimates calculated independently. As such, they must be used with caution due to the large degree of uncertainty in their estimation and the risk of interaction between different regulations. In addition, the figures here have not been adjusted for price or present year from their publication, with the respective price and present value years provided in Table 1.

4.19 We estimate that the benefit per dwelling arising from Sprinklers and other fire safety measures in high-rise blocks of flats (Part B of the building regulations) is approximately £80. This comprises avoided casualties, avoided fatalities, and property protection. There are also various benefits that could not be monetised due to the high degree of uncertainty, including improved safety reassurances for residents and reductions in air pollution.

4.20 For Improved Ventilation (Part F of the building regulations), due to the level of uncertainty, the benefits are not monetised as part of the main cost benefit analysis. Sensitivity analysis was, however, taken forward to illustrate the potential magnitude of benefits from improved ventilation for both domestic and non-domestic buildings. Benefits per dwelling are estimated to be around £2,300 for avoided remediation costs and between £2 - £25 for greater levels of health. In addition to this there are further non-monetised benefits in the form of simplified guidance for the size of ventilation systems that could improve health and reduce remediation costs in the future.

4.21 We estimate that the benefit per dwelling arising from the 2021 changes to the energy efficiency requirements of the Building Regulations for domestic buildings (Part L of the building regulations) is approximately £4,980. In addition to this, it is likely that consumer savings will be greater due to non-monetised benefits including reduced VAT payments.

4.22 We estimate that the benefit per dwelling arising from Reduced Overheating (Part O of the building regulations) is £280 per dwelling, comprised of avoided costs from not installing and running mechanical cooling systems, energy savings from not running these, a small carbon saving, and improved mortality. Any non-monetised benefits from this policy are estimated to be insignificant.

4.23 We estimate that the benefit per dwelling arising from increased Residential Charging Infrastructure Provision (Part S of the building regulations) is £380 per dwelling which is solely comprised of an efficiency cost saving against the baseline scenario where ducting, cabling and grid connections are retrofit into existing properties. In addition to this, we estimate there are several non-monetised benefits including the emissions savings resulting from the expected increase in electrical vehicle uptake, and the avoidance of disruption from installation work in the baseline scenario.

4.24 We have elected not to include any per building benefit figures for non-domestic buildings for two reasons. All non-domestic building calculations were calculated using floor space in their original analysis. If we split this out into buildings, the benefits become highly inflated and cannot be interpreted accurately, in comparison with domestic benefit figures.

4.25 All per dwelling benefits, both monetised and non-monetised, are indicative estimates aimed at illustrating the potential losses house buyers/leaseholders may have faced as a result of developers avoiding more stringent building regulations. Given the high level of uncertainty, and potential for interaction between different policies, all per dwelling benefits should be treated cautiously and independently of one another.

Table 1: Building regulation breakdown for buildings in scope and benefit per dwelling

Building Regulation

[Part B - Sprinklers and other fire safety measures in high-rise blocks of flats](#)

Include provision of sprinklers and wayfinding signage (reflective vinyl) in new blocks of flats with a or higher in Approved Document B.
Price base 2020. PV year 2020

Building Regulation

[Part F – Ventilation \(Domestic\)](#)

Introduce new and simplified guidance for ventilation standards for both new domestic and non-domestic for existing buildings when relevant work is done.
Price base 2019. PV year 2021

[Part F – Ventilation \(Non-Domestic\)](#)

Price base 2019. PV year 2021

Building Regulation

Part L – 2021 changes to the energy efficiency requirements of the building regulations for non-dom

New homes target that delivers a 30% improvement on 2013 standards, aggregated across the performance-based targets for primary energy, CO2 emissions and fabric energy efficiency.

For existing homes, improvements to the standards of new and replacement thermal elements will have replacement windows more energy efficient, as well as improving the efficiency of extensions conversions.

Price base 2019. PV year 2021

[Part L – 2021 changes to the energy efficiency requirements of the building regulations for non-dom](#)

New target for new non-domestic buildings that delivers a ~27% reduction in carbon emissions on a building compared to 2013 energy efficiency standards.
Also effects existing non-domestic when relevant building work is carried out.
Price base 2019. PV year 2021

Building Regulation

[Part O – Overheating](#)

Introduce a new requirement for limiting overheating in new residential buildings.

Price base 2019. PV year 2021

[Part S – Residential charging infrastructure provision](#)

Charging infrastructure to be installed in all new buildings and those undergoing major renovations, including ducting, cabling and at least one charge point per dwelling. Properties with more than 10 spaces will require cable routes in all parking spaces without charge points.

Price base 2019. PV year 2022

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000(FOIA), the Environmental Information Regulations 2004 and UK data protection legislation. In certain circumstances this may therefore include personal data when required by law.

If you want the information that you provide to be treated as confidential, please be aware that, as a public authority, the Department is bound by the information access regimes and may therefore be obliged to disclose all or some of the information you provide. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department for Levelling Up, Housing and Communities will at all times process your personal data in accordance with UK data protection legislation and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. A full privacy notice is included below.

Individual responses will not be acknowledged unless specifically requested. Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how we can improve the process please contact us via the [complaints procedure](#).

Personal data

The following is to explain your rights and give you the information you are entitled to under UK data protection legislation.

Note that this section only refers to personal data (your name, contact details and any other information that relates to you or another identified or identifiable individual personally) not the content otherwise of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Department for Levelling Up, Housing and Communities (DLUHC) is the data controller. The Data Protection Officer can be contacted at dataprotection@levellingup.gov.uk or by writing to the following address:

Data Protection Officer
Department for Levelling Up, Housing and Communities
Fry Building
2 Marsham Street
London
SW1P 4DF

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

We will collect your IP address if you complete a consultation online. We may use this to ensure that each person only completes a survey once. We will not use this data for any other purpose.

Sensitive types of personal data

Please do not share [special category](#) personal data or criminal offence data if we have not asked for this unless absolutely necessary for the purposes of your consultation response.

By 'special category personal data', we mean information about a living individual's:

- race
- ethnic origin
- political opinions
- religious or philosophical beliefs
- trade union membership
- genetics
- biometrics
- health (including disability-related information)
- sex life; or

- sexual orientation.

By 'criminal offence data', we mean information relating to a living individual's criminal convictions or offences or related security measures.

3. Our legal basis for processing your personal data

The department has a statutory duty to consult on these regulations.

The collection of your personal data is lawful under article 6(1)(e) of the UK General Data Protection Regulation as it is necessary for the performance by DLUHC of a task in the public interest/in the exercise of official authority vested in the data controller.

Section 8(d) of the Data Protection Act 2018 states that this will include processing of personal data that is necessary for the exercise of a function of the Crown, a Minister of the Crown or a government department i.e. in this case a consultation.

Where necessary for the purposes of this consultation, our lawful basis for the processing of any special category personal data or 'criminal offence' data (terms explained under 'Sensitive Types of Data') which you submit in response to this consultation is as follows. The relevant lawful basis for the processing of special category personal data is Article 9(2)(g) UK GDPR ('substantial public interest'), and Schedule 1 paragraph 6 of the Data Protection Act 2018 ('statutory etc and government purposes'). The relevant lawful basis in relation to personal data relating to criminal convictions and offences data is likewise provided by Schedule 1 paragraph 6 of the Data Protection Act 2018.

4. With whom we will be sharing your personal data

DLUHC will appoint the Health and Safety Executive (HSE) and the Home Office as 'data processors'. The Health and Safety Executive (HSE) and the Home Office will act on behalf of the Department and under our instruction, to help analyse the responses to this consultation. Where we do we will ensure that the processing of your personal data remains in strict accordance with the requirements of the data protection legislation.

5. For how long we will keep your personal data, or criteria used to determine the retention period

Your personal data will be held for two years from the closure of the consultation, unless we identify that its continued retention is unnecessary before that point.

6. Your rights, e.g. access, rectification, restriction, objection

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have your data corrected if it is incorrect or incomplete
- d. to object to our use of your personal data in certain circumstances
- e. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

Please contact us at the following address if you wish to exercise the rights listed above, except the right to lodge a complaint with the ICO:
dataprotection@levellingup.gov.uk or

Knowledge and Information Access Team
Department for Levelling Up, Housing and Communities
Fry Building
2 Marsham Street
London
SW1P 4DF

7. Your personal data will not be sent overseas

8. Your personal data will not be used for any automated decision making

9. Your personal data will be stored in a secure government IT system

We use a third-party system, Citizen Space, to collect consultation responses. In the first instance your personal data will be stored on their secure UK-based server. Your personal data will be transferred to our secure government IT system as soon as possible, and it will be stored there for two years before it is deleted.

1. For example, a contractor will have a duty to cooperate with the other dutyholders to ensure the work they are undertaking meets the buildings regulations under our proposed requirements (e.g. completes documentation required in the change control requirements established by the principal contractor). That same contractor will also have a requirement to cooperate with the dutyholders or persons to ensure that their work practices meet duties in relation to health and safety (e.g. attend the site induction arranged by the principal contractor).
2. This duty would be under part 4 of the Building Safety Act 2022 – more details can be found in the consultation on the higher-risk buildings in occupation.
3. Excluding bank holidays, Christmas Day and Good Friday.
4. This would be equivalent to the existing duty in regulation 38 of the Building Regulations 2010). The relevant person is defined as being either the Responsible Person (under the Regulatory Reform (Fire Safety) Order 2005 – the ‘Fire Safety Order’) or the principal accountable person (under part four of the Building Safety Act 2022). Some buildings will have both.
5. An example of a reportable safety occurrence: During design, products are chosen to provide fire protection to copper piping in the building. The two products are Armaflex pipe insulation and a permanent fire stopping intumescent sealant (Nullifire). The use of these products together passes internal checks and is approved for design. The products are being installed when it is discovered, through review of the product manual, that the two are incompatible in the context of maintaining fire compartmentation. The issue being that in the event of a fire the Nullifire sealant would expand and distort the

Class O Armaflex insulation, negating fire compartmentation and making the design noncompliant with safety standards. Instead the All content is available under the Open Government Licence v3.0, except where otherwise stated

© Crown copyright Nullifire is only compliant with a specified Rock-fibre at 64KG spec insulation. The design is updated accordingly and a sub-contractor removes and replace all the Armaflex Class O insulation with Rock-fibre. The design flaw passed internal checks and, had it not been spotted at this late stage, would have presented a significant fire safety risk to life safety. There is clear value in sharing this product-incompatibility with the Building Safety Regulator and through them, wider industry.

6. Building work as defined in regulation 3 of the Building Regulations 2010 that is not carried out under a Competent Person Scheme or Third-Party Certification Scheme will require a building control application to be approved by the Building Safety Regulator before the work can be carried out.

7. To include competence declaration, planning statement, design and build approach document, fire and emergency file, construction control plan, change control plan, description of Mandatory Occurrence Reporting and Golden Thread arrangements.

8. The costs of the non-mandatory pre-application meeting to industry are not included in this total as voluntary measures are not costed.

9. Detailed explanations outlining the policy, including the buildings in scope and its aim.

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