

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Sixth Delegated Legislation Committee

DRAFT HIGHER-RISK BUILDINGS (KEEPING  
AND PROVISION OF INFORMATION ETC.)  
(ENGLAND) REGULATIONS 2023

*Wednesday 13 December 2023*

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

**not later than**

**Sunday 17 December 2023**

© Parliamentary Copyright House of Commons 2023

*This publication may be reproduced under the terms of the Open Parliament licence, which is published at [www.parliament.uk/site-information/copyright/](http://www.parliament.uk/site-information/copyright/).*

**The Committee consisted of the following Members:**

*Chair:* † DEREK TWIGG

- |   |   |
|---|---|
| † Amesbury, Mike ( <i>Weaver Vale</i> ) (Lab)                           | Lewis, Clive ( <i>Norwich South</i> ) (Lab)                                 |
| † Barker, Paula ( <i>Liverpool, Wavertree</i> ) (Lab)                   | † Mohindra, Mr Gagan ( <i>South West Hertfordshire</i> ) (Con)              |
| † Glindon, Mary ( <i>North Tyneside</i> ) (Lab)                         | † Morrissey, Joy ( <i>Lord Commissioner of His Majesty's Treasury</i> )     |
| Gullis, Jonathan ( <i>Stoke-on-Trent North</i> ) (Con)                  | † Mumby-Croft, Holly ( <i>Scunthorpe</i> ) (Con)                            |
| † Hayes, Sir John ( <i>South Holland and The Deepings</i> ) (Con)       | † Rowley, Lee ( <i>Minister for Housing, Planning and Building Safety</i> ) |
| † Hillier, Dame Meg ( <i>Hackney South and Shoreditch</i> ) (Lab/Co-op) | Shah, Naz ( <i>Bradford West</i> ) (Lab)                                    |
| † Hudson, Dr Neil ( <i>Penrith and The Border</i> ) (Con)               | † Spellar, John ( <i>Warley</i> ) (Lab)                                     |
| Jayawardena, Mr Ranil ( <i>North East Hampshire</i> ) (Con)             | Peter Stam, <i>Committee Clerk</i>  |
| † Jenkinson, Mark ( <i>Workington</i> ) (Con)                           | † <b>attended the Committee</b>   |
| † Levy, Ian ( <i>Blyth Valley</i> ) (Con)                               |   |

## Sixth Delegated Legislation Committee

Wednesday 13 December 2023

[DEREK TWIGG *in the Chair*]

### Draft Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023

2.30 pm

**The Chair:** Before we begin, I remind Members that mobile phones should be switched off. If you want to catch my eye, you need to bob.

**The Minister for Housing, Planning and Building Safety (Lee Rowley):** I beg to move,

That the Committee has considered the draft Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023.

It is a pleasure to serve under your chairmanship, Mr Twigg. As the Committee is aware, there has been a long-standing and very important process in Government to make sure that the regulation on buildings post Grenfell is improved, and that safety is at the heart of all regulation. We have introduced legislation—the Building Safety Act 2022 and regulations in affirmative and negative statutory instruments—to do that.

These draft regulations are part of a package that forms a milestone for building safety in the UK. Through the overall package of regulations, the Government seek to meet their commitment to make sure that buildings are safe now and that people feel safe in future and for generations to come.

The regulations set out the golden thread information that the people responsible for an occupied higher-risk building—known as the accountable persons—need to keep. They set out the information that accountable persons need to share with each other, other people responsible for the safety of the building, residents and owners of flats in the building itself. That includes sharing information with fire and rescue services to help better deliver responses in the event of an emergency.

The documentation for this statutory instrument is significant and is intended to indicate all the different elements of the data that needs to be provided, so that there is clear information—a clear golden thread—that explains what the building is and helps in the event of an emergency.

Understandably, the regulations set out certain limited exceptions when the information does not need to be provided—for instance, if there are issues around security, commercial confidentiality or data protection. They also seek to make small amendments to other regulations: the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023, which clarify what part of a building an accountable person is responsible for when there are multiple accountable persons for the same higher-risk buildings; and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023, in relation to the specific exclusion of certain types of military premises.

I hope that this is a relatively straightforward SI, although I will be guided by Opposition Members. It seeks to do what I think we all want in this House: to make sure that regulations are fit for purpose as a result of all the changes and challenges that we have seen in recent years. I hope this is another step forward in that. I commend it to the Committee.

2.33 pm

**Mike Amesbury** (Weaver Vale) (Lab): It is a pleasure to serve under your chairmanship, Mr Twigg and to respond on behalf of the Opposition Front Bench team.

I am very familiar with the Building Safety Act. I was the shadow Housing Minister who took it through the Public Bill Committee and Report stage, and I tabled amendments to it. We worked constructively with former Ministers—and, indeed, the Secretary of State—to bring it on its journey.

We worked with key stakeholders in our constituencies and way beyond, including Cladiators campaigners, the National Leasehold Campaign, End Our Cladding Scandal, and the UK Cladding Action Group—all groups that the Minister is very familiar with. The Act is a landmark piece of legislation. It changes the regulatory regime and creates a professional culture in the construction and development industry, focused on high-rise buildings, the definition of which is in the legislation.

As the Minister rightly said, the context is the learning from the Grenfell Tower tragedy, where 72 people lost their lives, and earlier fires such as Lakanal House fire. It must be acknowledged that progress has been made. A new landscape of regulation has been created. The Building Safety Regulator is now alive, although not quite kicking; we certainly have a shared interest to get that going in the right direction. Practical remediation has started on a considerable number of buildings, but there is more to be done. Far too many buildings are still not remediated, and some developers are not doing what they should be doing. The Chair of this Committee is very familiar with that, and has spoken powerfully to challenge that in Runcorn in his constituency, as Members across the Committee have done in theirs. There are still issues around insurance and the broader financial sector—mortgages and so forth—that the Minister has been addressing.

Let me turn to the regulations. As the Minister said, they are about the golden thread of information, the principal accountable person and any other accountable person for what is classified as a high-risk building. It is vital that all leaseholders and residents are given a voice and empowered by this new regime, through that critical information—we have spoken about the previous learning. The Minister also referred to the emergency services and other key stakeholders in the building safety regime.

A concern that has been raised with me by the UK Cladding Action Group and some notable lawyers—the Minister will be familiar with some of them—is the cost of the cladding scandal potentially being passed on to leaseholders. There is reference to industry, but the Minister and Members across the House will know from experience that the magic, non-transparent money tree is tucked away in service charges. I would like the Minister to elaborate on that point.

Regulations 7 and 8 and schedule 2 require paper copies, potentially of three different documents, given to everyone over the age of 16. At large sites, that may involve giving multiple copies to multiple residents and, across hundreds of flats, that would be thousands of copies. The regulations state that those should be paper copies, so the cost of servicing that could be quite challenging. Again, there could be an opportunity for a managing agent, who may be the principal accountable person, to put that on to a service charge. We have seen some evidence of that from early regulations in the not-too-distant past, which I will happily present to the Minister.

**Paula Barker** (Liverpool, Wavertree) (Lab): Does my hon. Friend agree that it would be wholly unacceptable if the costs of additional paperwork that has to be filed were passed on to leaseholders in their service charges? They have already suffered enough. As we know only too well, 72 people lost their lives at Grenfell through no fault of their own. We have to do everything we can to protect these individuals.

**Mike Amesbury:** That principle has been debated at length. Various Government Ministers, including the Minister here today, have spoken about the fundamental principle that it should not be the innocent leaseholder who pays, but those who were responsible for this toxic mess in the first place. I would be interested to hear the Minister elaborate on that in his response.

It has been put to me that regulations 15 to 19 could be open to abuse. The only way to challenge service charges is to produce comparable evidence. As I have stated, most accountable persons will be managing agents, and they will grab every opportunity—we have lots of evidence of this—to give no details of their charges. There is another piece of legislation going through the House as we speak that might address some of those concerns. An example is the commercial confidentiality exemption in regulation 17, which managing agents could use to avoid being transparent and open about increasing—and at times, astronomical—costs. That could be an unintentional result of the regulation. I would like to hear the Minister's assurance and elaboration on that point.

In summary, this is a technical and necessary statutory instrument, but the fundamental principle is that further costs should not be passed on to leaseholders.

2.41 pm

**Dame Meg Hillier** (Hackney South and Shoreditch) (Lab/Co-op): It is a pleasure to serve under your chairmanship, Mr Twigg. I am aware that a number of regulations will flow out of the Building Safety Act, so could the Minister clarify whether disability and access information is recorded under this regulation? It is critical that there is a proper record of people who will need assistance when evacuating.

I should have declared an interest in that I am a leaseholder and live above the seventh floor in a leasehold block, and I have had recent experience of a fire drill when an alarm went off. But I represent many constituents living in affected blocks, which is my main interest today as their constituency MP. Sometimes, temporary disability is an issue. It is quite a challenge for a building manager to keep up to date with people who have broken an ankle and have a problem for only a few

months, rather than people who have a regular problem. There are also important privacy issues for people with a disability who may need support and assistance, relating to how that might be recorded and dealt with differently from other information.

On data, a lot of blocks in Hackney have been sold to overseas landlords. There are landlords overseas and landlords in the UK—sometimes in London but often elsewhere. There are then the residents of those blocks—some are owners, and some are the tenants of those landlords. When the data is shared with the resident, there is reference to the redaction of personal data in some circumstances, as I am sure the Minister is aware. Could he explain who gets the full data? Is it the resident, and the landlord has some of it redacted? How will that work? There is an awful lot of personal information flying around here, and it is easy to see how there could be challenging GDPR issues.

To echo the points from my colleagues about the impact on leaseholders, the guidance suggests an estimated £15-a-month charge to leaseholders over a 15-year period. That works out at about £180 per annum for 15 years. I am interested to know how the Department modelled those figures. A one-off map of the building—if that did not exist beforehand—is one cost; it does not change. The change would be the personal information about residents—the names of people moving in—so that there is a record of who is living there, and information about access and disability where appropriate.

I know the Minister is quite hot on leasehold charges. As my colleagues have said, what efforts will be made to ensure that leaseholders, or indeed tenants, are not fleeced by charges? Where properties are tenanted, there will be certain restrictions. The Minister's portfolio has shifted so I am confused about what is currently under his remit, but I hope he is able to shed some light on the impact on social rents.

Obviously, there is a cap on how much social rents can increase by, but if those extra pressures are put on local authorities, housing associations and other landlords, they will have to pass them on in some way to tenants through service charges. For a lot of tenants, service charges are wrapped up in rents. Can the Minister say anything about that, because £15 a month is not a lot for people in fancy, expensive leasehold properties, who, at the high end, are used to paying thousands of pounds a year in service charges, but others find it a challenge to find the extra £2 a month, or a week, for CCTV on their estate? What thought is going into that? There is a danger with bad leasehold companies, which manage properties badly and are not transparent about costs. It is easy to see how other costs could be hidden in this cost. What thoughts has he had on that?

Is there a review point? The impact assessment says that there will be no separate review, other than the review that is built into the Building Safety Act 2022. Could the Minister remind us—I am afraid this does not come to mind—exactly how that review will work? How can Members who represent affected constituents press for a review if we pick up, though our work, issues with how the provisions are applied?

Has the Minister given any consideration to the impact where a property does not have a plan? He will know about this, as a former Westminster City councillor. When I became a councillor, properties transferred to the council from the then Greater London Council often did not have proper plans. The plans available

[*Dame Meg Hillier*]

depended on when properties were built, and who the original landlord was. To what extent will plans have to be drawn up for buildings that never had them? In more recent years, and certainly since the tragedy of Grenfell, we have expected property owners to keep proper, clear building plans that are easily accessible and can be supplied to the fire and rescue services, and any other interested parties.

2.46 pm

**Sir John Hayes** (South Holland and The Deepings) (Con): I have a simple question that this excellent Minister will be able to address, but before he does, may I say that he has done a very good job on this issue, as was acknowledged by the Opposition? That needs to be put on record. He is an excellent Minister; I have had personal dealings with him on other subjects, and I know that he always responds to colleagues with diligence and alacrity. More than that, he listens, and acts when he has listened, so I thank him very much.

I have a technical question; I do not want him to think I am a soft touch, given what I have just said about him. Interestingly, schedule 1 sets out clearly responsibilities in respect of resident engagement, and schedule 2 sets out in considerably more detail information that needs to be provided. I want to be clear about new or potential residents. When they are offered a place in a block, how much are they told ahead of the game? My slight concern is that people will not necessarily know what they need to. Imagine that they are coming from a way away, and are not familiar with the location or building. What are the mechanisms by which people can know what to expect, and what they are taking on? I am sure that the Minister will have thought about, and will not have any trouble answering my question, particularly given what I said about him earlier.

2.47 pm

**Lee Rowley:** I thank Members for all the very constructive comments and questions. Let me try to answer them in turn. The hon. Members for Weaver Vale, for Hackney South and Shoreditch, and for Liverpool, Wavertree, raised important points about cost. It is absolutely right that we need the greatest transparency, and the minimum impact on residents. The approach will be imperfect whenever any system has so many actors within it. If the Government and the Building Safety Regulator make the approach very clear, and have processes that check these things, that is probably as much as we can do right now, but there is obviously more that should be done.

We have a combination of clarity around the issue, the Building Safety Regulator's focus on it, and the Government's clear statements about it, as well as a review and loop mechanism—plus there is all the work on the Leasehold and Freehold Reform Bill. Many Members here contributed to Second Reading on Monday. The Bill seeks to create transparency about service charges in general, irrespective of whether the building is a high-rise. We hope that all those things will form a package. The best way to keep costs down is to ensure that the system has transparency at its core, and that people have the ability to check and challenge in a practical way.

Secondly, on the distribution of costs, I acknowledge the point the hon. Member for Liverpool, Wavertree made about the importance of minimising the impact on leaseholders. That is vital. Leaseholders have faced substantial challenges over the past six years, particularly those in buildings affected by cladding, those who are going through remediation and those who are still waiting for remediation. We have to try to minimise the costs. At the same time, I cannot exempt from costs unless we can find a specific fund at a time when the Government are still overspending by £130 billion—that is for a separate discussion at another time, however.

There will be an add-on in terms of cost; the job is to reduce it to the minimum and provide transparency, and then to do the work the hon. Member for Weaver Vale kindly referred to on the other costs residents are facing—increased insurance premiums, probable costs of commissions on top of insurance, and so on—and try to drive those costs down. A huge amount of work is being done to drive down the costs of insurance, which I have to say is very frustrating on a personal level. We have made some progress on commissions; on insurance, we have not made the progress I wanted, but we are working very closely with the insurance industry to do that and I hope to have more information soon. While the distribution of costs is probably not where Opposition Members want it to be, I hope I can reassure them that we are working across the piece to drive down costs in aggregate.

Thirdly, how will the appeals work? There will be an appeals process that allows reference to an independent panel through the Building Safety Regulator; if that is not satisfactory, cases can go to the first-tier tribunal for a decision. Having met with many leaseholders while dealing with the Leasehold and Freehold Reform Bill over the last couple of weeks, I recognise that tribunals are not an end in themselves. The processes are long, involved and complicated, and people have lives to lead, but ultimately we have to find the form of redress that works, and I hope to achieve that by providing greater transparency and easier processes through that Bill, and more information where it is necessary.

If the package does not work, I want to hear from colleagues about such examples. I meet the Building Safety Regulator—the chair, the chief executive and everyone involved—monthly to discuss issues of mutual interest. I have already said to them that getting these costs down and getting the guidance around this to a place where it is reasonable and proportionate are hugely important. I know we will have examples where management companies try it on or there is no transparency; there will be cases where things are not as we want them to be. We need to identify the problems, work through them and see whether we can make changes to make the process better.

**Mike Amesbury:** The Minister talks about the Building Safety Regulator, but we are talking about some 12,000 that are in scope. Is he confident that the regulator and associated teams have enough resources to meet these quite ambitious timescales? We are all keen to move things on collectively, but can he give us some assurance?

**Lee Rowley:** I work closely with the Building Safety Regulator. Its first job is to make sure that the rough number of buildings we are expecting to register have done so. For the past couple of months I have received

data weekly, and slightly less frequently before that. The numbers are in the ballpark of how many we expected to register, so the first test has been passed. Now, it is a case of, over six years, working through the buildings, making sure that data is collected and used in a satisfactory way, and helping owners to make sure they are managing in a way that works. A substantial sum is going into the Building Safety Regulator, and from having worked closely with it, I think the indications so far—things may change—are that it is moving in the right direction.

To pick up a couple of other points, the hon. Member for Hackney South and Shoreditch highlighted the very important point about disabilities and making sure that appropriate consideration is given to that issue. That is vital and it is a core part of our approach, but it is separate from the regulations before us, which are about a record of buildings, not of people who live in them. We have already consulted and we will bring forward separate measures on PEEPs—personal emergency evacuation plans.

**Dame Meg Hillier:** I thank the Minister for clarifying that. Does he have a rough timescale? I am asking not for a precise date, but for a range of dates when we might see that, because it is critical. I have a constituent who is particularly concerned about that issue.

**Lee Rowley:** The hon. Lady is absolutely right to highlight that. When I speak to a number of the cladding groups, it is one of the areas that is, quite rightly, at the centre of the points that they raise. I am afraid that I will do that rather annoying thing and say that I do not have a date, but we hope it to be very soon.

**Dame Meg Hillier:** Spring?

**Lee Rowley:** I hope that would be the case. The Secretary of State sees this as a priority; we are in deep conversations with the Home Office on it, and I hope that we will bring it forward as soon as we can.

I will conclude with a couple of additional points. On the point about review, I reiterate that I am keen to receive any information or data from colleagues where they see problems or, indeed, good behaviour, so that we can feed that into the BSR. I will be happy to do that as soon as these things go in, because at that point we will be able to start to gather the body of data that indicates whether it is working in the way that we hoped or needs to be looked at.

As for the final few questions, data sharing is a difficult area to get right. All data that is collected will be shareable with the Building Safety Regulator—otherwise, there is no point in having the regulator in the first place. Almost all data will be shared with the fire and rescue services—otherwise, again, there is no point in having it. There is a much more delicate interaction between the entity and the leaseholders. Obviously, the entity will need to collect the data, but a series of provisions in the guidance will try to manage that. Again, we will need to review that as we go through to ensure that it works.

On the point about older buildings, it is absolutely right to point out that whether we like it or not, ideally or not, there will be a paucity of data in certain places. Some data will need to be replaced—otherwise, there is no point having the regulations and collecting it in the

first place if the questions of the fire and rescue service cannot be answered. People must be able to answer them—otherwise, it is not advancing the cause of safety.

The usual reasonable principle test is in all the regulations; therefore, the objective is to ensure that the data is available for when it is necessary. However, if people have gone through a reasonable process of trying to get it and they cannot get it until x day or they need to wait until a point in a cycle, or whatever, that will be for the usual processes of tribunals to judge. However, a reasonable test is brought into it, which is a proportionate way of saying, “You need to do this, but it may take a little bit of time”, or, “We need to work that through”.

My right hon. Friend the Member for South Holland and The Deepings had a question about schedule 2. For obvious reasons, it will not be the case that residents moving in who have not made some kind of contractual arrangement to purchase the property will have access to all the data—otherwise, basically anybody would have access to it. However, they would be given that information at the point of a contract being signed, naturally. We would then hope and expect—I know that my right hon. Friend will appreciate this, as someone from a similar ideological view to my own—that it will be difficult to put rules around the level of data available in advance of that, but I expect that, through the sales process, responsible entities will want to provide a sufficient level of data to assure those seeking to purchase or take an interest in a property to be able to do so. If the data is not available or obstructions are found, it may signal an indication of the responsibility of those managing the building.

**Dame Meg Hillier:** The Minister is making some helpful points. It is clear that he is very much on top of this matter, so I echo the comments made earlier. It has been helpful to meet him to discuss issues at times.

On the issue of information, a lot of the properties in my constituency are tenanted—as I said earlier, the leaseholder is often living overseas or elsewhere—so we are reliant on the whole tenancy arrangement for information to be shared with the tenant. As far as I am aware—the Minister may want to have an exchange of letters about this—there is no absolute requirement on landlords to provide that document. Landlords must now provide 13 different documents to a tenant. The Minister has made general comments about fire safety and so on, but I do not recall anything specific about that document. Is there any further change in the rules or guidance for private landlords—they are the ones who would be in scope—that needs to happen as a result? It seems that there may be a small gap that is important and significant. What the right hon. Member for South Holland and The Deepings said was helpful.

**Lee Rowley:** I am happy to write to the hon. Lady to be absolutely certain that I have understood the point. We will get officials to write to her with that information. My understanding is that the combination of clear requirements; a clear, responsible entity that needs to respond to those requirements, whoever it is in the hierarchy and however complex the hierarchy is; and forms of redress that ultimately fall back to the Building Safety Regulator to say, “No, that is not acceptable” should cover everything. However, if it does not, we can work that through in an exchange of letters.

*[Lee Rowley]*

I think that covers what colleagues have said, and I thank them for their constructive comments. I look forward to making progress on this issue. Adding additional regulation is always challenging, and there are different views on that on different sides of the House, but even for someone like me, who tends to favour relatively low

regulation, it is a reasonable and proportionate thing to do. We now need to ensure that it is right, and I am keen to get feedback from colleagues to ensure that that is the case in the months ahead.

*Question put and agreed to.*

3 pm

*Committee rose.*