EXPLANATORY MEMORANDUM TO

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

2023 No. [XXXX]

1. Introduction

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

2. Purpose of the instrument

2.1 The purpose of the Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023 is to specify the information and documents that the principal accountable person and accountable persons must keep and share with those who have an interest in relation to a higher-risk building.

2.2 These Regulations amend the Higher-Risk Buildings (Key Building Information etc.) Regulations 2023 and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023. These amendments are in relation to provisions about what part of the building an accountable person is responsible for when there are multiple accountable persons for the same higher-risk building, and in relation to the exclusion of certain types of military premises.

2.3 These Regulations are necessary to ensure that through a building's lifecycle, the right information and documents are retained to enable principal accountable persons and accountable persons to comply with their duties in relation to building safety and are shared with relevant other persons in the interests of maintaining building safety.

2.4 Higher-risk buildings are defined under Part 4 of the Act and the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 which came into force on 6th April 2023. Principal accountable persons and accountable persons are defined under Part 4 of the Act. Throughout this document the principal accountable person and accountable persons are referred to as accountable persons. However, there are specific duties which the principal accountable person must carry out. In these cases, the document will refer to the 'principal accountable person' as necessary.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Extent and Territorial Application

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England only.

5. European Convention on Human Rights

5.1 The Parliamentary Under Secretary of State for Local Government and Building Safety Lee Rowley MP, has made the following statement regarding Human Rights:

"In my view the provisions of the Higher-Risk Buildings (Keeping and Provision of Information etc.) (England) Regulations 2023 are compatible with the Convention rights."

6. Legislative Context

6.1 These Regulations are being made to implement duties on the accountable person under the Building Safety Act 2022 (the Act). This is the first use of certain powers under sections 89, 90 and 92 of the Act.

6.2 Section 88 of the Act sets out that accountable persons for a higher-risk building must keep information and documents and gives the power to the Secretary of State to make provisions to prescribe this information. This instrument prescribes the information and documents for this purpose and stipulates for how long they must be kept by the accountable person.

6.3 Section 89, 90 and 92 of the Act set out that accountable persons for a higher-risk building must share information and documents with certain persons and gives the power to the Secretary of State to make provisions to prescribe this information. This instrument prescribes certain further persons with whom information and document must be shared and prescribes the information and documents that must be shared. The Regulations also set out exceptions to the duty on sharing information and documents if there are sensitivities around security, commercial confidentiality or personal data.

6.4 The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 were laid on 17th August 2023 and will come into force at the same time as these Regulations. Those regulations set out what must be included in the safety case report, the requirements for managing and storage of the golden thread information, identifying and managing building safety risks and engagement with residents. The Building Safety (Registration of Higher-Risk Buildings and Review of Decisions) (England) Regulations 2023 and the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023 came into force on 6th April 2023 and set out the requirements around the registration of higher-risk buildings, the high-level information that must be provided to the Regulator; and defined what part of the building an accountable person is responsible for. These Regulations together with those three Regulations create a uniform and specified approach for keeping and sharing information and documents for every occupied higher-risk building.

7. Policy background

What is being done and why?

7.1 The Act establishes a new more stringent building safety regime for managing fire and structural safety risks in higher-risk buildings. This new regime was a fundamental part of Dame Judith Hackitt's recommendations, as outlined in her 2018 Building a Safer Future report. In this, Dame Judith recommended the introduction of a 'golden thread of information' for all higher-risk buildings, and that information on building safety should be shared with residents in an accessible way.

7.2 These Regulations provide the necessary new detail on existing requirements (namely sections 88, 90 and 92) and introduce new requirements (further to section 89) on those responsible for higher-risk buildings in occupation. These requirements set out the golden thread information that accountable persons are required to keep and share with prescribed persons. The Act and these regulations define the persons with which information and documents must be shared as: other accountable persons in the building, Responsible Persons in the higher-risk building and any wider building[1] (if they are not an accountable person), the client for building work in the building (if they are not an accountable person), the Regulator, the local fire and rescue authority, residents, landlords of residents in the building and owners of flats in the building. These Regulations require the golden thread information to be handed over from an outgoing accountable person to a new accountable person when an accountable person leaves their role. The Regulations also set out exceptions to the duty on the accountable person to information or documents if there are sensitivities around security, commercial confidentiality or personal data.

How information should be provided to the Regulator

7.3 Regulation 3 specifies that the Regulator may make a direction about how the information and documentation specified in Regulation 5 must be provided to it. This will ensure that the Regulator has operational flexibility on how information and documentation is provided to it and can issue new directions to ensure requirements remain up to date with developing technology.

The information required as golden thread information

7.4 Regulation 4 specifies that the prescribed information and documents set out in schedule 1 must be kept by accountable persons as the golden thread information. The Regulation also sets out that if there are multiple accountable persons for a higher-risk building then each accountable person is responsible for keeping the information or documents that relate to the part of the building for which they are responsible.

Sharing information with prescribed persons

7.5 Regulation 5 requires accountable persons to inform the Regulator if an insolvency office-holder[2] or housing administrator has been appointed in relation to them, and specifies the information the accountable person must provide to the Regulator if there is such an appointment. This ensures that the Regulator is able to make an assessment about whether the accountable person may be unable to meet their building safety obligations.

7.6 Regulation 6 specifies that, when there are multiple accountable persons for a higher-risk building, each accountable person is required to share certain information and documents with the other accountable persons in the building. If the documents or information are updated the accountable person must reshare these with other accountable persons in the building. If the golden thread information is kept in such a way that other accountable persons can access it, then documents and information will be considered to be 'shared'. Requiring information sharing with other accountable persons, will enable accountable persons to have the right information to meet their

[1] If two or more structures are attached, the wider building refers to all the attached structures. When a structure is not attached to any other structure, the wider building means that single structure. A person could be a Responsible Person of a structure that is attached to the higher-risk building – but that structure in itself is not a higher-risk building.
[2] Insolvency officeholder means any liquidator, trustee in bankruptcy, receiver, administrative receiver or similar officer.

duties to identify, assess, mitigate, manage, and prevent building safety risks under the Act. This requirement is subject to the exceptions to sharing information and documents set out in Regulations 17 and 18.

7.7 Regulation 7 and 8 set out that accountable persons must share certain information proactively with residents and owners of residential units within the higher-risk building.[3] This will ensure residents and owners of residentials units are aware of relevant building safety features within the higher-risk building and the steps they should take to keep themselves, and others within the higher-risk building, safe. Accountable persons are only responsible for providing information to those who reside or own a unit in the part of the higher-risk building for which the accountable person is responsible, and about whom that accountable person is aware or has taken reasonable steps to make themselves aware. The information that must be shared is specified in schedule 2 (paragraphs 7.31 and 7.32) and this requirement is subject to the exceptions to sharing information and documents set out in Regulation 18.

7.8 Regulation 9 specifies that a relevant landlord is a prescribed person, and that if an accountable person serves a contravention notice on a resident of a higher-risk building[4], then they must also provide a copy of the contravention notice to the resident's landlord[5]. This will ensure that landlords are informed where a resident within their property is failing to meet their relevant building safety obligations. If the accountable person has taken all reasonable steps to do this but is unable to give a copy of the notice to the relevant landlord, then the duty does not apply. This requirement is subject to the exceptions to sharing information and documents set out in Regulation 17.

7.9 Regulation 10 specifies that a client[6] is a prescribed person and the information and documents that accountable persons are required to provide to them. This will enable the client to understand the fire safety systems of the building and ensure that the building work does not undermine these. The Regulation specifies that the client must give written notice to the accountable person to provide a brief description of the building work and contact details. This requirement is subject to the exceptions to sharing information and documents set out in Regulations 15, 17 and 18.

7.10 Regulation 11 specifies that a relevant Responsible Person (where they are not an accountable person for any part of the building) is a prescribed person and the information and documents that accountable persons are required to share with them. This will ensure the Responsible Persons have the information to meet their duties to ensure fire safety under the Regulatory Reform (Fire Safety) Order 2005. This requirement is subject to the exceptions to sharing information and documents set out in Regulations 17 and 18.

7.11 Regulation 12 specifies that a fire and rescue authority is a prescribed person and the information accountable persons are required to share with them. The accountable persons must provide the fire and rescue authority with certain information and documents proactively and are required to provide further information if a request is

[3] The term residential unit is defined in section 115 of the Act and includes a dwelling or any other unit of living accommodation.
[4] Under section 96 of the Act. The detail of the form and content of the contravention notice and how it is provided is set out in the Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023.
[5] Where that landlord is the owner of the residential unit.
[6] For the purpose of these Regulations a relevant client is a person undertaking, or proposing to undertake, building work in the building and is not an accountable person for any part of the building.

made. This requirement is subject to the exceptions to sharing information and documents set out in Regulation 18.

7.12 Regulation 13 specifies that an outgoing accountable person needs to handover all the golden thread information that they have been required to keep (at the point where they left the role of accountable person) to the new accountable person. This requirement is subject to the exceptions to sharing information and documents set out in Regulation 17.

7.13 Regulation 14 refers to schedule 3 which specifies the information and copies of documents that residents and flat owners can request.[7] Further detail on schedule 3 is set out below in paragraphs 7.33 to 7.34. The information which must be provided proactively is set out in Regulations 8 and 9. This requirement is subject to the exceptions to sharing the information and copies of documents set out in Regulations 16, 17 and 18.

Limitation on the duty to provide information

7.14 Regulations 15 to 18 set out exceptions to the duty on the accountable persons to provide golden thread information to certain prescribed persons. There is no limitation, in any circumstances, to the duty to share information with the Regulator. This is because it will be necessary for the Regulator to have information that either has commercial or security sensitivities, or contains personal data, so they can ensure that the accountable persons are meeting their duties under the Act to identify, mitigate and manage building safety risks.

7.15 Regulation 15 provides an exception to the duty on the accountable person as set out in Regulation 10 to share the documents required under paragraph 24(1) (structural risks) of Schedule 1[8] with a resident client[9] where the documents contain material that has security sensitivities. If there are security sensitivities, the accountable person must redact or omit that part of the document that is security sensitive and then provide the remaining part of the information or document. The Regulation only provides an exception to these documents, and only applies to resident clients.

7.16 The Regulations define material as having security sensitivities if it is not about the higher-risk building but is about the wider area outside the building. Material is also deemed to be security sensitive if it relates to a relevant safety item[10] that is found in the higher-risk building and where the material details how the relevant safety item operates or how to interfere with the intended function of the relevant safety item.

7.17 Regulation 16 provides an exception to the duty under section 92(2) of the Act for the accountable person to provide information or documents to a resident or owner of a residential unit of a higher-risk building following a request for further information.[11] This exception only applies if the information or document contains material that has security sensitivities and is listed in Regulation 16(2). The information and documents

[7] Section 92 of the Act provides residents and owners of a residential unit with the right to request certain further information and copies of documents from the accountable persons.
[8] The documents specified in paragraph 24(1) are any statement, assessment or report evaluating the structural risks to the higher-risk building or any statement or report giving an assurance that an assessment of structural risks for that higher-risk building is not necessary.
[9] Resident client means that the client for whom the work is carried out in relation to the higher-risk building and who is also a resident of that building. In this instance the work is likely being carried out within their property.
[10] Relevant safety item is defined in section 95(4) of the Act and means anything that is in or forms part of the common parts of the building and is intended to improve the safety of people in or about the building in relation to a building safety risk.
[11] The information and documents that can be provided to a resident or owner of a residential unit following a request for further information are listed in Schedule 3.

are considered to potentially have security implications if, should certain information be shared publicly, this could have an adverse impact on the security of the building, local area or residents. For instance, information about the loading capacity of bollards around a building would provide information on much force they could withstand before they collapse. If there are security sensitivities, the accountable person must redact or omit that part of the information or document that has security sensitivities and then provide the remaining part of the information or document. The material that has 'security sensitivities' is defined above in paragraph 7.16.

7.18 Regulation 17 limits the duty on the accountable person to share information or documents if the document or information is not already in the public domain and has commercial sensitivities, and applies to the duty on the accountable persons to provide information to another accountable person within the higher-risk building (under Regulation 6), to a relevant client (under Regulation 10), to a Responsible Person (under Regulation 11), to a resident or an owner of a residential unit of a higher-risk building (under Regulation 14), and to the new accountable person when they leave their role (under Regulation 13). Regulation 17 does not apply to the duty on the accountable person to provide information to the fire and rescue authority (under Regulation 12), or to provide information proactively to residents and owners of residential units (under Regulations 7 and 8). In addition, it does not apply to the information and documents listed in Regulation 17(5) and this information and documents cannot be redacted as they are considered to either not have commercial sensitivities or will be in the public domain.

7.19 Regulation 17 defines commercial sensitivities for the purpose of these Regulations to include situations where sharing the information could have an impact on competition or provide other commercial advantage. If there are commercial sensitivities, the accountable person must redact or omit that part of the information or document that is commercially sensitive, and then provide the remaining part of the information or document. However, this exception does not apply if redacting material that is commercially sensitive means that information or material that is significant for the management of building safety has been removed. The Regulation defines information or material that is significant for management building safety and the definition is slightly different for residents and owners of residential units and those with a professional interest in the building:

- For residents, owners of a residential unit or a resident client, this is the information that is necessary to enable them to understand the building safety risks to their higher-risk building and how these risks are being managed;
- For accountable persons, relevant Responsible Persons or clients, this is the information that is necessary to enable them to identify, assess or manage a building safety risk in the higher-risk building or to understand how the identification, assessment and management of building safety risks (in the higher-risk building) is being done by another person.

7.20 If the commercially sensitive material cannot be redacted without undermining the material information, or the material is significant for management building safety, then the whole document or information must be provided, including any commercially sensitive material.

7.21 Regulation 18 limits the duty on the accountable person to share information or documents if it contains personal data (with anyone other than the data subject). This Regulation applies to sharing information and documents with another accountable

person within the higher-risk building (under Regulation 6), residents and owners of residential units (under Regulations 7 and 8), a relevant client (under Regulation 10), a Responsible Person (under Regulation 11), and to a resident or an owner of a residential unit (under Regulation 14). It does not apply to personal data that is required to be displayed under section 82 of the Act, or to providing a copy of a contravention notice to a resident's landlord (under Regulation 9).

7.22 If the accountable person is providing information to a resident, an owner of a residential unit or a resident client (who is not an accountable person), and the document or information contains personal data of a third party, then the accountable person must redact the personal data and then provide the remaining part of the information or document.

7.23 If the accountable person is providing information to another accountable person, a relevant Responsible Person, a client (who is an accountable person) and the document or information contains personal data, then the accountable person must redact the personal data and then provide the remaining part of the information or document. However, this requirement applies only if removing the personal data does not interfere with the information or material within a document that is "significant for management building safety". If removing the personal information means that the information or material that is "significant for managing building safety" then then the whole document or information must be provided, including any personal information.

7.24 The Regulation does not apply to the information and documents accountable persons must provide to a fire and rescue authority under Regulation 12 or to the information and documents on fire safety management[12] or evacuation[13]. The Regulation applies to other information or documents provided to a fire and rescue authority. The accountable person must redact the personal data and then provide the remaining part of the information or document. However, this applies only if removing the personal data does not interfere with the information or material within a document that is "significant for management building safety". If removing the personal information impacts on the information or material that is "significant for managing building safety" then the whole document or information must be provided, including any personal information.

Limitation of liability for disclosure of information

7.25 Regulation 19 limits the liability for disclosure of information by accountable persons under these Regulations. If accountable persons disclose information in accordance with these Regulations (and sections 89, 90 and 92 of the Act) then this disclosure does not breach any obligation of confidence or any other restriction on the disclosure of information.

Amending the Higher-Risk Buildings Descriptions and Supplementary Provisions Regulations

7.26 Regulation 20 amends the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023. It amends the exclusion related to military premises to exclude buildings which have residential and non-residential uses in which all the living accommodation is provided by the Ministry of Defence, buildings which exclusively contain accommodation provided by the Ministry of Defence, and

[12] Set out in schedule 1 paragraphs 6 and 22.
[13] Set out in schedule 1 paragraph 7.

buildings that are used exclusively by UK or foreign military personnel from the scope of the higher-risk regime. Military barracks are also excluded.

7.27 Currently the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations exclude all high-rise residential buildings which contain any living accommodation used by UK or foreign military personnel or provided by the Ministry of Defence. Buildings in which only some flats are used by these groups are not necessarily owned or managed by Ministry of Defence, and do not have the same security concerns as buildings used exclusively by the Ministry of Defence. The Ministry of Defence's internal security arrangements do not apply to them. As they are standard high-rise residential buildings, this amendment to the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations will bring these buildings within scope of the higher-risk regime.

Amending the Key Building Information Regulations

7.28 Regulation 21 amends the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023 to specify that where there are multiple accountable persons for the same higher-risk building, the principal accountable person is responsible for any other part of the higher-risk building to which Regulations 28 to 30 of the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023 do not apply, and to which the Regulatory Reform (Fire Safety Order) 2005 does not apply. This ensures that accountable persons know for which part of a higher-risk building they are responsible.

Schedule 1: Information and documents to be kept as golden thread information

7.29 Schedule 1 stipulates the specific information and documents that must be kept as golden thread information. As specified in section 88 (1)(b) of the Act all information must be kept up to date. Unless otherwise specified, only the most up-to-date version of the information needs to be kept and previous versions of the information do not need to be retained. The information specified in paragraphs 2 to 14 (schedule 1) that must be kept includes:

- The fire safety information which the relevant client[14] is required to give to the Responsible Person when there is building work in an existing higher-risk building which consists only of scheme work.[15]
- The information required as part of an application to register the higher-risk building.
- The information required as part of the key building information for higher-risk buildings.
- The information that is contained in most recent application for a building assessment certificate in relation to a higher-risk building and any further information provided to the Regulator.
- A list of each fire safety management measure in the higher-risk building and where each measure is located. This does not include measures that have been provided by a resident for their own use.

[14] The requirement on the client to provide fire safety information to the Responsible Person is set out in the Building (Higher-Risk Buildings Procedures) (England) Regulations 2023.
[15] Scheme work means building work to which either regulation 20 (provisions applicable to self-certification schemes) of the 2010 Building Regulations applies; or regulation 20A (provisions applicable to third party certification schemes) of the 2010 Building Regulations applies.

- Information relating to the evacuation strategy and the evacuation information. The principal accountable person must keep this information for the building as a whole; accountable persons must keep the information relating to their part of the building.
- Information required to be kept by the Responsible Person in accordance with Regulation 4 of the Fire Safety (England Regulations) 2022. This is the information that is kept in the secure information box.
- A list of each structural safety management measure in the higher-risk building.
- A schedule of any maintenance and/or repairs and the report on the outcome of each building safety inspection in relation to building safety risks.
- Information regarding the building design which may not be available for all buildings. This information (if available) should be kept permanently as it can provide details about the fundamental, intrinsic requirements of a building.
- Information relating to the mandatory reporting requirements.[16] The information must be kept for 7 years from the day of the original report was received or created by the accountable person.
- Information relating to resident engagement which is specified in schedule 2.
- Information relating to a relevant complaint[17] which must be kept for 7 years from the day the principal accountable person received the complaint.

7.30 Paragraph 15 sets out that the paragraphs 16 to 31 specify the documents to be kept as golden thread information. These include:

- Documents provided to the accountable person by the client on completion of construction (i.e. building handover) or partial completion.
- The certificate provided to the person who commissioned the building work when there is building work in an existing higher-risk building which consists only of scheme work[18]. Only the latest certificate for a particular piece of work should be kept.
- Documents required as part of an application to register the higher-risk building. If more than one document relates to the same part of the building only the most recent certificate must be kept.
- Documents relating to a building assessment certification application. These provisions relate only to the most up-to-date application.
- A notice given by the Regulator refusing a building assessment certificate application (if applicable) should be kept for 7 years from the date it was issued.
- Any document that was created for the purpose of complying with article 9 of the Regulatory Reform (Fire Safety Order) 2005 or created to manage the risk of fire spread in any part of the higher-risk building. Only the most recent version of any document, in relation to whole or part of the building must be kept.

[16] As required under section 87 of the Act
[17] A relevant complaint is defined in section 93 of the Act.
[18] Scheme work means building work to which either regulation 20 (provisions applicable to self-certification schemes) of the 2010 Building Regulations applies; or regulation 20A (provisions applicable to third party certification schemes) of the 2010 Building Regulations applies.

- The documents required to be kept by the Responsible Person in accordance with Regulations 5 and 6 of the of the Fire Safety (England Regulations) 2022. This is the record of the design and materials of the external walls and floor plans. Only the most recent version of the document or plans must be kept.
- Any documents evaluating the structural risks of the higher-risk building or giving assurance that an assessment of structural risks is not necessary. Only the most recent version of any document in relation to a particular part of the building must be kept unless an older report still has relevance to the identification, assessment or management of building safety risks in that building.
- All reports that contain an up-to-date assessment of any building safety risk to either whole or part of the higher-risk building and the most recent version of any document that was created to enable the management of building safety risks.
- The most recent version of the safety case report.
- A record of any maintenance and/or repairs undertaken relevant to the management of building safety risks. This should be kept for 7 years from the date that the record of the maintenance or repair work was created.
- Plans of the higher-risk building as it currently is and when it was first built. The term "plans" here includes drawings of any description, and also specifications or other information in any form. There may be a single set of plans or multiple plans of the building. Plans for the building when it was first built may not be available for all buildings, but the accountable person must obtain these plans and ensure they are kept permanently, except where it is not possible to do so.
- Documents which describe the arrangements for mandatory occurrence reporting or records information in the mandatory occurrence reporting system for the building. The documents must be kept for 7 years from the day of the original report was received or was created by the accountable person.
- Documents specified in schedule 2 relating to resident engagement. Only the most up-to-date information and documents must be kept.
- A log that records information about relevant complaints, including the subject and nature of the recurring complaint and the date that every recurring complaint was made. The information must be kept for 7 years from the day the principal accountable person received the complaint. With a recurring complaint, the most recent of those complaints in the recurrence must have been received by the principal accountable person no more than 7 years ago.
- Any contravention notice[19] must be kept for 5 years from the date it was issued by the accountable person.

Schedule 2: AP provision of information to a resident or owner of a residential unit

7.31 Schedule 2 specifies the information that accountable persons must provide to residents and owners of residential units as set out in Regulations 8 and 9.

[19] Contravention notices are given by an accountable person under section 96 of the Act to a resident or owner of a residential unit.

7.32 Paragraph 1 (schedule 2) specifies the information that accountable persons must provide to residents and owners of residential units about the prevention and mitigation of building safety risks. Paragraph 2 (schedule 2) specifies the contact information for various key persons responsible for each aspect of building safety for the higher-risk building that accountable persons must provide to residents and owners of residential units. Paragraph 3 (schedule 2) specifies the information that accountable persons must provide to residents and owners of residential units about their rights in relation to the building and building safety. This information includes the most recent version of the residents' engagement strategy.

Schedule 3: Resident engagement: requests for further information

7.33 Schedule 3 specifies the information and documents that accountable persons should provide to residents and owners of residential units upon request, under section 92 of the Act. The information and documents that accountable persons must provide proactively (which is set out in schedule 2) is fundamental information concerning the management of safety in the building. The information and documents that can be requested is more detailed and allow residents to understand how building safety risks are identified, mitigated, and managed in their building in further detail at their own request. Not all residents and flat owners will need, or want, this level of detail about their building, however, it should be available to those who submit a request.

7.34 The information and documents that can be requested include: the safety case report, fire risk assessments for the building and any assessment of building safety risks. Where documents or information are referenced in the safety case report, or extracts of documents are included, residents can request copies of the whole document or the full information. A full list of the information that must be provided is set out in paragraph 1 and 2 of Schedule 3.

8. European Union Withdrawal and Future Relationship

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

9. Consolidation

9.1 This instrument amends the Higher-Risk Buildings (Descriptions and Supplementary Provisions) Regulations 2023 and the Higher-Risk Buildings (Key Building Information etc.) (England) Regulations 2023 for the first time. There are no plans to consolidate the relevant legislation at this time.

10. Consultation outcome

10.1 We conducted a 12-week public consultation between 20 July and 12 October 2022 (Consultation on the new safety regime for occupied higher-risk buildings[20]). There were 63 responses to the section of the consultation on the contents of the golden thread of information, 51 responses to the section of the consultation on the duties on the principal accountable person and accountable person to provide information and 80 responses to the resident voice section of the consultation. Responses were from a range of different people and organisations across the sector including residents, leaseholders, fire and rescue authorities, local authorities, and software providers.

10.2 Overall, respondents agreed with our approach in the consultation.

[20] Consultation on the new safety regime for occupied higher-risk buildings

- 75% of respondents agreed with the proposals for the part of the golden thread information which the accountable persons must automatically provide to residents.
- 70% of respondents agreed with how records of resident complaints and 76% of respondents agreed with how records of contravention notices should be stored.
- 83% of respondents agreed that golden thread information should be regularly reviewed to ensure it remains relevant and proportionate and 64% of respondents agreed with the proposals on responsibility for managing and updating the golden thread information.
- Between 67% and 84% of respondents agreed that only information relevant to building safety risks should be stored in the golden thread, and with the specific documents and information proposed to be stored as golden thread information.
- Between 75% and 84% of respondents agreed with the proposals on the accountable persons sharing information with different prescribed persons, and on handing over golden thread information to the new accountable person when they leave the role.

10.3 There was consistent feedback throughout the consultation that respondents felt guidance would be needed.

10.4 In two areas there was lower support from respondents for the proposals and it was clear from the responses that some areas warranted further policy consideration and engagement with key stakeholders before implementation.

- Only 56% of respondents agreed with the proposed further information that residents can request about their building. The concerns raised were mainly focused on the administrative burden and cost. In response the government has simplified the list of information that residents can request.
- Only 50% and 49% of respondents agreed with the proposals for exemptions on the information that could be provided to residents. The concerns raised were mainly that this could limit resident access to information. In response, the government has revised the proposals to ensure that sharing information to support building safety takes primacy over commercial confidentiality; but that security and personal data should still take precedence. This means that no information should be shared with residents that compromises the safety of the building or contains third party personal data.

10.5 A full government response to the consultation is published alongside these Regulations and can be found on the webpage linked here: https://www.gov.uk/government/consultations/consultation-on-the-new-safety-regime-for-occupied-higher-risk-buildings

11. Guidance

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

12. Impact

12.1 A full and joint impact assessment was prepared for this instrument and the Higher-Risk Buildings (Management of Safety Risks etc) (England).

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

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

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

12.5 These Regulations fall within the Better Regulation Framework exclusion because they relate to the safety of tenants, residents, and occupants in buildings.

13. Regulating small business

13.1 The legislation applies to activities that are undertaken by small businesses as small businesses can own and manage higher-risk buildings.

13.2 No specific action is proposed to minimise the Regulations burden on small businesses as the costs relate to ensuring building safety.

14. Monitoring & review

14.1 The instrument does not include a statutory review clause and, in line with the requirements of section 31 of the Small Business, Enterprise and Employment Act 2015 Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley MP has made the following statement:

"The regulatory measures in this instrument are within the scope of the periodic review provided for in section 162 of the Building Safety Act 2022, and it would not be appropriate in the circumstances to make provision for a separate review in this instrument".

15. Contact

15.1 Rebecca Thompson at the Department for Levelling Up, Housing and Communities email: rebecca.thompson@levellingup.gov.uk can be contacted with any queries regarding the instrument.

15.2 Camilla Sheldon, Deputy Director for Reform, Policy and Legislation within the Safer, Greener Buildings Group at the Department for Levelling Up, Housing and

Communities can confirm that this Explanatory Memorandum meets the required standard.

15.3 Parliamentary Under Secretary of State for Local Government and Building Safety, Lee Rowley MP, at the Department of Levelling Up, Housing and Communities can confirm that this Explanatory Memorandum meets the required standard.