

Fact Sheet on the Resident Engagement Strategy

Sources

The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023

The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023

Developing the Strategy

As a PAP of a residential building in scope your organisation is duty bound to provide a residents engagement strategyⁱ (S91 BSA 2022). In the original Act this was to be reviewed at prescribed times, this is now clarified and must be reviewed every 2 years.ⁱⁱ

1. Communicating “Building Safety Decision”, the management of the building and performance of duties.ⁱⁱⁱ
2. What information will be consulted on, how will responses and observations be obtained and taken account of. How will participation be promoted.^{iv}

Following completion of the strategy a copy should be provided to each resident of the building who is over 16 years old and resides in a residential unit in the building, this also includes leaseholders.^v If an organisation is not aware of a resident and taken reasonable steps to make themselves aware of residents, then the duty does not apply.^{vi}

Key considerations

The questions you need to ask are (further details are provided on how to make sure that your engagement covers all legislative requirements are provided below):

1. Have I involved residents of buildings in scope in drafting my document? Can I evidence this?
2. Am I being clear on what we will and will not consult on?
3. How will I obtain feedback and monitor responses, ensure that engagement is effective?
4. Do people understand how to ask for information and under what circumstances this will be withheld?
5. Have I made sure that all of my documents have been considered under the Equality Act 2010?
6. Am I considering complaints as part of a separate process from standard complaints across the rest of the portfolio?
7. Am I able to consider complaints based on the risks that they pose?
8. Will I be able to make sure that other teams in the business know that complaints for Higher Risk Buildings need to be seen by the PAP?
9. What system will I use to record, prioritise complaints can it be set to recognise the difference between a complaint V’s “relevant complaint”?

Requests for information

A resident (over the age of 16) or leaseholder may make a request for information or prescribed document from you and you must reply in a reasonable time.^{vii} You should refer to this process in your strategy however you may wish to also provide some examples of when you won’t supply a document. Namely where it would breach^{viii}:

1. An obligation of confidence owed
2. A restriction on disclosure
3. GDPR

Responses to requests for information should be provided in writing and in a way which residents can understand documents and information given, explaining any technical language or summarising in plain English.^{ix}

Complaints Procedure

Organisations must also include reference to a complaints procedure in their strategy to the residents. A complaint which is a relevant complaint under the act is one which relates to a building safety risk or the duties of an Accountable Person.^x

If you are choosing to use the same complaints systems and procedures as the rest of your portfolio, you may want to look at the way that it operates. Does it ensure that the specific needs of residents in buildings which are in scope and the need to advise the regulator of those complaints which are “relevant complaints”. Does your current process prioritise complaints based on the risk posed?^{xi}

Does the complaint system you operate go to service areas to decide whether it is a valid complaint or not, the PAP should be ultimately responsible for defining whether the situation is a valid complaint.^{xii} You also need to make sure that the resident is aware that the PAP has designated the complaint as a “relevant complaint” accepted in your process. This doesn’t mean that the PAP specifically needs to deal with or respond to all complaints, this may still be delegated to a specific area of the business to investigate and respond to.

A further question is posed in the regulations, has your complaints policy been thoroughly checked for compliance with the Equality Act 2010? Making sure that you provide examples of how your policy and procedure may be adjusted to take account of the needs of all?^{xiii} Inclusivity is further ensured by acknowledging that residents and occupiers may have the assistance of others to make complaints.^{xiv}

Does your complaints policy advise on the next stage and referring the complaint to another body in event that your resident is not comfortable with your exhausted complaints policy? If the complaint is a “relevant complaint” then your residents need to be provided with the contact details of the Building Safety Regulator and not the Housing Ombudsman.^{xv} If there is a dispute over whether a complaint is a “relevant complaint” this may be referred to the regulator for determination by the resident or PAP^{xvi}

ⁱ Section 91, The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023 (Page 93)

ⁱⁱ Section 10(1)(a) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 (Page 8)

ⁱⁱⁱ Section 91(2)(a)(b), The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023 (Page 93)

^{iv} Section 91(3)(a)(b)(c), The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023 (Page 93)

^{vv} Section 91(4)(a)(i)(ii) (b)(c), The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023 (Page 93)

^{vi} Section 91(5)(a)(b), The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023 (Page 93)

^{vii} Section 92(1)(a)(b) & (2), The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023 (Page 94)

^{viii} Section 92(5)(a)(b) & (6), The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023 (Page 94)

^{ix} Section 11(a)(b) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 (Page 8)

^x Section 94(5)(a)(b) & (c), The Building Safety Act 2022 (Commencement No. 4 and Transitional Provisions) Regulations 2023 (Page 95)

^{xi} Section 12 (4) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 (Page 11)

^{xii} Section 12(12) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 (Page 11)

^{xiii} Section 12(2)(g) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 (Page 11)

^{xiv} Section 12(2)(g) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 (Page 11)

^{xv} Section 12 (17)(b) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 (Page 11)

^{xvi} Section 12 (6) The Higher-Risk Buildings (Management of Safety Risks etc) (England) Regulations 2023 (Page 11)