



# FAQ Explainer

## Building Safety Regulator as the Building Control Authority

**Q Who is the regulator for higher-risk buildings in England?**

**A** From 1st October 2023, the Building Safety Regulator (BSR) will be the Building Control Authority for all higher-risk buildings in England.

**Q When will the BSR become the Building Control Authority?**

**A** As of 1st October 2023, the BSR, will be the only building control authority for higher-risk buildings and higher-risk building work in England. These are residential buildings that are over 18-metres or 7 storeys with at least 2 residential units, and hospitals and care homes that meet the same height threshold.

**Q Will we have a choice on using an approved inspector or local authority as our building control provider for HRBs?**

**A** No. All work from this date will be required to go through the Building Safety Regulator and comes from the power within the Building Safety Act 2022. This provides the duty on the regulator (BSR), to both enforce the building regulations, and to enact Part One of the Building Act itself.

**Q Will the BSR be the Building Control Authority for non-HRB work?**

**A** Local authorities will remain the Building Control Authority for non-HRB work as they are the enforcing authority for that non-HRB work. However, dutyholders can choose to use BSR for non-HRB work with agreement with BSR.

**Q Where are the buildings heights measured from for the buildings the BSR will regulate as the BCA?**

**A** Storeys should be measured from the lowest level of the ground directly adjacent to the structure above ground level, to the top floor surface of the top storey – that is not exclusively rooftop machinery or plant rooms.

**Q Our buildings are separate but joined together via an underground car park/basement. Are they considered separate entities/blocks?**

**A** Any structures that have any adjoining characteristics will be considered as one higher-risk building when being designed and constructed. These structures do not have to have access directly to one or another of those blocks to be considered as one building and one entity.

**Q When am I required to engage with the regulator for works being carried out to new or existing buildings?**

**A** Once the BSR becomes the Building Control Authority in October, if you plan to build a new HRB, or you create one through a change of use, or alteration or extension, or you plan to undertake building work to an HRB, you'll be expected to submit that application for building control approval to the BSR, the regulator. You will not be legally allowed to start any work until building control approval has been granted.



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**Q** Will there be a transition period for applications submitted prior to 1st October 2023?

**A** For transitional arrangements to apply to HRB work, an initial notice must have been given to a local authority (and not rejected) or full plans deposited with a local authority (and not rejected) before 1st October 2023; and the HRB work must be sufficiently progressed within six months of the new regime (1st April 2024). If HRB projects do meet these two criteria, they would continue to completion using the current regulatory regime. If projects do not meet either of these two criteria, then they would pass to the BSR. Note that if the building work is subject to an initial notice, the approved inspector overseeing the project must have registered as a building control approver by 6th April 2024 to enable them to continue supervising the ongoing HRB work. Remember that the HRB will need to be registered with BSR prior to occupation, and that to register the HRB you will need a completion certificate from BSR. Without both it is an offence to occupy the building.

**Q** What does sufficiently progressed mean?

**A** For construction of a new HRB this means when the pouring of concrete for the permanent placement of the trench, pad or raft foundations, or permanent piling for the building has started.

For work to an existing HRB this means when that work has started; or where the building work consists of a material change of use of a building, when work to that effect has started.

**Q** Are the enforcement powers only for new HRB's?

**A** The new enforcement powers are changing for all building work, not just the regulators HRB enforcement powers.

**Q** What is changing with the new enforcement powers?

**A** Section 35 of the Building Act 1984 is being expanded. There are new compliance notices and stop notices which the regulator and local authorities can use, and also increased time limits. This can mean a significant difference in what could be done in terms of removing or altering work that is in contravention of building regulations.

**Q** What are the consequences for providing false or misleading information to the BSR?

**A** This is a criminal offence. The fine amount is unlimited with up to 1 year imprisonment via the magistrates courts or 2 years via the crown courts.

**Q** What is the time limit on a contravention?

**A** Under Section 35 of the Building Act, there is now no time limit on a contravention.



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### **Q** When can compliance notices be served?

**A** They cannot be served post 12 months of the date of that particular contravention. However, the contraventions still exist under Section 35.

### **Q** When could a stop notice be served?

**A** If you start work without a building control approval for a higher-risk building, or you undertake work that is, or should be, subject to a change control application, without approval from the regulator. Occupying a building is not something that could be subject to the stop notices being referred to here. These are offences covered by Section 76 and Section 77 of the Building Safety Act and a stop notice will be served.

### **Q** How long after building work has completed can Section 36 of the Building Act be served?

**A** The time limit for serving the notice of Section 36 of the Building Safety Act has been increased to 10 years. This is for removing, altering, or affecting offending work.

### **Q** Is Section 36 retrospective?

**A** No, the time period for enforcing Section 36 is not retrospective and takes effect from 1 October 2023.

### **Q** What are Multi-disciplinary teams and why is BSR using them?

**A** A multi-disciplinary team (MDT) is a team made up of members from different specialist/discipline areas. BSR will lead and manage the MDT's. The BSR MDT's will be made up of a Regulatory Lead and Case Officer, from BSR, a Building Inspector, a Fire Protection Officer, and various other specialists where required. This approach is being taken so all relevant specialists are involved in the process and work collaboratively to improve the safety and standard of buildings in England.

The role of the MDT is to assess an application and ensure effective regulatory decisions are made throughout the building control process, from initial building control approval application through to completion certificate application. The process of assessment of plans and site inspections is not new, however, the method of delivery is.



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### **Q** How do Multi-disciplinary teams work?

**A** MDT working recognises the complex nature of higher-risk building work and the range of disciplines required. MDT members will be brought together to assess each application, whether initial building control approval, change control or completion certificate.

The MDT will also be involved throughout the construction phase for inspections, interventions and assessments of further information. The inspection schedule will be agreed by the MDT, who will provide a lead contact for applicants throughout the process.

The MDT will assess the completion certificate application alongside the 'as built' information submitted, including change control details. A completion certificate will only be issued where there is sufficient evidence that what was built meets the functional requirements of building regulations as agreed.



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