



Nov 2024

# FAQ Explainer

## Building Safety Regulator as the Building Control Authority

### The higher-risk building regime

**Q** What is the Building Safety Regulator's (BSR) new role for higher-risk buildings in England?

**A** The Building Safety Act 2022 established the new regulator BSR to oversee all aspects of building safety in England. From October 2023 BSR became the Building Control Authority for all higher-risk buildings (HRBs) in England. This means developers can no longer choose their building control body for HRBs. These are new residential buildings over 18 metres or 7 storeys, and hospitals and care homes meeting the same height threshold.

**Q** What does this mean for industry?

**A** Industry needs to remember that any new building work in-scope of the higher-risk regime can no longer be overseen by local authority or private sector building control.

All developers are legally required to submit building control applications to BSR when they are:

- Constructing a new higher-risk building
- Doing any building work on an existing higher-risk building
- Doing work that turns a non-higher-risk building into a higher-risk one, such as changing its use
- Doing work on a higher-risk building that makes it no longer higher-risk

Building owners will be required to manage safety risks, with clear lines of responsibility for safety during design, construction, completion, and occupation of higher-risk buildings.

**Q** What is the role of Multi-Disciplinary Teams (MDTs)?

**A** MDTs, led by BSR, bring together experts such as building inspectors, structural engineers, and fire safety professionals. They provide regulatory advice, conduct inspections, and ensure effective decision-making and compliance with building regulations for higher-risk buildings. MDTs guide the structure of a building inspection schedule and input to any requirements or conditions that may be applied to a building control approval. They also provide a main point of contact for applicants, and they review completion certificate applications with the 'as built' information to ensure compliance with building regulations before issuing the completion certificate.

This is not new in terms of assessments and site inspections – but MDTs are a new method of delivery.

**Q** What are the three 'gateway' points in the higher-risk building regime?

**A** These are critical 'hold points':

- **Gateway 1:** Planning approval – ensuring fire safety is part of planning permission
- **Gateway 2:** Construction approval – where work can only start after BSR building control approval
- **Gateway 3:** Completion approval – where the higher-risk building must pass BSR checks before occupancy

You can find out more about these critical check points in our BSR guide - [The three gateways to building safety](#)



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## Making building control applications

**Q** Where can I find information on submitting and managing a building control application to BSR?

**A** Guidance on how to submit and manage a building control application to BSR is available at: [www.gov.uk/guidance/managing-building-control-approval-applications-for-higher-risk-buildings](https://www.gov.uk/guidance/managing-building-control-approval-applications-for-higher-risk-buildings)

**Q** What approach does the Building Safety Regulator require from applicants when submitting their building control applications for HRB projects?

**A** The regulator requires applicants to provide quality, detailed building control applications that clearly and comprehensively demonstrate compliance with building regulations.

**Q** What are BSR's tips for submitting high-quality building control applications

**A** Three top tips for HRB developers and people who require building control approval for submitting high-quality building control applications:

**Identify** every aspect of the HRB project that requires compliance with building regulations. This includes structural and fire safety. Ensure nothing is overlooked by compiling a comprehensive list. This list serves as the foundation for the compliance documentation.

**Clarify** which standards, code, or documents your building design complies with. Explain why each standard was chosen. Also, explain how it applies to the project. This provides a clear rationale for the chosen compliance solutions.

**Justify** compliance by providing a narrative. It should explain how compliance has been achieved for each identified element of the HRB. This approach allows BSR to verify compliance easily without further interpretation.

**Q** Why is it important for applicants to submit detailed and high-quality applications?

**A** Incomplete or unclear applications can cause delays in the approval process. High-quality applications help BSR make informed decisions quickly, reducing the risk of misinterpretation and ensuring all building control standards are met.

**Q** What happens if an application lacks the required detailed information or fails to demonstrate clear compliance?

**A** BSR will not proceed with such applications, leading to delays and potentially costly revisions.

**Q** Why has my application been rejected?

**A** Once a Building Control Approval application has been made, it can either be approved, approved with conditions or rejected.

Applications may be rejected or approved with conditions for several reasons. These may include:

### Incomplete or incorrect information

- **Missing documents** - ensure all necessary plans, specifications and calculations are included.
- **Incorrect data** - check that measurements, materials and methods align with regulations.

### Non-compliance with building regulations

- **Safety hazards** - proposed design or materials may pose safety risks.
- **Energy efficiency** - the project may not meet energy efficiency standards.
- **Accessibility** - the building may not be accessible to people with disabilities.

### Inadequate strategies or procedures

- **Change management** - plans for managing changes to the project may be insufficient.
- **Occurrence reporting** - procedures for reporting issues or incidents may not meet requirements.
- **Competence** - qualifications of professionals involved may not be adequate.



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## Making building control applications

### Q What happens if my application is approved with 'conditions'?

**A** If an application is approved with conditions, BSR may require:

- **Additional documentation** - providing further plans or details to clarify certain aspects.
- **Revised plans** - making changes to existing plans to address concerns.
- **Work delays** - halting construction until specific requirements are met.

#### Want to know more?

- <https://www.legislation.gov.uk/ukxi/2023/909/regulation/7/made>
- <https://buildingsafety.campaign.gov.uk/the-building-control-authority/>

### Q What are some of the commonly found issues with rejected applications?

**A** Some examples of common issues found in applications include:

- proposed layout drawings conflicting with the structural drawings for the building
- basic floorplan drawings submitted without any technical detail
- supporting documents incomplete or not submitted. For example: applications for major renovation works with no internal layout or technical drawings
- required compliance documents missing or simply stating compliance without the evidence to demonstrate how this was achieved
- fire safety compliance information not included in applications
- construction control plans containing CDM files only, instead of the required building regulations related management information
- policies and procedures for collecting the evidence that will support the completion certificate application (the Golden Thread

of building information) not included in applications

- client authorisation statement provided without a signed statement confirming that the client agrees to the application being made, and that the information contained in the application is correct

### Q What must developers and industry professionals do to meet BSR's expectations and avoid delays?

**A** First, applicants should clearly identify every aspect requiring compliance. They should compile a comprehensive list of all elements of the HRB that must comply with building regulations. This ensures that every aspect of the building is accounted for in the compliance documentation, and no detail is overlooked.

Applicants should clarify the exact standards, codes, or documents each aspect of the HRB complies with. It's not enough to list compliance; you must explain why these standards were chosen and how they apply to the project. Developers need to show clearly why it is the appropriate solution for the specific building element.

### Q Why is it important to justify compliance in such detail?

**A** It's very important to explain in your application how compliance has been achieved for each identified aspect because BSR needs a direct line of sight between the identified aspects and the building regulations. This will ensure BSR can easily verify compliance and the building control application will not require further interpretation by the regulator.



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## Making building control applications

### **Q** What is the difference between Category A work and Category B work when I apply to carry out building work in an HRB?

**A** The terms “Category A work” and “Category B work” Under Regulation 12 of the Building (Higher Risk Building Procedures) Regulation , refer to different types of construction activities performed on higher-risk buildings (HRBs). They should not be mistaken for the categories referred to for levels of commercial fit out. Here’s a breakdown of the two categories in relation to building safety:

#### Category A work

Category A work involves significant alterations to the structure, safety, or design of a higher-risk building. This type of work generally has the potential to impact the building’s overall safety and functionality. It includes:

- **Structural changes:** Work that increases or decreases the external height or width of the building.
- **Floor and layout modifications:** Work that alters the number of storeys (e.g., adding or removing a mezzanine) or changes the internal layout.
- **Changes to living space:** Work that modifies the number of flats or residential rooms within the building.
- **Fire safety measures:** Work that impacts either passive (e.g., fire-resistant materials) or active (e.g., sprinklers or alarms) fire safety systems.
- **Escape routes:** Work that affects the number or width of staircases or other escape routes.
- **Common parts and external walls:** Work on the building’s common areas, including any work on the external wall that doesn’t fall under regulation 7(3) of the 2010 Regulations.

#### Category B work

Category B work is much simpler in scope.

It includes all work that does not fall under Category A. In essence, if the work doesn’t significantly impact the structural, fire safety, or escape routes of the building, it is classified as Category B.

#### Exclusions

There are specific types of work that neither fall under Category A nor Category B:

- Scheme work
- Exempt work
- Emergency repairs, as specified under Regulation 10, which allows for notification of emergency repairs to existing HRBs.

### **Q** How long will it take for my application to be approved?

**A** Applicants should not withdraw existing applications or wait to submit new applications for building control approval. This will cause additional unnecessary delays to these applications being processed.

New applications will be assessed within a 12-18 week period but applicants do not need to contact BSR again after they have submitted their applications.

We will contact applicants directly where necessary, for example if we need to request further information or when applications are moving forward.

### **Q** Will BSR contact applicants during the application process?

**A** Applicants do not need to contact BSR again after they have submitted their applications.

As with any new digital service we continue to review and identify potential improvements to the process for users.

This may include the introduction of automated contact points at different stages of the service to keep applicants informed about their application’s progress.



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## Smaller refurbishment projects and work on existing buildings

**Q** Do I need less information if I'm applying for work within my individual property/flat?

**A** You will need to provide enough information to comprehensively demonstrate that your work will comply with the relevant building regulations and that the work will be managed properly. The simplest way to provide that information will be to use the documents that are mandatory for larger work.

**Q** I'm an architect carrying out work in an HRB for a flat owner. Do I need to apply to BSR for building control approval?

**A** If you are an architect designing the work for a resident (a domestic client) then you will need to work with the builder to decide who should make the building control approval (GW2) application. You will also need to work with the builder to make sure the application sets out enough detail to demonstrate that the building work will comply with all relevant requirements.

**Q** Can I start the building work while I wait for BSR to respond to my application?

**A** No. It is an offence to start building work in an HRB before BSR have told you that you can.

**Q** If my project includes work in a number of buildings, can I include all those jobs in one application?

**A** No. One application must only include the work in one building. BSR will not accept applications that cover work in multiple buildings.

## Hospitals

**Q** If I am doing building work in the HRB part of a hospital, when the building work has finished do I need to wait for my completion certificate application to be approved before I can move patients back and start using that bit of the building again?

**A** No. You must apply for your building completion certificate but there is nothing in building law to stop you from using that part of the building while BSR is assessing your application. The offence of occupying part of a building without a completion certificate does not apply to building work in an existing hospital or care home. You must still comply with your duties under all other regulatory regimes such as Health and Safety at Work, Fire Safety, Patient Care etc.

**Q** If I am doing building work in a hospital, how do I know who to apply to for building control oversight?

**A** Where part of a hospital is over 7 storeys or 18 metres it does not mean that the whole hospital is an HRB. It may be possible to divide the hospital up into 'independent sections'<sup>1</sup>. The law says that each of those sections is a building, and they may not all be HRBs. Where an independent section is not an HRB you can apply to either the local authority or a Registered Building Control Approver for oversight of your building work. NHS (England) have produced guidance<sup>2</sup> for their member trusts on how the Building Safety Act 2022 applies to them.

<sup>1</sup> Independent section is defined in Regulation 4(6) of the Higher-risk buildings (Descriptions and Supplementary Provisions) Regulations 2023 <https://www.legislation.gov.uk/ukxi/2023/275/regulation/4>

<sup>2</sup> NHS England technical bulletin on application of Building Safety Act 2022 to the NHS estate. <https://www.england.nhs.uk/wp-content/uploads/2024/08/prn01337-nhs-estates-technical-bulletin-2024-2.pdf>



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## Clients

### Q What is the role of the client for building work?

**A** Clients have key responsibilities and legal duties for building work. They must put in place arrangements for planning, managing, and monitoring a project to ensure the work will comply with all relevant requirements of building regulations.

### Q What is the client's role in making an application for building control approval?

**A** The client is responsible for the application for building control approval. If they are not making the application themselves, then they must provide a signed statement confirming that they agree to the application being made and that the information contained in the application is correct. Without this, applications may be delayed or rejected.

### Q As a client where do I find out what my responsibilities are?

**A** When you appoint any designer or contractor their first legal duty is to be satisfied that you are aware of your duties in relation to the work that they are doing. You can also find guidance on client duties throughout this document **Building Control: An overview of the new regime** ([hse.gov.uk](https://www.hse.gov.uk))

### Q As a client what are the things that I need to make sure my team are doing on my behalf?

**A** Clients need to make sure their team are:

- Submitting high-quality and comprehensive applications that clearly show compliance with all relevant building regulations and safety standards
- Providing detailed key documentation covering all aspects of the project including structural and fire safety
- Providing the standards and codes used and explain how compliance is achieved
- Submitting timely applications to allow BSR sufficient review time before construction starts
- Understanding that high-quality applications will speed up the approval process
- Working closely with project teams and maintain communication with BSR
- Responding quickly to BSR requests for additional information

By understanding and making sure these responsibilities are met clients will ensure a smooth and efficient building control process.



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