



# Developing in the new normal

Covering the latest topics, aimed at developers, investors and contractors

6 September 2023

**Panellists:** Digby Morgan, Victoria Ball and Henna Khan

# Agenda

1. **The Social Housing (Regulation) Act 2023** - Henna Khan
2. **The Building Safety Act** - Victoria Ball
3. **Renters (Reform) Act** - Digby Morgan



# Social Housing (Regulation) Act 2023

Henna Khan



# Health and Safety Regulations- Powers of RSH

- The Regulator of Social Housing (RSH) has been given new powers under the Act
- Removal of "Serious Detriment" test
- Enhanced Focus on Transparency and Safety and Consumer Focused
- RSH to set standards around the provision of information, enhanced requirements around tenant safety
- The Act requires the RSH to set up an Advisory Panel which includes those that the RSH views as representing the interests of lenders, local authorities, tenants and landlords (as well as representatives from the Great London Authority, Homes and Communities Agency and the Secretary of State). The role of the panel is intended to inform the RSH on a 'wide range of matters' – including key sector issues and risks
- A more joined up approach with the Housing Ombudsman

# Increased Enforcement Powers of RSH

- Emergency Remedial Action- Three conditions to be met:
  1. A survey of the condition of the premises has been carried out by an authorised person;
  2. The Regulator is satisfied that a) the RP has failed to maintain the premises in accordance with the consumer standards and b) that failure has causes an imminent risk of serious harm to the health or safety of the occupiers of the premises or neighbouring premises; and
  3. The RP has failed to comply with an enforcement notice requiring it to take action to remedy the failure.
- Deregistering registered providers of social housing and penalties
- Inspections and performance improvement plans
- Removal of the cap on fines for non-compliance (so they are now unlimited).
- The right for the RSH to undertake surveys on properties directly (including the power to obtain warrants for access and undertake emergency repairs where there is a serious risk).
- Increased powers for the RSH to remove officers of providers, where encountering unreasonable resistance.

# Consumer Standards and RSH Consultation

- The RSH's new proactive role will be supported by new consumer standards and an inspections regime, which are expected take effect from April 2024. For private RPs, inspections will be linked to their current in-depth assessment. For local authorities, this will be an entirely new regime and experience.
  1. The Safety and Quality Standard
  2. The Transparency, Influence and Accountability Standard
  3. The Neighbourhood and Community Standard
  4. The Tenancy Standard.
- <https://www.gov.uk/government/consultations/consultation-on-the-consumer-standards>

# A Professional Social Housing Sector

- The Act gives the RSH power to set standards on the competence and conduct of all staff ‘involved in the provision of housing management services’.
- The Government’s response to the Select Committee recommendations confirms that the revised consumer standards will set mandatory qualification requirements for senior housing managers and executives. These requirements will extend to arms length management organisations (ALMOs) and tenant management organisations (TMOs). The Government will make directions to the RSH as to the specific qualification requirements.
- Select Committee recommendations requiring the consumer standards to include additional requirements around the diversity of executive teams: the Government has indicated is the responsibility of the RSH.

# Awaab's Law and Domestic Violence- Update

- The Act incorporates:
  - Awaab's law - requiring the Secretary of State to set out new requirements for landlords to address hazards such as damp and mould within a fixed time period. Consultation is expected on this within the next 6 months, with a view to the requirements taking effect in summer 2024.
  - A duty to ensure that tenants whose safety is threatened are offered alternative accommodation by their landlord on equivalent terms to their existing tenancy (or co-operate with other landlords to do so). This reflects a focus on protecting victims of domestic violence and also a recognition that landlords need to adapt their processes to protect their most vulnerable residents.



# Contact

**Henna Khan**

**Associate**

+44 (0)121 214 8827

Birmingham

HKhan@towers.com

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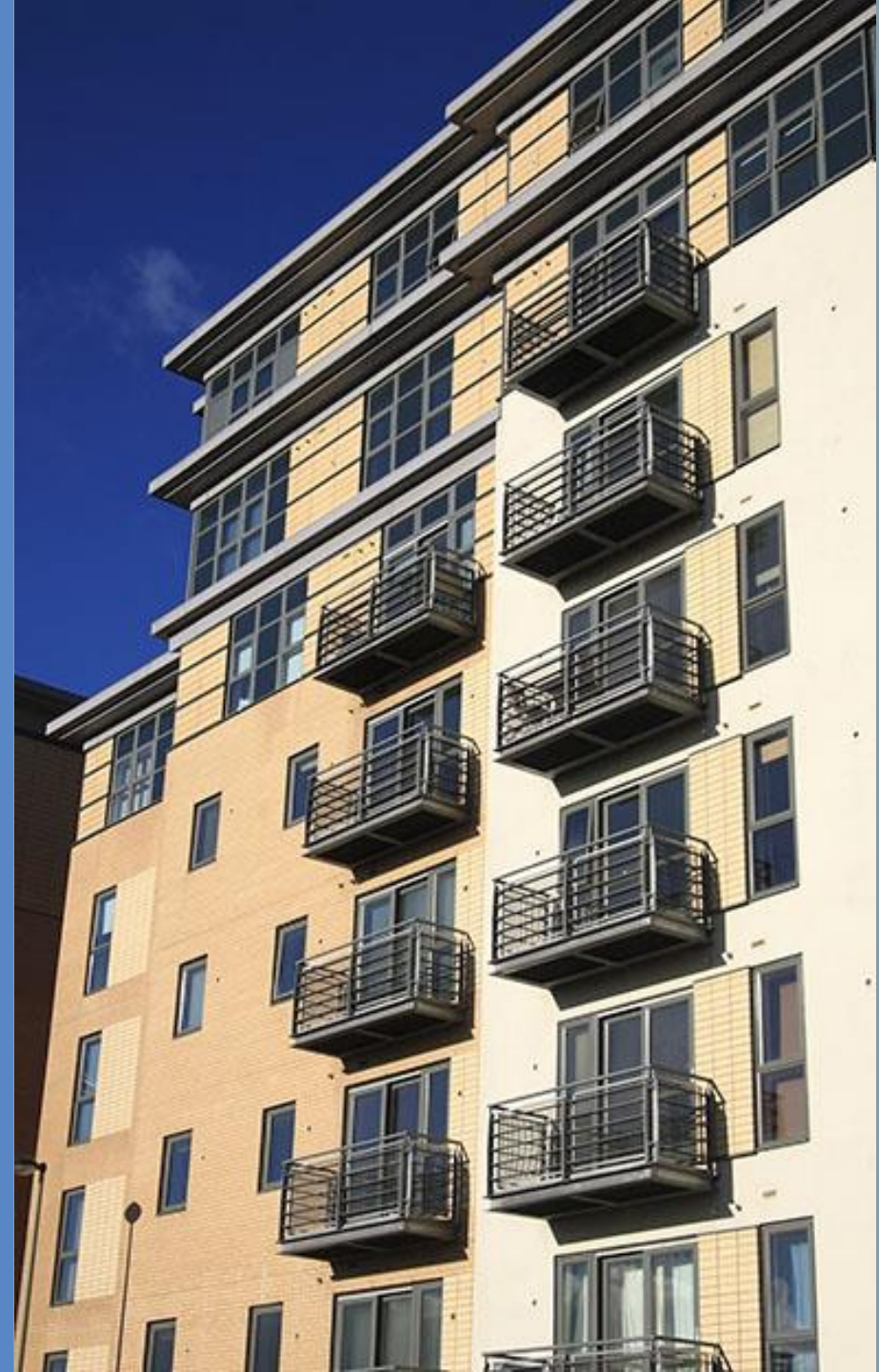
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# Building Safety Update

Victoria Ball



# What we will cover...

Second staircases: an update

BSA key date approaches: 1 October 2023

- Existing buildings
- New buildings
- Transitional buildings

Signpost: 4<sup>th</sup> Annual Mini-Conference  
on Building Safety



## Second Staircases: an update

- Government proposal in December 2022 - **second staircase required in new residential buildings over 30m**
- February 2023 - Sadiq Khan introduces requirement for all new residential buildings over 30m in London to have two staircases with immediate effect.
- New buildings only – not a requirement to retrofit
- Industry groups had called for lower threshold
- **24 July 2023** – Government announced intention to lower threshold to **18m**
- Lower threshold would align with higher-risk building regime in Building Safety Act
- Draft regulations expected in Autumn 2023
- Transitional arrangements remain key concern

# 1 October 2023: Existing Higher Risk Building

## All existing higher risk buildings to be registered by 1 Oct 2023\*

- Higher Risk = at least 18m or 7 storeys & contains at least 2 residential units
- By who? Party who meets definition of "Principal Accountable Person" for the building
- How much? £251
- Online portal
- Registration information includes:
  - the name and contact details of the PAP (plus anyone authorised to help with the registration)
  - building details: height, number of residential units and completion date
  - If available, the building control information demonstrating that the building met the building regulations applicable at the time of completion.

\*which means c.o.b on 30 Sept because from 1 Oct 2023: PAP faces fine/imprisonment/both if an occupied HRB is not registered

# 1 October 2023: New Buildings

**Will be subject to entire new regime – unless fall into transitional category**

- Regulations for Gateways 2 & 3 run to 80 pages – a lot to be digested
- Gateway 3:
  - Impact on completion / handover process
  - 'Completion Certificate Approval'
  - May take up to 12 weeks
  - Registration will follow Gateway 3 approval
  - Building can only be occupied once registered
  - Will impact on drafting of legal documents
- Even if not a HRB & subject to registration – elements of BSA still apply
- See annual conference on 11/12 October for detail

# 1 October 2023: Transitional Buildings

## Any Higher-Risk Building where:

- construction works commenced prior to 1 October 2023, but where construction completion will not be achieved until after 1 October 2023; or
- submission of an initial notice or deposit of full plans has occurred by 1 October 2023 and construction works commence before 1 April 2024
- Existing regime applies, i.e. Gateways 2 & 3 will not apply
- **BUT** building will still need to be registered before occupation
- Application for registration cannot be made until building control final certificate issued:
  - Will still be a time-gap between completion & first occupation
  - Will still need to consider responsibility for site security / insurance etc & ensuring co-operation with regulator in intervening period

## Signpost: 4<sup>th</sup> Annual Mini-Conference on Building Safety

Changes introduced by BSA will require (& are designed to achieve!) an industry-wide shift.

**When:** 11 & 12 October 2023

### **What it will cover:**

- Competency and culture: what changes are needed?
- Principal Accountable Person: duties and obligations explained
- Practical impact of Gateway 3 on construction projects
- The data challenge for landlords: maintaining the golden thread
- Looking forward not back: recovering the costs of compliance with the new regime
- Is design and build as a method of procurement still feasible?
- The sessions will be of significant importance to decision-makers across the residential real estate sector.

**Keynote speaker:** Dame Judith Hackett

[Register here: Building Safety Conference Event -Trowers & Hamlins](#)



# Contact

**Victoria Ball**

**Partner**

+44 (0)121 214 8824

Birmingham

VBall@towers.com

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@towers



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@towers\_law

# Renters (Reform) Act

Digby Morgan



# Renters (Reform) Act

- *Another* attempt to achieve an industry-wide shift!
- Wholesale changes to residential tenancies.
- Why?
- England only
- Implementation TBC

# Renters (Reform) Act

- Abolishes section 21
- (What *is* s.21?)
- Abolishes fixed term tenancies
- Revamps and revises grounds for possession

# Renters (Reform) Act

- What does this mean?
- Assured Shorthold Tenancies effectively all become Assured Tenancies
- End of "no fault" possession...
- ...but it will apparently be easier to gain possession where a tenant is at fault
- Will still need to serve notice and go to court if possession is contested
- Idea is to move to a more user-friendly digital possession process.
- Tenants retain right to terminate on two months' notice
- Specific seminar on this on 12 September

# Contact

**Digby Morgan**

**Partner**

+44 (0)121 214 8846

Birmingham

dmorgan@towers.com

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@towers



Towers & Hamlin



@towers\_law