

Southern Housing response to the House of Lords Industry and Regulators Committee's inquiry into building safety regulation

About Southern Housing

Southern Housing is one of the largest housing associations in the UK. We were formed through the merger of Optivo and Southern Housing Group in December 2022. We own and manage over 80,000, mostly affordable homes across London, the Midlands and the southeast of England. Southern Housing is a not-for-profit social landlord with charitable status regulated by the Regulator of Social Housing. The Regulator has recently awarded us its top grade (G1) for Governance. And its second highest (V2 & C2) grades for our performance against its Viability and Consumer standards.

We welcome the opportunity to supply evidence to the House of Lords Industry and Regulators Committee. Our submission reflects our experience interacting with the Building Safety Regulator to date as well as highlighting elements of the new regulatory framework which could be improved.

1. What is your experience of the Building Safety Regulator's regulatory framework? Has the introduction of the BSR improved the safety of the buildings it is responsible for, and can any examples be given to illustrate this?

Overall, our experience with the Building Safety Regulator (BSR) has been reasonably positive. Communication from our account holders has been good and they've asked for clarification of the information we've submitted where necessary. Our account holders have asked for a couple of time extensions, but these were relatively minor (a matter of weeks) and – even with the extensions – the applications were handled within the statutory timeframes.

These were relatively simple applications and we had done a lot of groundwork to source information from our supply chain to ensure our applications were of the required standard. It's possible our experience might not have been quite so positive for more complex applications or without that level of groundwork with suppliers – although that is simply speculation.

Our only minor complaint is that the handover process has not worked as seamlessly as it should do. We've been asked to re-supply information or found that the new account holder holds incorrect information on our application. Better handovers would ensure a smoother, more efficient process.

2. How has the Building Safety Regulator's (BSR's) regulatory framework impacted the delivery of new homes and the maintenance and improvement of existing high-rise buildings?

Our board has taken the decision to move away from building 18m+ buildings. That reflects the additional financial and regulatory challenges associated with the new building safety regime, as well as the separate viability challenges posed by the need to include second staircases. This means our development programme, once it does resume (we have paused new commitments until our financial capacity recovers in the coming years), will focus on opportunities outside London as land values in much of the capital necessitate building at height to achieve viability.

5. To what extent are delays in approvals for high-rise buildings down to the regulatory processes used by the BSR? Could these processes be made more proportionate, particularly for smaller works, without impacting the safety of high-rise buildings? If so, how?

7. To what extent are delays caused by a poor understanding of building safety on the part of developers, leading to unsuitable applications? Should the solution to delays be a greater awareness of how to take a holistic approach to safety on the part of developers, rather than more prescriptive guidance on regulatory requirements?

Delays are likely to be down to several regulatory- and developer-specific factors including:

- delayed/incomplete/inadequate developer applications, which may reflect a lack of understanding and guidance in some cases
- inefficiencies in the BSR's regulatory processes
- a lack of capacity/skills/experience at the BSR (and in the industry more generally given the BSR's reliance on multidisciplinary teams for specialist input).

There are two areas where we feel the BSR's regulatory processes could be improved:

1. The definition of 'building work' is ambiguous and encompasses a vast range of different works. This means applications are being submitted for minor works (e.g. window and door replacements that could be completed in a matter of hours/days) alongside complex applications for entire schemes. There should be a lighter touch / fast track process for these more minor applications that is more proportionate to the work involved. Such triaging might free up greater capacity for more complex applications requiring more regulatory oversight.
2. Separate buildings within the same scheme currently require separate applications. This creates unnecessary waste since much of the submitted information may be identical. It also gives rise to the possibility that the individual buildings are assigned to and assessed by different staff at the BSR. A better solution would be to have all buildings within a scheme assessed by the same individual or team.

6. Are the BSR's approval processes sufficiently clear and understandable to developers? What level of guidance or feedback is necessary for those making applications to the BSR to understand its requirements? Could this situation be improved through the BSR's review of Approved Documents?

As expressed to the committee during this summer's oral evidence sessions, the lack of opportunities for pre-application discussions is unhelpful. We believe the original decision not to permit such discussions was partly due to resourcing and may now change following the recruitment drive recently announced by government. Advice at the pre-application stage could have a significant impact on the quality of applications and speed at which they can be processed.

Elements of the BSR's guidance are too vague and open to interpretation (especially the fire emergency file). In particular, we find ourselves making judgement calls on whether to submit applications for remedial works, which is not helped by the lack of guidance as to what constitutes 'building work'.

The same applies to the definition of emergency works, which is especially important since such works can progress without an application.

8. The BSR has suggested that it would like to carry out its work on an organisation-by-organisation basis, rather than the current system of looking at things building-by-building. Would you support a move to the BSR focusing on organisations, or would this lessen their focus on the safety of individual buildings?

We can see the merits of an organisation-by-organisation rather than building-by-building approach. It would allow developers to build relationships and rapport with account managers.

However, there is a risk it would benefit larger developers at the expense of SMEs, which government is currently attempting to support through its package of planning reforms. There is also a risk that the capacity to build relationships and rapport actually undermines the independence and rigour of the BSR if personal relationships mean some developers are treated more favourably or offered concessions or flexibilities not afforded to their smaller counterparts. This could undermine the safety-first approach at the BSR.

A two-tier model mirroring the two bidding routes through the Affordable Homes Programme (strategic partnerships and continuous market assessment) could mitigate the risk of inadvertently disadvantaging SMEs. But it wouldn't safeguard against the risk of bias or leniency, which could creep in under any organisation-by-organisation model.

If any remodelling of the BSR's work is to occur, we feel it would be better to further delineate applications for minor and major works to enable a more proportionate approach to regulatory oversight.

9. To what extent are delays in approvals caused by the resources available to the regulator? Is there a need to give the BSR more funding, and if so, would developers accept an increase in regulatory fees to allow for this? Would more funding allow the BSR to deal with applications more swiftly, or is there a need to consider alternative financial models for delivering building safety approvals?

The number of undecided applications revealed by recent FOI requests suggests capacity is a significant factor alongside elements of the BSR's processes and the quality of developer applications. We welcome government's recent efforts to improve the performance of the BSR including the drive to recruit an additional 100 staff. However, we have reservations about the creation of a fast-track route a) because this may be subject to similar delays if applications are of insufficient quality or require additional information, and b) because the focus should be on improving the BSR's performance for *all* applications rather than offering a premium service for those with the most resources.

In principle, we may be willing to pay more in fees. But this would have to be subject to continued enhanced transparency of performance information and better adherence to the BSR's statutory timeframes for applications relating to new-build and remediation.

12. To what extent are delays a result of growing pains that will ease over time, or a structural problem that requires more significant changes? What improvements to the BSR's regulatory framework are needed?

We feel the move to MHCLG isn't necessarily a positive step as it may disrupt progress just as the BSR is starting to bed in. There will inevitably be some improvement as the BSR becomes a more mature and well-resourced organisation and developers become more familiar with the level of detail necessary to satisfy assessors. But change will take considerable time – the introduction of the Building Safety Act is the biggest change to building safety regulation in decades and developers (and especially their supply chains) will need some time to adapt to the new information requirements. That underlines the importance of plugging gaps in the existing guidance and enabling some degree of communication pre-application alongside structural reforms.