Decision tree for apartments in multi storey buildings

BIRDCHARLES chartered surveyors & valuers

Does the building contain at least 2 self-contained residential units, and; has 5 or more storeys or; the floor of the top residential unit is more than 11m above external ground level?

NO →

Does the residential building have 3 or less storeys?

YES →

Does the building have 7 or more storeys, or is the floor of the top residential unit more than 18m above external ground level?

— **YES** →

NO →

YES — Check compliance with home office guide to Making Your Small Block Of Flats Safe From Fires (Mar 23)

Fire Safety (England) Regulations 2022 also apply

NO — Is there any ACM/MCM/HPL panel cladding to the building?

NO →

YES ↓

Fire Safety (England) Regulations, 2022 also apply

NO — The building is a relevant building

AND

YES — The building is a higher risk building

Was the current lease in existence on or before 14 February 2022 with a term of more than 21 years and a service charge liability?

NO →

Is the building occupied?

YES →

NO ↓

Ensure there is completion certificate before occupation from BSR (once implemented)

AND

Ensure the building has been registered with the Building Safety Regulator

Ensure Key Building Information has been collated and has been submitted to the BSR

No further enquiries

Fire Safety (England) Regulations 2022 also apply

Ensure an EWS1 Form is provided

Landlord cannot recover costs relating to works to rectify Building Safety Risks, including cladding issues, from any Lessees, including Non-Qualifying Lessees

There is no Qualifying Lease. There will be uncapped liability towards costs to address Building Safety Risks including cladding works

YES ↓

Did the owner of the leasehold interest, on 14 February 2022, own more than 2 other properties in the UK?

NO →

Does the lease include a share of Freehold or is the Freehold estate in the building Leaseholder owned?

NO →

YES ↓

There is no Qualifying Lease. There will be uncapped liability towards costs to address Building Safety Risks including cladding works. No Landlord's Certificate is applicable

The HRB will require a Safety Case Report, Residents' Engagement Strategy and Mandatory Reporting Occurence System to be prepared to obtain a Building Assessment Certificate. This scheme should commence in April 2024

Has a Landlord's Certificate been provided within 4 weeks of a request of a lessee?

NO ← → **YES**

YES ↓

NO — Is there an EWS1 Form?

YES →

Was the Landlord the Developer or an Associate of the Developer whom created the Building Safety Risk?

NO →

This is a Qualifying Lease Ensure vendor provides a Deed of Certificate

The Landlord can only recover costs to rectify Building Safety Risks from Non-Qualifying leases

Was the Landlord's Net Worth on 14 February 2022 more than N x £2,000,000, where N is the number of Relevant Buildings?

NO →

YES ↓

The Fire Safety (England) Regulations 2022 still apply. EWS1 Forms will also be required for certain buildings

No further enquiries

Landlord's Certificate will detail any Building Safety Risks arising from works undertaken to the building since 28 June 1992 and the costs of any remedial works undertaken since 28 June 2017 to rectify any Building Safety Risks that are recoverable through the lease

Permitted Maxium contribution is based on value of leasehold interest on 31 December 2020

Lessee will be liable for up to 10% of Permitted Maximum per year, less the cost of the usual service charge payments, to address Building Safety Risks

Costs incurred in addressing cladding issues are not recoverable from Qualifying Leases