

# **Consolidated Government Advice on Façade Safety, and the implications for Apartment Owners**

## **Briefing Note to Leaseholders**

In the last two years, the Ministry for Housing, Communities and Local Government (MHCLG) has issued a series of advice notes, intended to assist building owners in ensuring the exteriors of buildings (facades and balconies) are safe. These were issued following the tragic events of Grenfell, where it is believed that the cladding system was a significant contributing factor to the disaster.

Advice Note 14 (AN14) advised that for all high-rise buildings (over 18 metres), building owners should ensure that the cladding system consisted of fire-retardant materials, and that it is installed correctly to ensure that it impedes fire spread in the event of fire.

AN21 advised that balconies on high-rise buildings should also be fire retardant and not contribute to fire spread in the event of fire.

Rendall and Rittner responded to this advice and sought instructions from building owners where it was believed that there were significant risks. In certain cases, building owners indicated that they would carry out their own checks and let us know the results. In other cases, we were asked to facilitate checks on their behalf.

We commissioned the services of a firm of chartered surveyors to project manage this work. In most cases, this involved a desktop review of documentation relating to façade systems, combined with intrusive investigations to ensure that the system was installed appropriately. The technical nature of this work made it necessary to employ the services of experts (such as fire engineers or architects) to advise on the installation and make-up of each façade system. It is also necessary to carry out checks at various points around the building to be sure that it has been installed appropriately, checking the fire retardancy of insulation as well as ensuring that appropriate fire breaks and stops are in place.

Although we commenced this project in the summer of last year, it then stalled because the experts we were working with had their Professional Indemnity (PI) insurance withdrawn and were unable to proceed with the necessary checks.

We have worked hard since then to compile a panel of experts with the necessary qualifications and PI cover. This has been extremely challenging for three reasons:

1. Very many experts have had PI cover withdrawn or reduced to impossibly low levels (£250k).
2. There are in any case a very limited number of experts suitably qualified to carry out the necessary checks.
3. Since there are around 12,000 buildings over 18 metres high in the UK (amounting to some 307,000 leasehold owners), the available experts are swamped with work.

We are now at the point where we are again able to instruct these works, (where our clients have indicated that they wish for us to do so). We believe that building owners rightly regard the safety of lessees and residents as their first priority. We are therefore recommending that they comply with



Government advice, either through us or independently (since the duty to carry out work rests firmly with building owners or Residents' Management Companies, we cannot force them to proceed).

In late January 2020, the Government consolidated their advice contained in the various advice notes. The new consolidated advice replaces previous advice and widens its scope, recommending that ***all apartment buildings be checked regardless of height***. It identifies certain types of cladding as being of particular risk. These include type 3 Aluminium Composite Material (ACM), together with High Pressure Laminate (HPL). It recommends that building owners prioritise investigatory works, based on the likely level of risk.

We are deeply concerned that leaseholders are going to be footing significant bills just to check that their buildings are safe. It is our understanding that to date any cases which have reached Tribunal have established that these charges should be covered by leaseholders in accordance with the terms of the lease. This seems entirely unfair, in the light of the fact that these checks are only necessary as a result of systemic failures in building construction control over many years.

We have further concerns that if and when façade systems are found to be unsafe, this is going to have an even deeper impact on apartment owners, who will be called upon to cover the cost of remediation works as well as risk mitigation measures such as waking watches and upgraded alarm systems. From our discussions with experts, we believe that around 2/3 of façade systems being checked are failing. On that basis, this is going to have a huge impact on apartment owners' financial and emotional wellbeing; yet we are powerless to prevent this from happening and must rightly focus first and foremost on resident safety, in complying with Government advice.

It is of deep regret that there is not sufficient resource available in the UK to get this work done more quickly. This means that many leaseholders are currently unable to refinance or sell their apartments. This challenge is one faced by apartment owners across the UK. (The Sunday Times estimates that over 3 million homeowners could be affected). We believe that the Government must intervene to fund this work and to ensure that those buildings with the greatest risk are prioritised, given the finite number of available experts. However, in the meantime we must recommend that our clients continue to follow the advice issued. Where we are instructed to proceed, we are in the process of commissioning the necessary façade checks. We are sorry that this may still take several years to complete for all affected buildings.

If this is an issue which is currently affecting you, we would recommend that you speak with your local MP and ask that they do everything possible to encourage the Government to intervene.