Building Safety Act 2022 – Lenders View

UK Finance

15.11.23 – Matthew Jupp, Principal, Mortgages Policy

Statement from industry – Building Safety Act

15 July 2022

"The introduction of the developer self-remediation scheme, government's plans to re-open the Building Safety Fund and a new remediation scheme for buildings between 11-18 metres will help to remove the financial risk to leaseholders in blocks of flats 11 metres and above. We also recognise that the costs for remediating non-cladding defects is capped in law for qualifying leaseholders."

Lenders

"…providing the mortgage application meets individual lenders' policy and regulatory requirements, lenders will lend on buildings that will be self-remediated by developers or captured under a recognised government scheme or there is evidence of a qualifying lease certificate."

Valuers

"RICS will continue to safeguard housing market stability for buildings 11 metres and above, and support valuers to take a consistent valuation approach, to help facilitate lending. This will be reflected in forthcoming RICS guidance which ensures valuers take a consistent approach to advising their lender clients."

Industry Statement on Cladding

20 December 2022

“Leaseholders and prospective buyers will now have more clarity on purchasing homes with building safety issues following a key update from mortgage lenders and the Royal Institution of Chartered Surveyors (RICS).”

Lenders

“With the RICS guidance now in place, from Monday 9 January 2023 lenders will be able to consider mortgage applications on properties in buildings in England of 11m and over in height. Lenders will need evidence that buildings will be self-remediated by developers or covered by a recognised government scheme or by leaseholder protections contained in the Building Safety Act, as evidenced by a Leaseholder Deed of Certificate. (All mortgage lending is subject to regulatory requirements and individual firms’ lending policies).”

Valuers

“New guidance published by RICS will help valuers value properties with cladding and enable mortgage lending on affected properties.”

“RICS will continue to support valuers, monitoring the impact of the new guidance to ensure it is proportionate, fit for purpose and helps facilitate mortgage lending, while delivering a consistent approach to valuation.”

UK Finance Mortgage Lenders’ Handbook

The UK Finance Mortgage Lenders’ Handbook is a key tool for mortgage lenders and an integral part of the home buying and selling process and remortgages.

The Handbook was first created in the 1990s. It provided a standardized set of instructions from all major UK mortgage lenders to conveyancers acting for them.

There is a UK Finance Lenders’ Handbook for each legal jurisdiction in the UK and all have a part 1 (general instructions) and part 2 (lender specific instructions).

The Handbook for England & Wales also includes a part 3 which sets out standard instructions to be used where a conveyancer is representing the lender but not the borrower.

UK Finance is responsible for the Handbook website and oversees the content of part 1 and part 3. The contents of part 2s is the responsibility of lenders themselves. UK Finance has no oversight of these changes and make no record of them.

The Handbook is voluntary for lenders and not all choose to use it. Most lenders do choose to use it.

There are several linked documents that sit alongside the Handbook: an example requirements letter for separate representation, the professional consultant’s certificate for new builds, the Disclosure Form and solar panel installation requirements.

Handbook and Building Safety

12 December 2022

Part 1

Section 5.14.17

This section applies only to leasehold property purchases in England. See Part 2s for our requirements on purchases and remortgages.

Where the security will comprise a leasehold flat you must request the following information from the seller's conveyancer about the safety of the building in which the flat is situated :

- *Confirmation as to whether the building has been or will be remediated under the Building Safety Act 2022.*
- *Copies of any Landlord's Certificates, signed by the Landlord in the form set out in the Building Safety (Leaseholder Protections) (England) Regulations 2022.*
- *Copies of any executed Leaseholder Deed of Certificate (in the form set out in the Building Safety (Leaseholder Protections) (England) Regulations 2022) and confirmation that they have been submitted by the relevant leaseholder to the landlord.*

You may want to consider any guidance from your professional body and/or regulator about the information and advice you should provide to the home-buyer relating to building safety.

You should also consider any implications for section 4.4 of the Handbook.

Handbook and Building Safety

12 December 2022

Part 2 questions

5.14.17a Does the lender want any documentation sent to them?

5.14.17b Does the lender have any specific instructions about building safety?

5.14.17c Does the lender have any specific instructions relating to remortgages?

Handbook and Building Safety

20 July 2023

5.14.17 This section applies only to purchases of leasehold flats in England situated in a 'relevant building' as defined in the Building Safety Act 2022 (Guidance on 'relevant buildings' can be found here: https://www.gov.uk/guidance/definition-of-relevant-building) ~~property purchases in England.~~ See Part 2s for our requirements on purchases and remortgages. Where the security will comprise such a leasehold flat you must request the following information from the seller's conveyancer about ~~the safety of~~ the building in which the flat is situated:

- Confirmation as to whether the building has been or will be remediated under the Building Safety Act 2022.
- Copies of any Landlord's Certificates, signed by the Landlord in the form set out in the Building Safety (Leaseholder Protections) (England) Regulations 2022.
- Copies of any executed Leaseholder Deed of Certificate (in the form set out in the Building Safety (Leaseholder Protections) (England) Regulations 2022) and confirmation that they have been submitted by the relevant leaseholder to the landlord.

You may want to consider any guidance from your professional body and/or regulator about the information and advice you should provide to the home-buyer relating to building safety. You should also consider any implications for section 4.4 of the Handbook.

Lender expectations and next steps

UK FINANCE

What lenders wanted:

- Documentation to be collected
- Scope to describe what checks to be made to that documentation

What they did not want:

- Conveyancers to be valuers

Some underlying expectations:

- Best endeavours
- Guidance from representative bodies
- Client advice