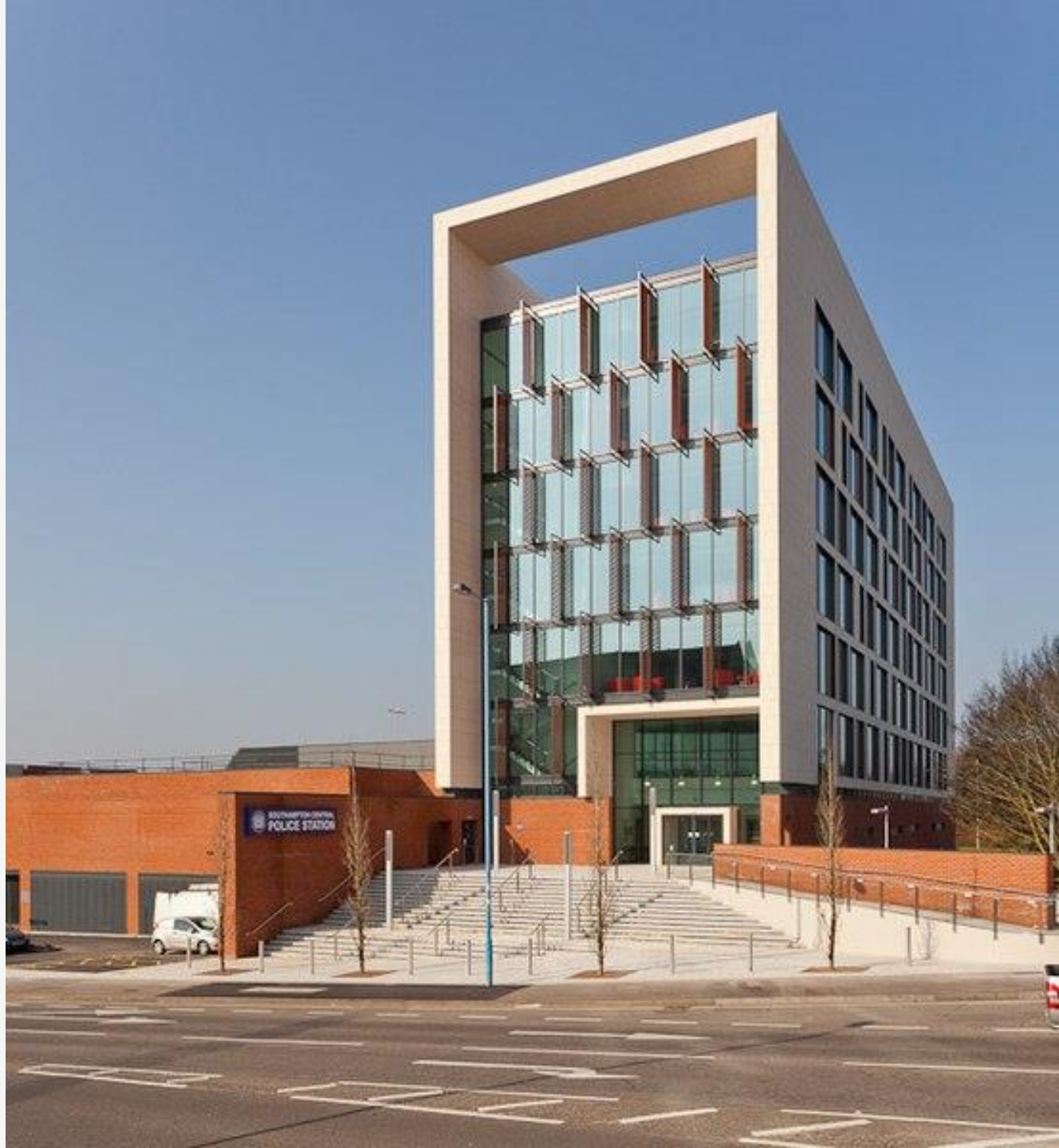


High-rise blocks

# Your legal responsibilities











High-rise blocks

# Your legal responsibilities

## Topics

- (1) Background – ownership and management of flats
- (2) Responsibility for safety of the block – Building Safety Act 2022
- (3) Insolvency of a ‘Responsible Person’ – notices to others
- (4) Insolvency of a ‘Responsible Person’ – the IP’s other duties



High-rise blocks

# Background – ownership and management of flats

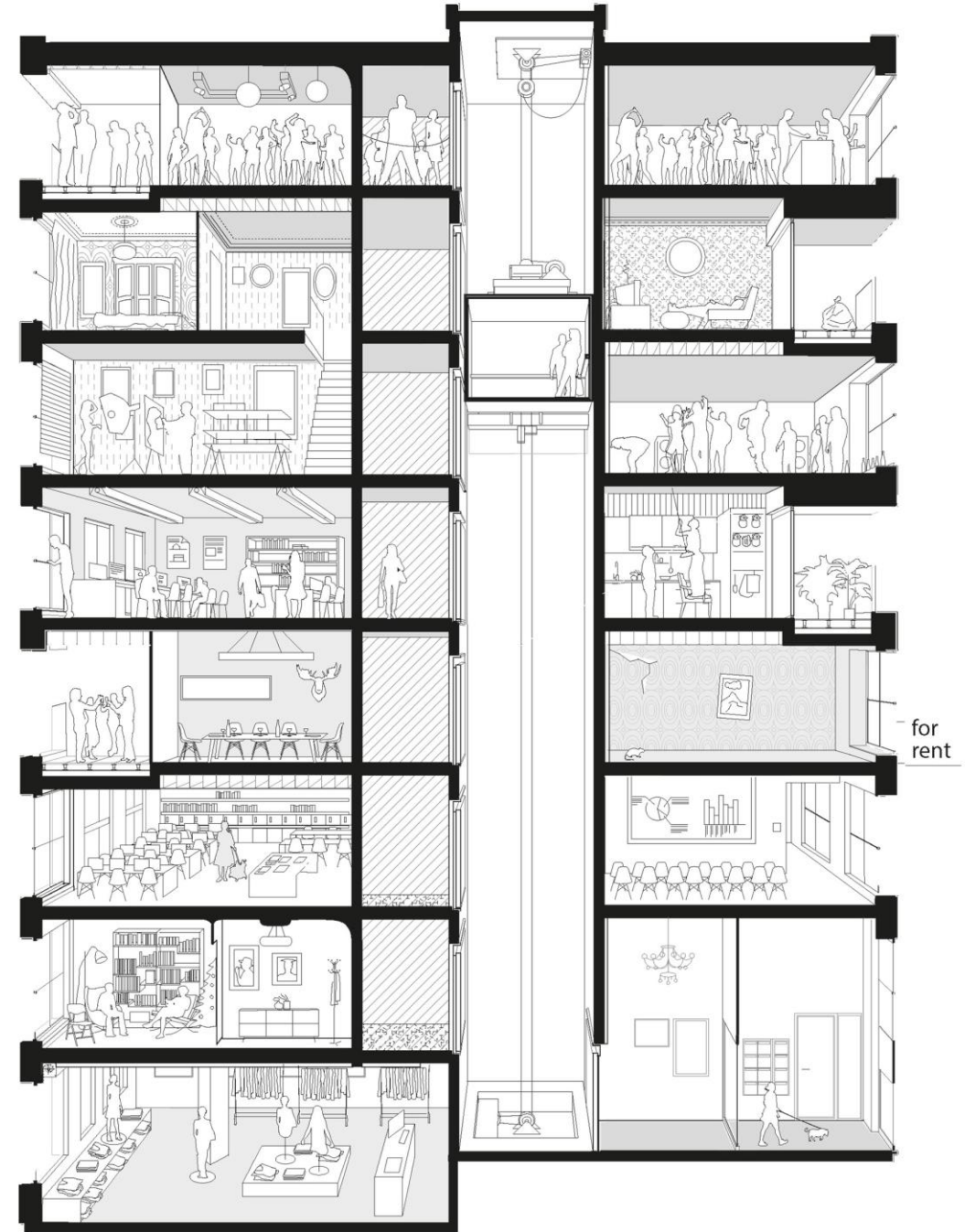


High-rise flats

# Ownership and management

How to arrange it so:

- People can own their own apartments; and
- Things like the lift get fixed when they go wrong.





High-rise flats

## Ownership and management

English law is not very good at this.

- Privity of contract.
- It stops obligations being transferred.
- That means the buyer of a flat – if it is a freeholder – is not bound by the promises made by the previous owner.
- Examples might be:
  - To insure their flat.
  - To pay a fair share of common expenses.



High-rise flats

## Ownership and management

### Privity of estate is the solution

- Sell the flats as long leases (eg for 125 years).
- The freeholder – the landlord – keeps the structure of the building.
- Because flat owners are tenants, they must keep to the terms of their leases.
  - All leases in a block are pretty much the same.
  - The landlord manages the block.
  - The leaseholders pay the cost of it.
  - The landlord also takes a ground rent.
  - The landlord can sell new leases as the old ones run out.



High-rise flats

# Ownership and management

Privity of estate is the solution

- Sometimes the landlord:
  - Sells the flats on long leases (eg 125 years)
  - Grants a similar lease:
    - Of the structure and common parts;
    - To a management company (perhaps owned by the flat-owners).
  - And keeps the freehold for themselves.
    - (Or sells it.)

High-rise flats

## Ownership and management

That removes risk and work from the landlord (freeholder)


- Because the management company:
  - Maintains (and insures) the building; and
  - Collects service charges from the flat-owners.
- And the landlord:
  - Collects their rent from the flat-owners; and
  - Sells them new leases when their old ones start running out.



High-rise flats

## Ownership and management

Commonhold is an alternative arrangement

- Commonholds have existed for over 20 years.
  - But they are hardly ever used.
  
  - (Something similar – ‘strata title’ – works very well in Australia.)
  - (The English feudal system is, internationally, an outlier.)
- 

High-rise flats

## Ownership and management

So, blocks of privately-owned flats are usually managed by:

- A management company; or
- A landlord.

Some blocks of flats are let on shorter tenancies:

- Where the tenant pays rent monthly or quarterly; and
- Cannot sell their tenancy.

Those are usually managed by the landlord.



High-rise flats

## Ownership and management

Management companies and landlords may delegate to managing agents.

Managing agents act on behalf of the landlord or management company.

The landlord or management company (as the case may be) continue to have legal responsibility.







High-rise blocks

# Your legal responsibilities

## Topics

- (1) Background – ownership and management of flats
- (2) Responsibility for safety of the block – Building Safety Act 2022
- (3) Insolvency of an ‘Accountable Person’ – notices to others
- (4) Insolvency of an ‘Accountable Person’ – the IP’s other duties

High-rise blocks

# Responsibility for safety of the block

## Building Safety Act 2022





High-rise blocks

# Responsibility for safety of the block

Building Safety Act 2022

- ‘Higher-Risk Buildings’
  - Very tall.
  - People live there.
- ‘Accountable Person’
  - Responsible for safety.
  - Cannot pass that duty to others.



High-rise blocks

# Responsibility for safety of the block

Building Safety Act 2022 – duties of the ‘Accountable Person’

- Monitor.
  - Regular safety checks.
- Enforce.
  - Make sure occupiers don’t break safety rules.
- Register.
  - File information with the Building Safety Regulator (part of the HSE).
- Manage.
  - Compliance.
- Record
  - The ‘golden thread’.



Help us to improve the website - [give your feedback](#).

[Home](#) > [Building safety](#)

**Building safety**

**Building Safety Regulator**

New roles and responsibilities

Building control →

Planning, design and construction

Occupied buildings

Residents

Statutory residents panel

Storing building information

Resources

# About the Building Safety Regulator

As the Building Safety Regulator (BSR) we want residents to be safe where they live. We want to restore confidence in the safety and standards of all buildings. And we want to drive positive cultural change in the built environment industry.

BSR in England is part of HSE and was established under The Building Safety Act 2022 to:

- regulate higher-risk buildings
- raise safety standards of all buildings
- help professionals in design, construction, and building control, to improve their competence

BETA This is a new service - your [feedback](#) will help us to improve it.

[< Back](#)

HRB01773J0B7

## Millbrook Towers

Windemere Avenue, Southampton,  
SO16 9FX

|  |     |
|--|-----|
| <b>Number of floors above ground</b>   | 25  |
| <b>Height</b>  | 70  |
| This is measured from ground level to the top floor, not the roof.               |     |
| <b>Number of residential units</b>   | 144 |
| These could be flats, maisonettes or any other places that residents could live. |     |

### When was the building completed

Millbrook Towers was completed between 1956-1969.

### Who is responsible for the building's safety

These are also known as accountable persons.

We cannot publish their contact details.

#### Southampton City Council

Southampton City Council is responsible for:





High-rise blocks

# Your legal responsibilities

## Topics

- (1) Background – ownership and management of flats
- (2) Responsibility for safety of the block – Building Safety Act 2022
- (3) Insolvency of a ‘Responsible Person’ – notices to others
- (4) Insolvency of a ‘Responsible Person’ – the IP’s other duties

High-rise blocks

# Insolvency of a Responsible Person



High-rise blocks

## Insolvency of a 'Responsible Person'

- What's a 'Responsible Person'?
  - The debtor is a 'Responsible Person' if they are an 'Accountable Person'.
    - Check the Building Safety Regulator's register.
    - And other checks, if they might have failed to register.
  - The debtor might be a 'Responsible Person' even if they are not an 'Accountable Person'.



High-rise blocks

## Insolvency of a 'Responsible Person'

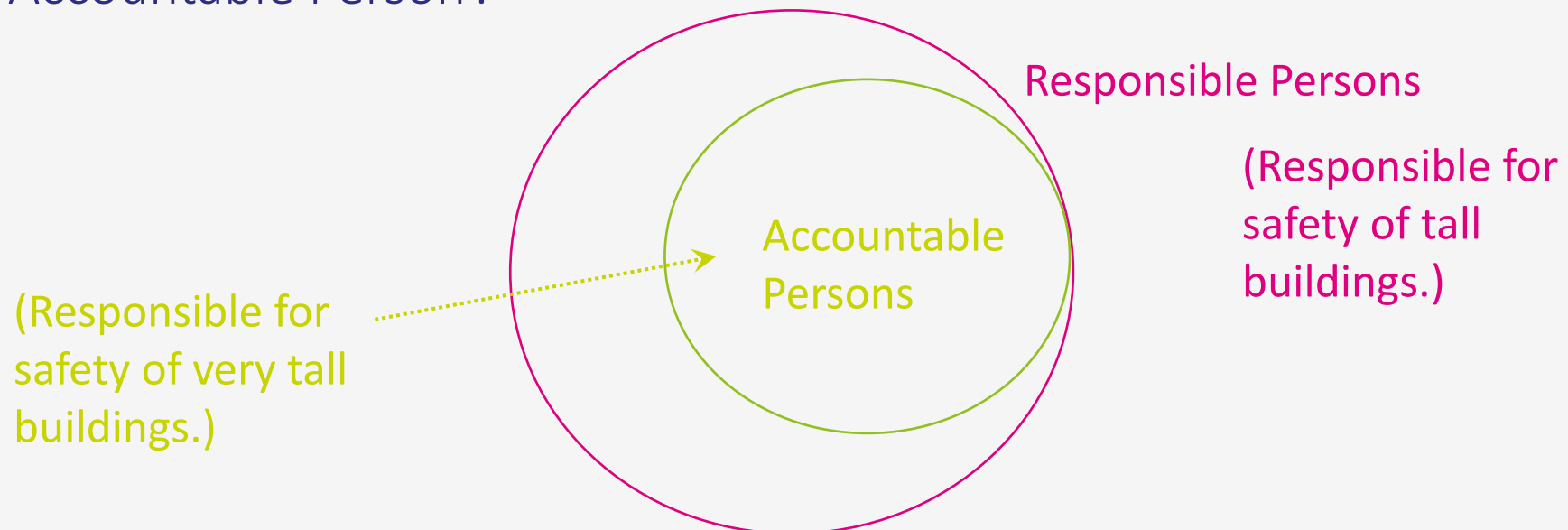
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High-rise blocks

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  - The debtor might be a 'Responsible Person' even if they are not an 'Accountable Person'.



High-rise blocks

## Insolvency of a 'Responsible Person'

- What sort of debtor might be a 'Responsible Person'?
  - Freeholders
  - Estate owners
  - Landlords
    - Not landlords' agents
  - Management companies
    - Not management agents
  - Residents' management companies
    - Not residents' associations
  - Right To Manage companies
  - Commonhold associations



High-rise blocks

# Insolvency of a 'Responsible Person'

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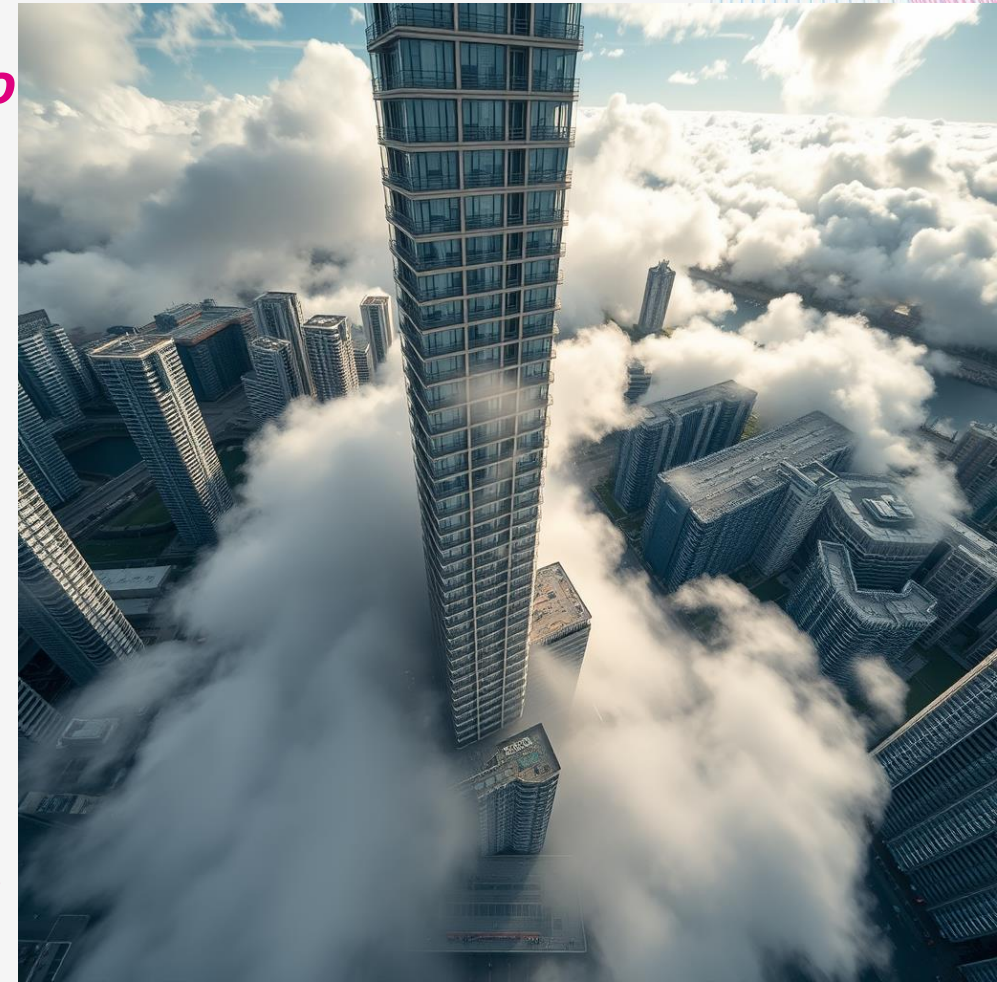


High-rise blocks

# Insolvency of a 'Responsible Person'

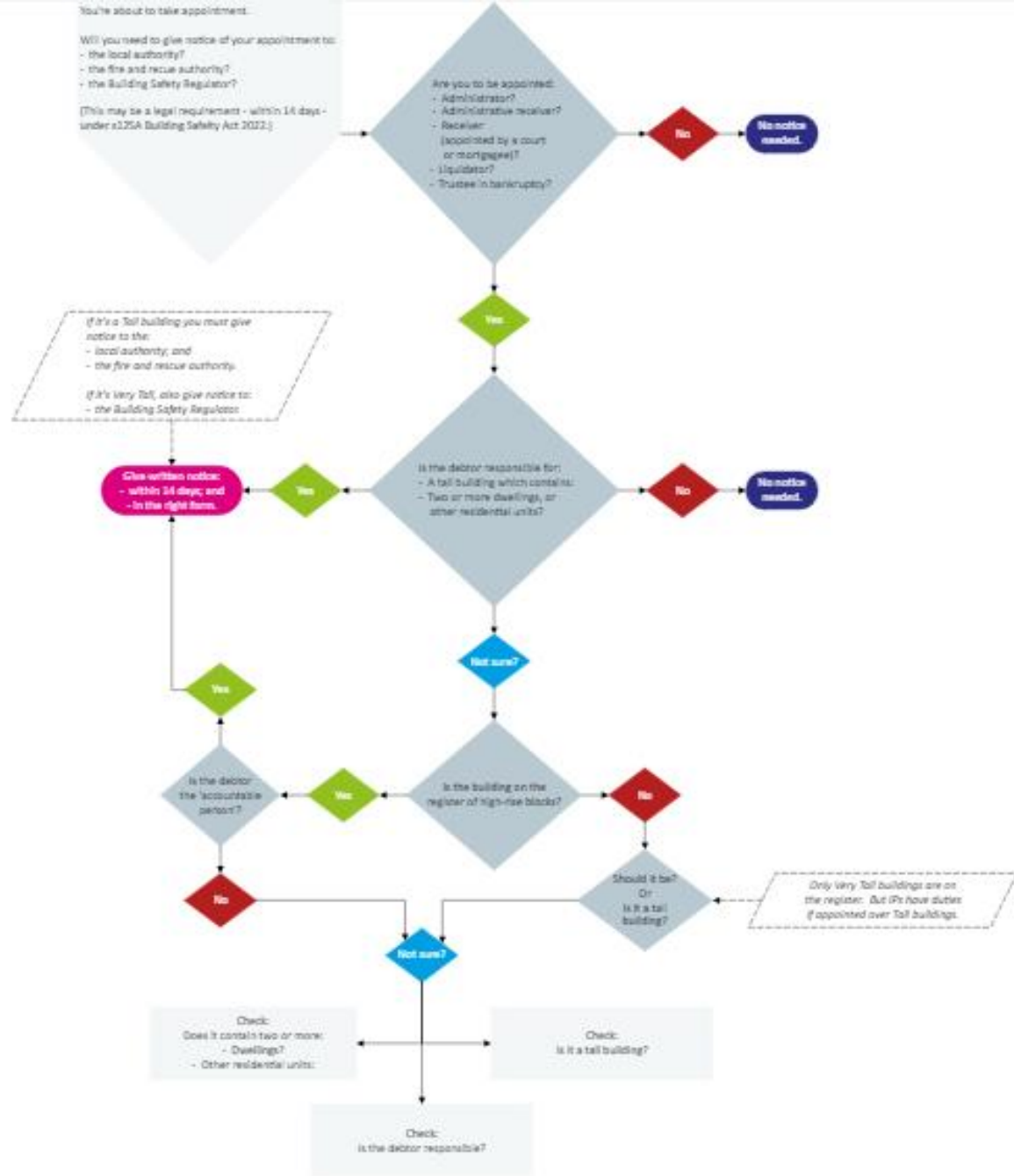
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    - Not landlords' agents
  - Management companies
    - Not management agents
  - Residents' management companies
    - Not residents' associations
  - Right To Manage companies
  - Commonhold associations

***If their portfolio includes a tall building that people live in.***



*\*There is a definition of 'Responsible Person'. It should be clear to a property lawyer. But it's technical. Almost nobody else will understand it.*

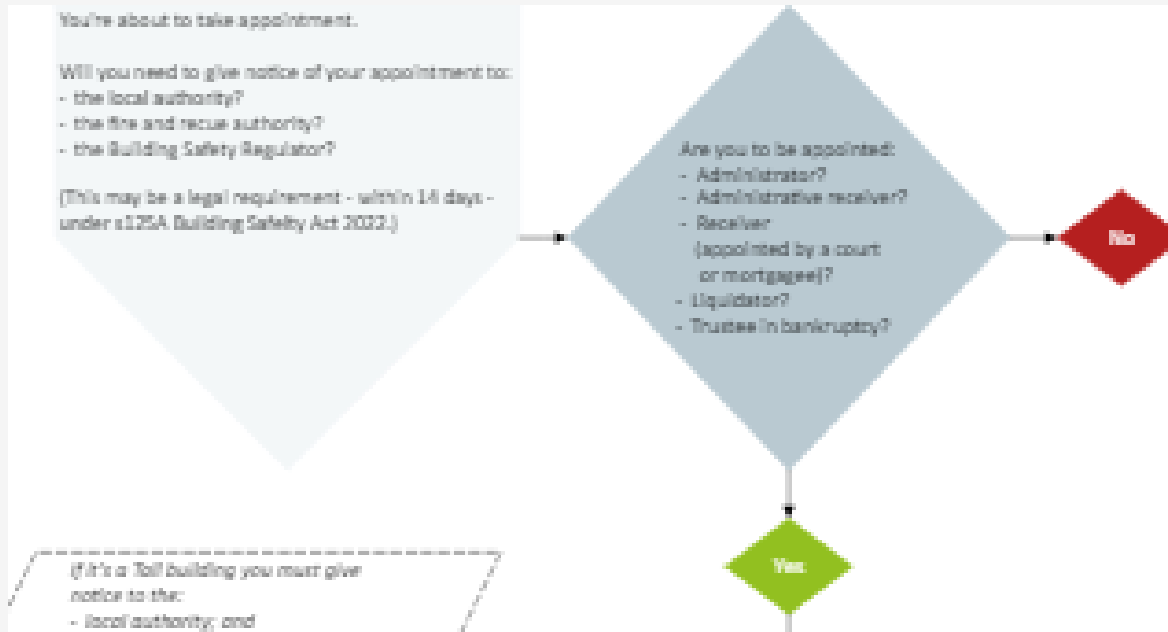




## High-rise blocks

# Insolvency of a 'Responsible Person'





High-rise blocks

# Insolvency of a 'Responsible Person'

High-rise blocks

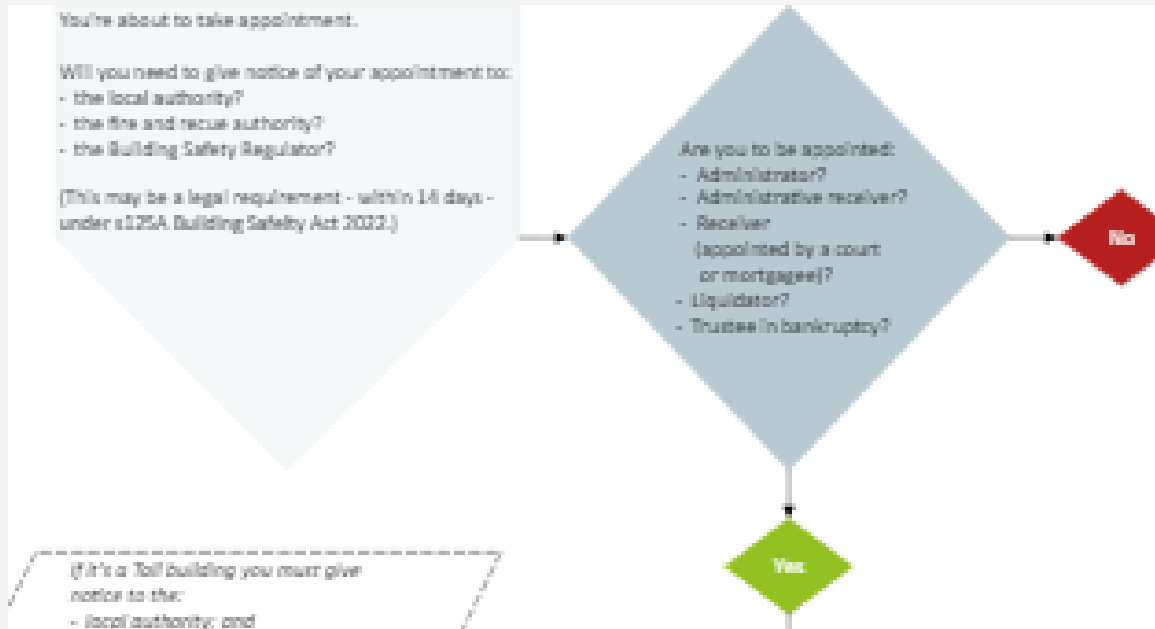
## Insolvency of a 'Responsible Person'

You're about to take appointment.

- Will you need to give notice of your appointment to:
  - the local authority?
  - the fire and rescue authority?
  - the Building Safety Regulator?
- This may be a legal requirement:
  - within 14 days;
  - under s125A Building Safety Act 2022.

## High-rise blocks

# Insolvency of a 'Responsible Person'





High-rise blocks

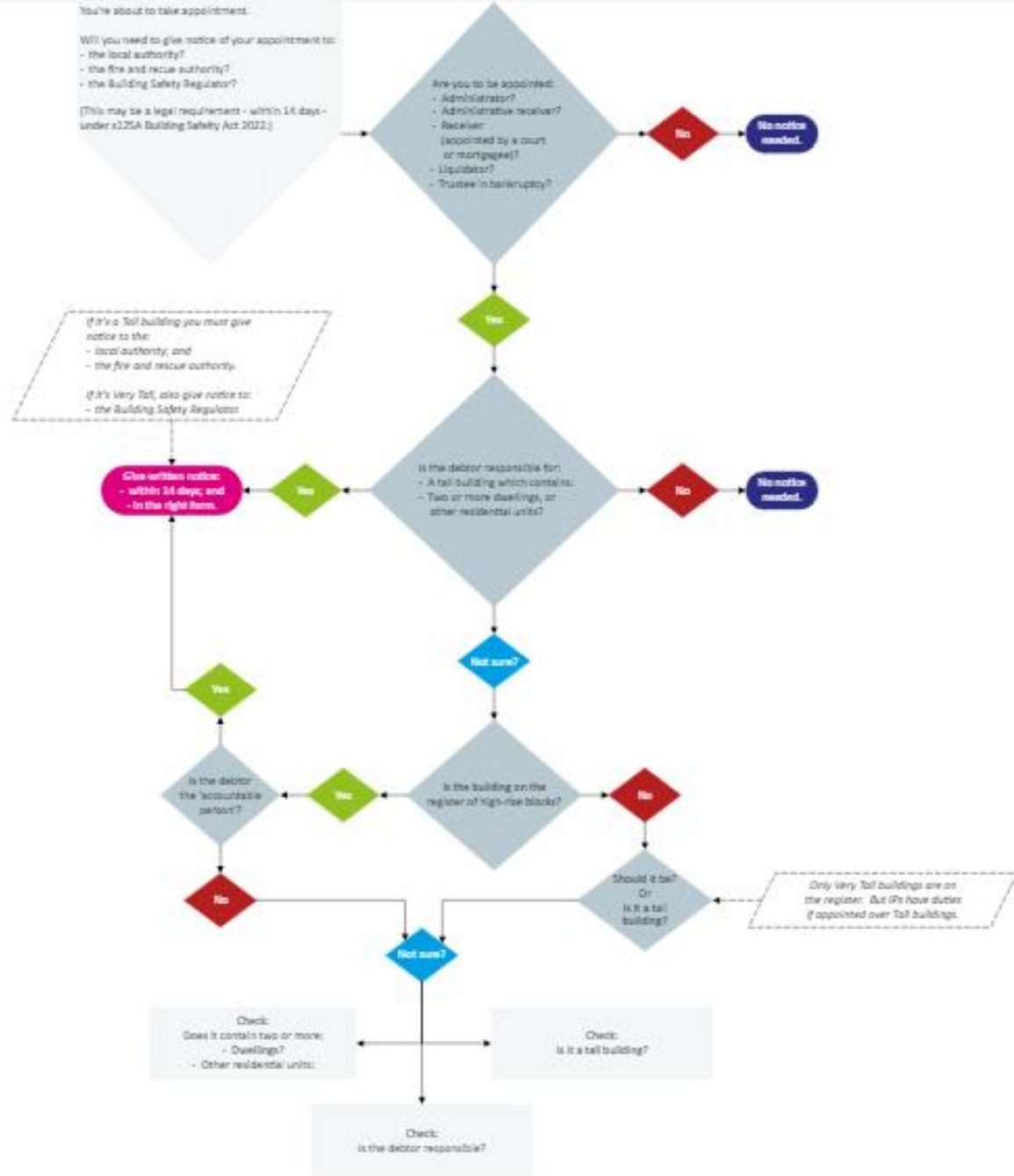
## Insolvency of a 'Responsible Person'

You're about to take appointment.

- Are you to be appointed:
  - Administrator?
  - Administrative receiver?
  - Receiver
    - (appointed by a court
    - or mortgagee)?
  - Liquidator?
  - Trustee in bankruptcy?

(Not on the list:

- VA supervisors
- VA nominees
- Moratoria monitors
- Restructuring plans
- Schemes of arrangement
- Etc)

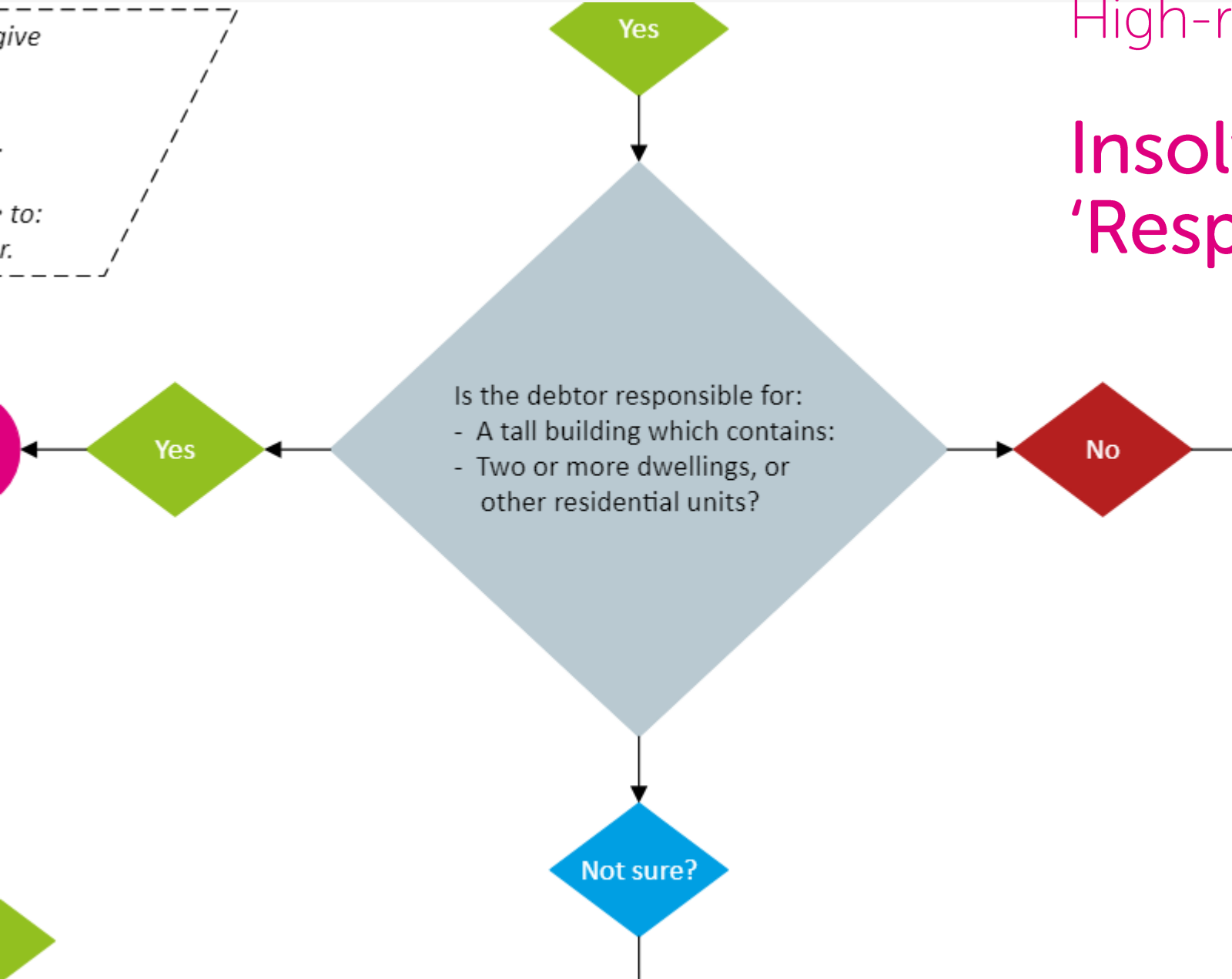


## High-rise blocks

# Insolvency of a 'Responsible Person'

High-rise blocks

# Insolvency of a 'Responsible Person'





High-rise blocks

## Insolvency of a 'Responsible Person'

You're about to take appointment.

- Is the debtor responsible for:
  - A tall building which contains:
    - Two or more dwellings, or
    - other residential units?



High-rise blocks

## Insolvency of a 'Responsible Person'

You're about to take appointment.

- Is the debtor responsible for:
  - A tall building which contains:
    - Two or more dwellings, or
    - other residential units?

If so:

- Give notice:
  - within 14 days;
  - In the correct form:
- To the:
  - Local Authority; and
  - Fire and Rescue Authority;
- And (if it's very tall), to the:
  - Building Safety Regulator.

## High-rise blocks

# Insolvency of a 'Responsible Person'

*If it's a Tall building you must give notice to the:*

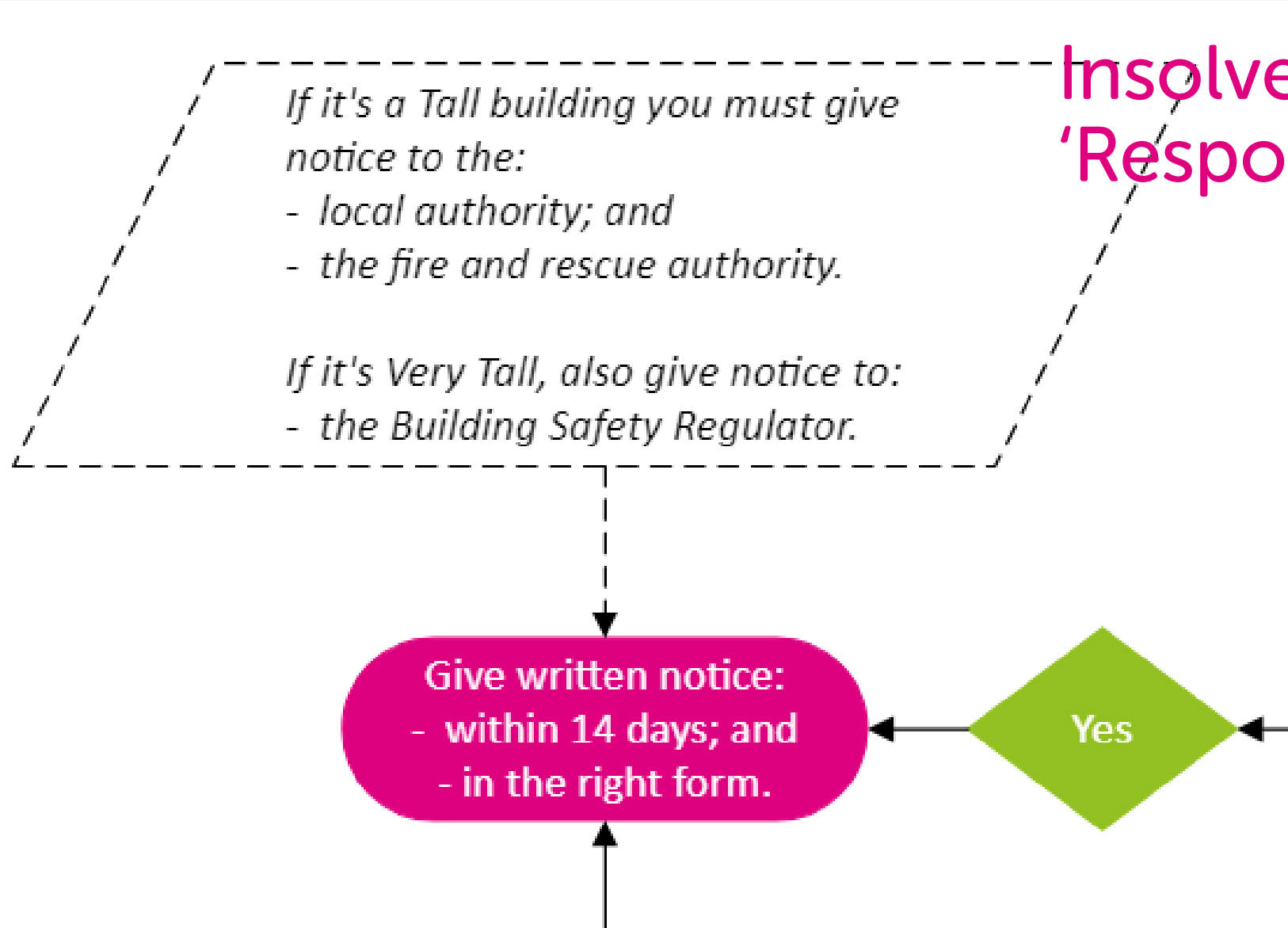
- local authority; and
- the fire and rescue authority.

*If it's Very Tall, also give notice to:*

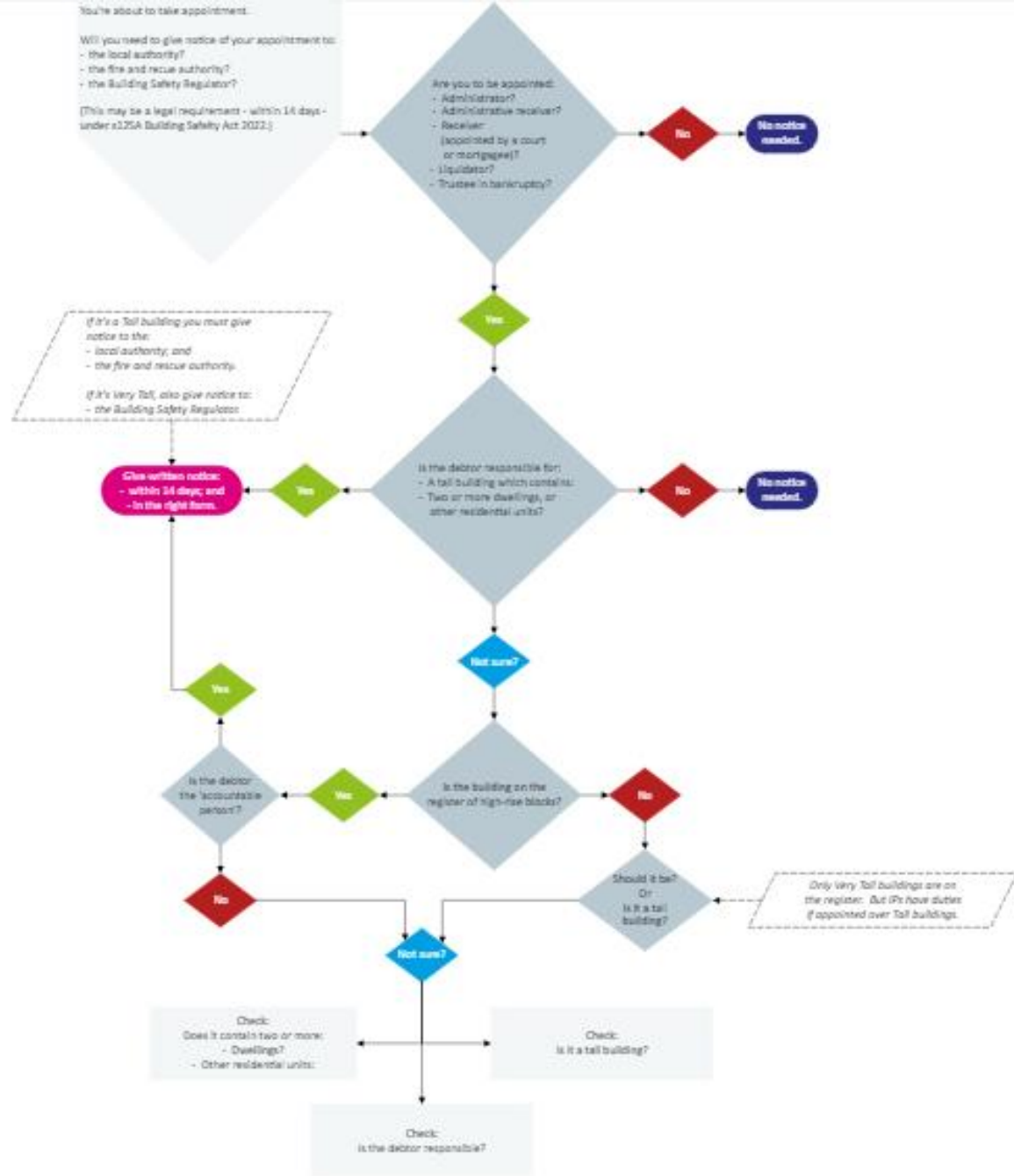
- the Building Safety Regulator.

**Give written notice:**  
- within 14 days; and  
- in the right form.

Yes







## High-rise blocks

# Insolvency of a 'Responsible Person'

High-rise blocks

## Insolvency of a 'Responsible Person'

So, if it's tall, we give notice to the:

- Local Authority; and
- Fire and Rescue Authority;

And if it's very tall, we give notice to the:

- Local Authority; and
- Fire and Rescue Authority; and
- Building Safety Regulator.

High-rise blocks

## Insolvency of a 'Responsible Person'

So, if it's tall, we give notice to the:

- Local Authority; and
- Fire and Rescue Authority;

And if it's very tall, we give notice to the:

- Local Authority; and
- Fire and Rescue Authority; and
- Building Safety Regulator.

*What's the difference?*



High-rise blocks

## Insolvency of a 'Responsible Person'

What's the difference between a 'tall' building, and a 'very tall' building?

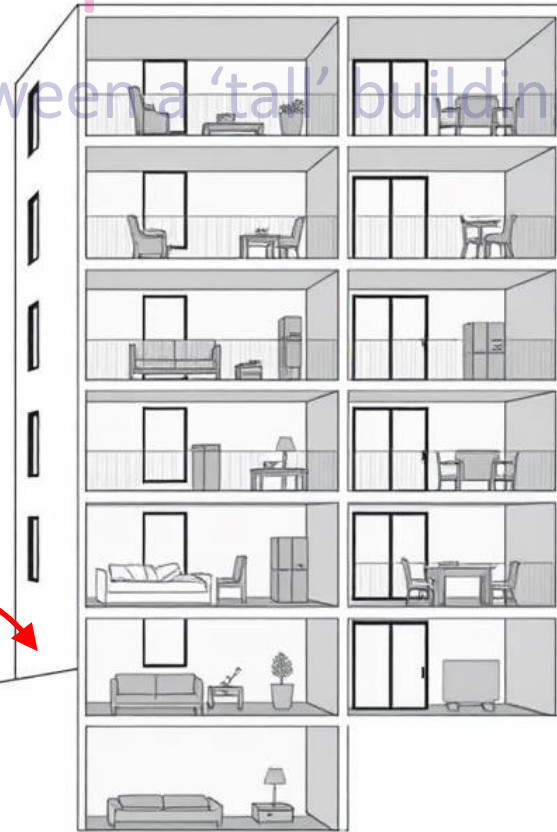


High-rise blocks

# Insolvency of a 'Responsible Person'

Measure the height

What's the difference between a 'tall' building, and a 'very tall' building?



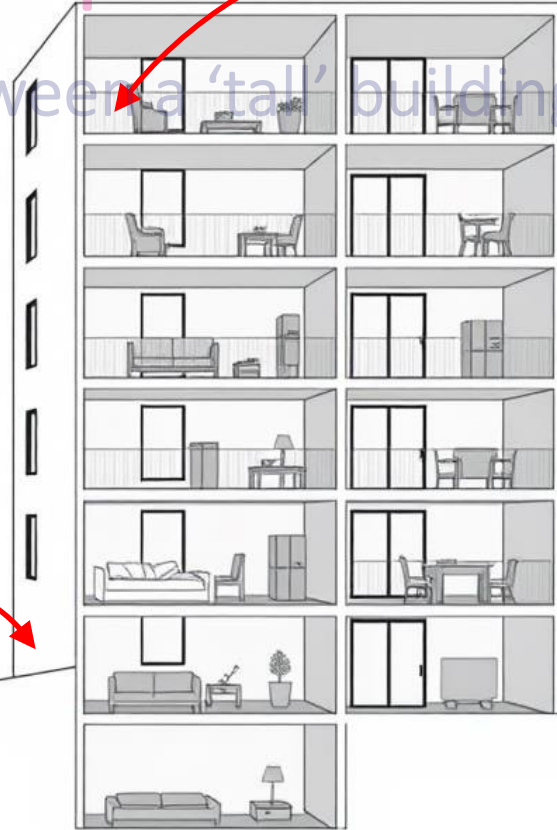
From the lowest part  
of the ground next to the  
building...

High-rise blocks

# Insolvency of a 'Responsible Person'

Measure the height

What's the difference between a 'tall' building, and a 'very tall' building?  
...to the top of the floor of the top storey.



From the lowest part of the ground next to the building...



High-rise blocks

# Insolvency of a 'Responsible Person'

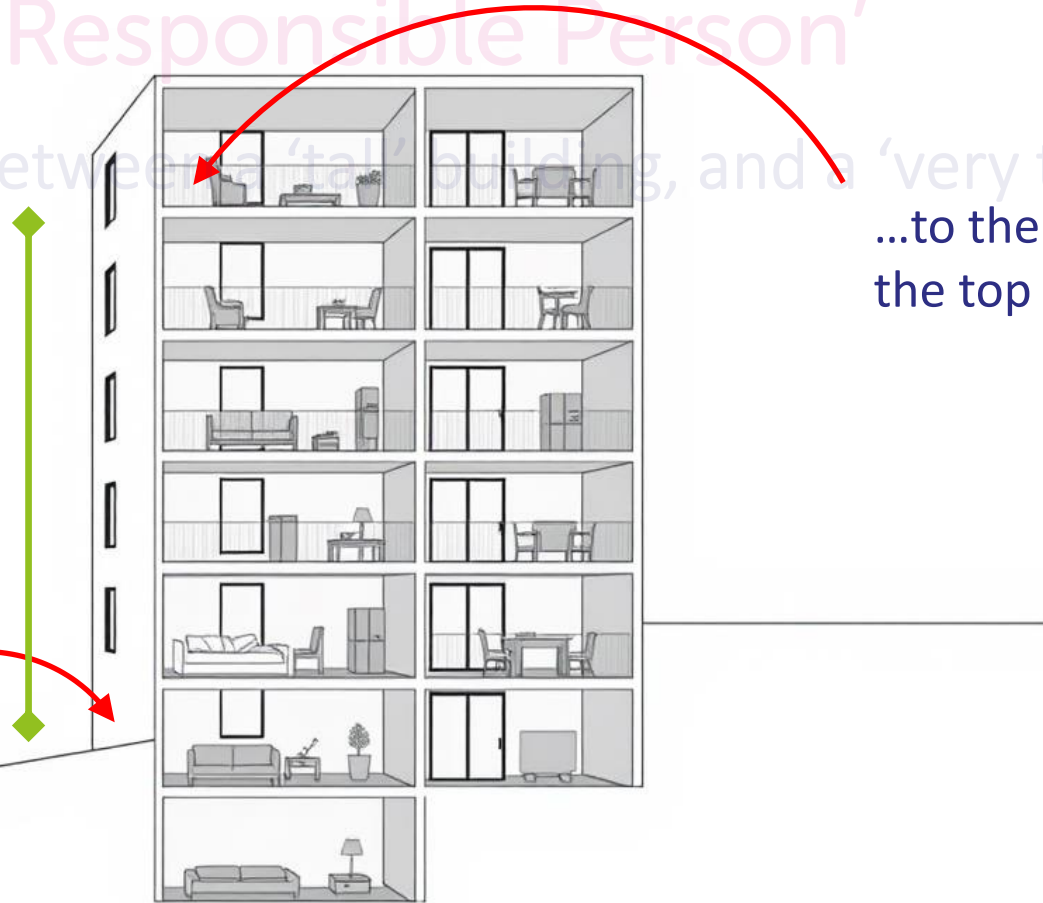
Measure the height

What's the difference between a 'tall' building, and a 'very tall' building?

...to the top of the floor of the top storey.

**It's a tall building if this is 11 metres or more**

From the lowest part of the ground next to the building...

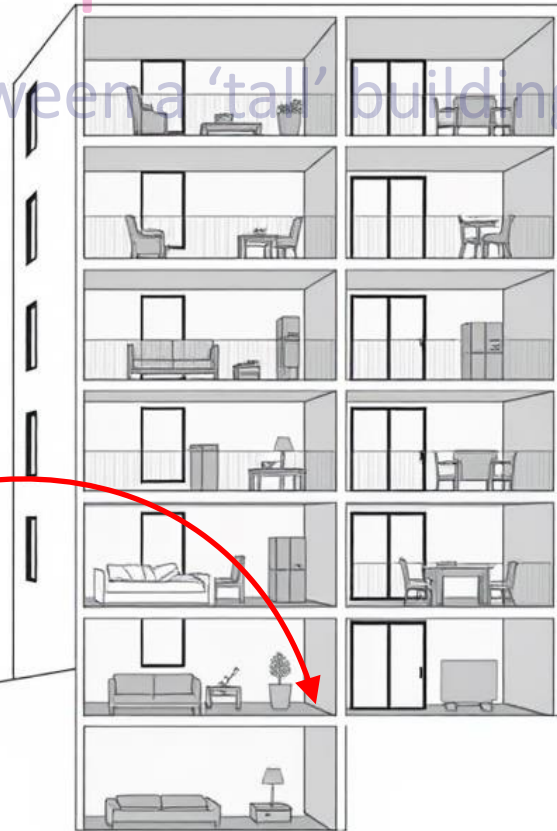


High-rise blocks

## Insolvency of a 'Responsible Person'

Count the storeys

What's the difference between a 'tall' building, and a 'very tall' building?



Don't count any that are underground. (They are underground if any part of the ceiling is underground.)

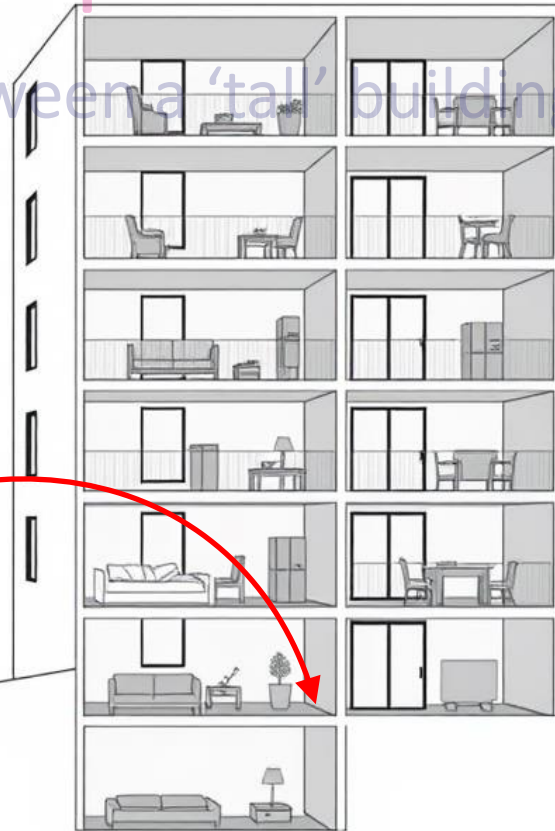
High-rise blocks

## Insolvency of a 'Responsible Person'

Count the storeys

What's the difference between a 'tall' building, and a 'very tall' building?

**It's a tall building  
if it has five or  
more storeys  
above ground.**



Don't count any that are underground. (They are underground if any part of the ceiling is underground.)



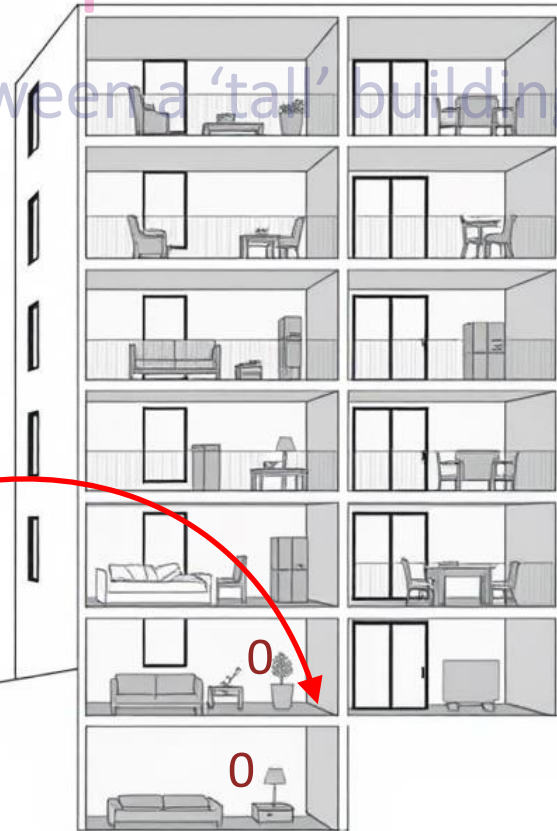
High-rise blocks

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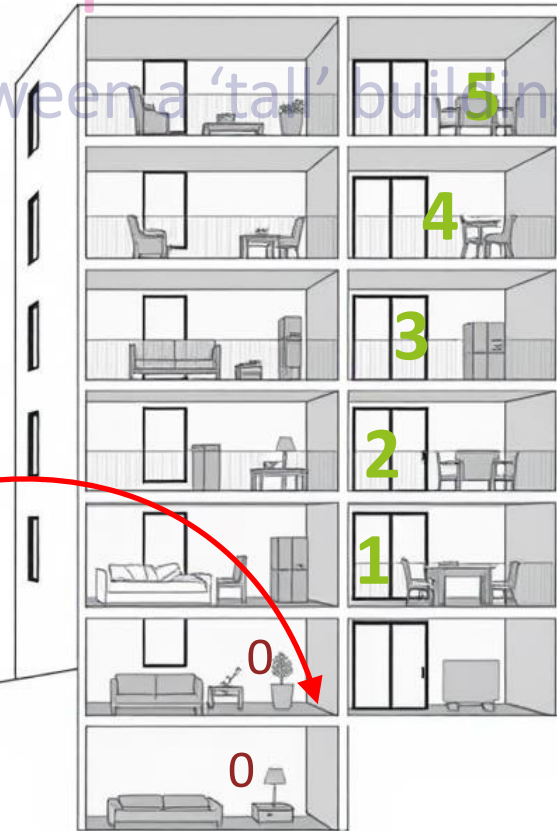
High-rise blocks

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Count the storeys

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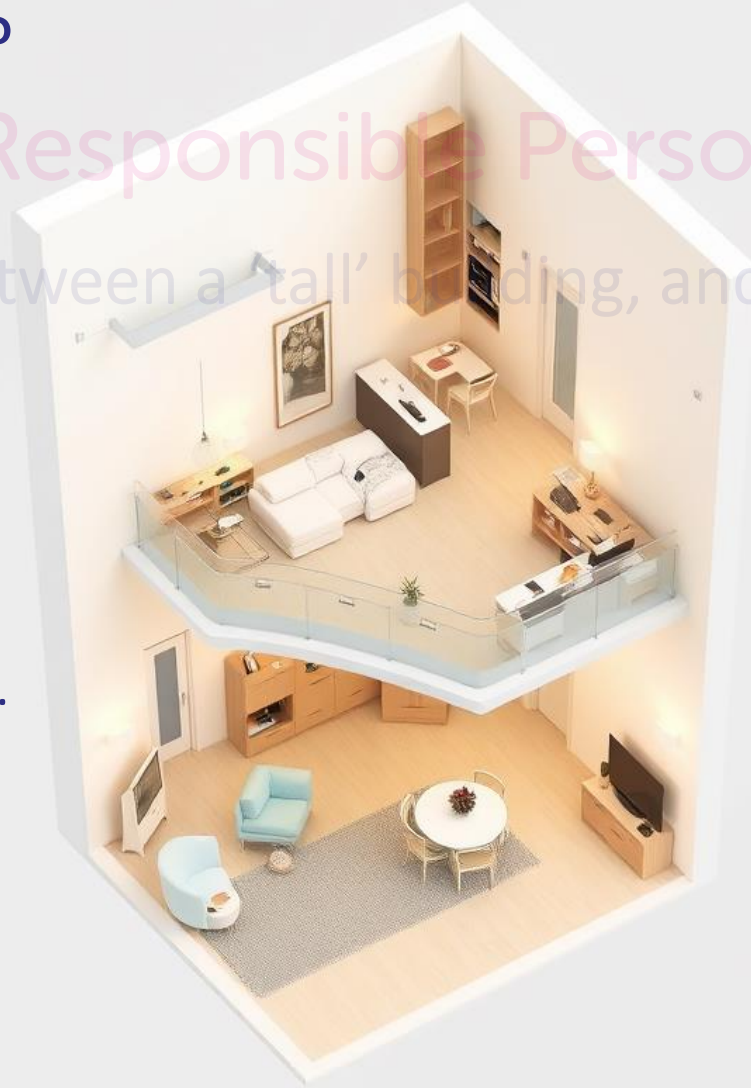
Don't count any that are underground. (They are underground if any part of the ceiling is underground.)

Has it got a mezzanine floor?

## Insolvency of a 'Responsible Person'

What's the difference between a 'tall' building, and a 'very tall' building?

It counts as a separate storey if it's at least 50% of the floor area of the largest storey (that's not underground).





High-rise blocks

## Insolvency of a 'Responsible Person'

What's the difference between a 'tall' building, and a 'very tall' building?

- Height:
  - Tall = 11 metres / five storeys (or more).
  - Very Tall = 18 metres / seven storeys (or more).

High-rise blocks

## Insolvency of a 'Responsible Person'

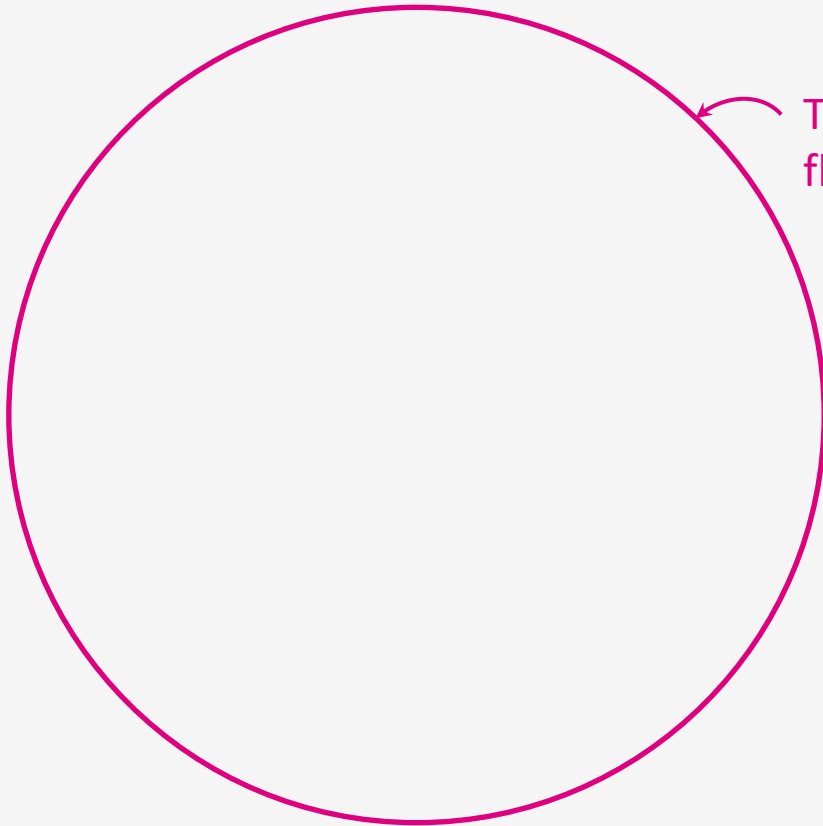
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- Height:
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  - Very Tall = 18 metres / seven storeys (or more).
- Terminology:
  - A Tall (or Very Tall) building may be a 'Relevant Building'.
    - 11m / 5 floors
  - Only a Very Tall building may be a 'Higher-Risk Building'.
    - 18m / 7 floors

High-rise blocks

## Insolvency of a 'Responsible Person'

What's the difference between a 'tall' building, and a 'very tall' building?



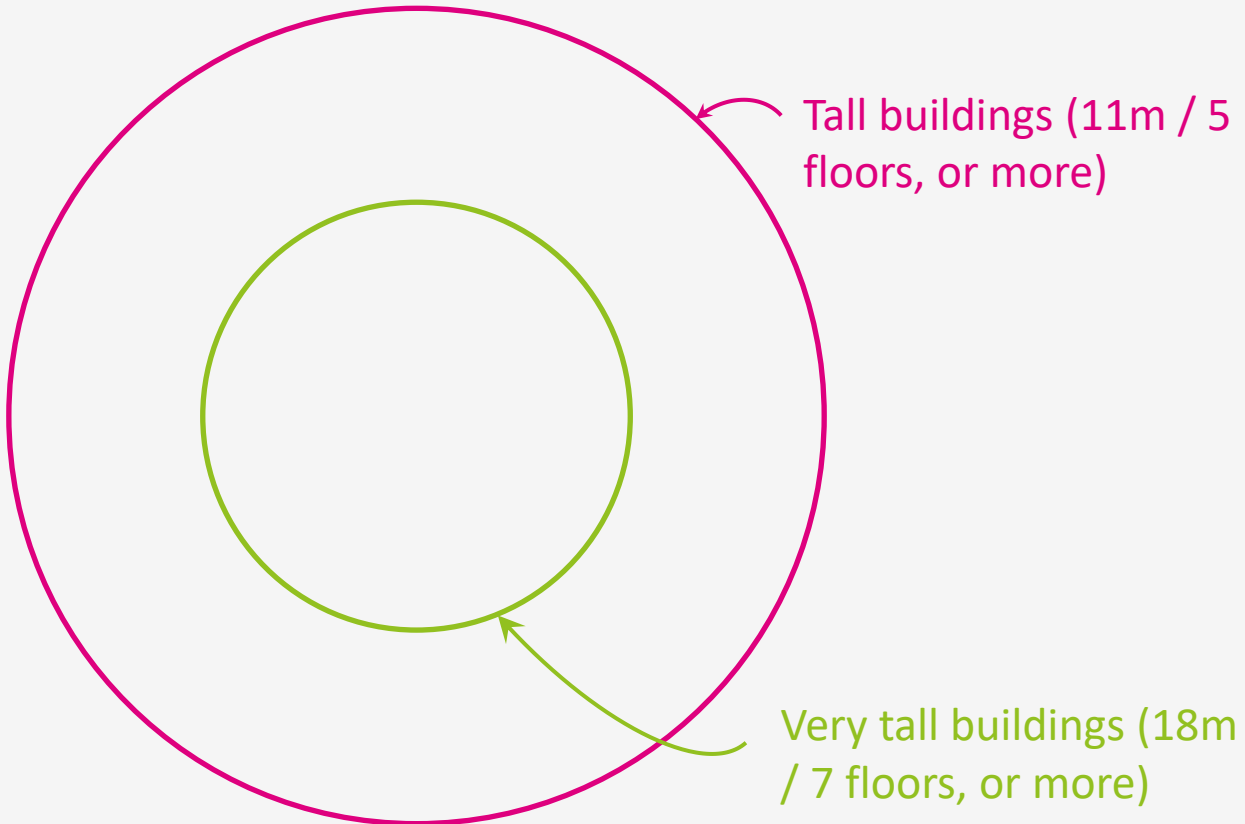
Tall buildings (11m / 5 floors, or more)



High-rise blocks

## Insolvency of a 'Responsible Person'

What's the difference between a 'tall' building, and a 'very tall' building?

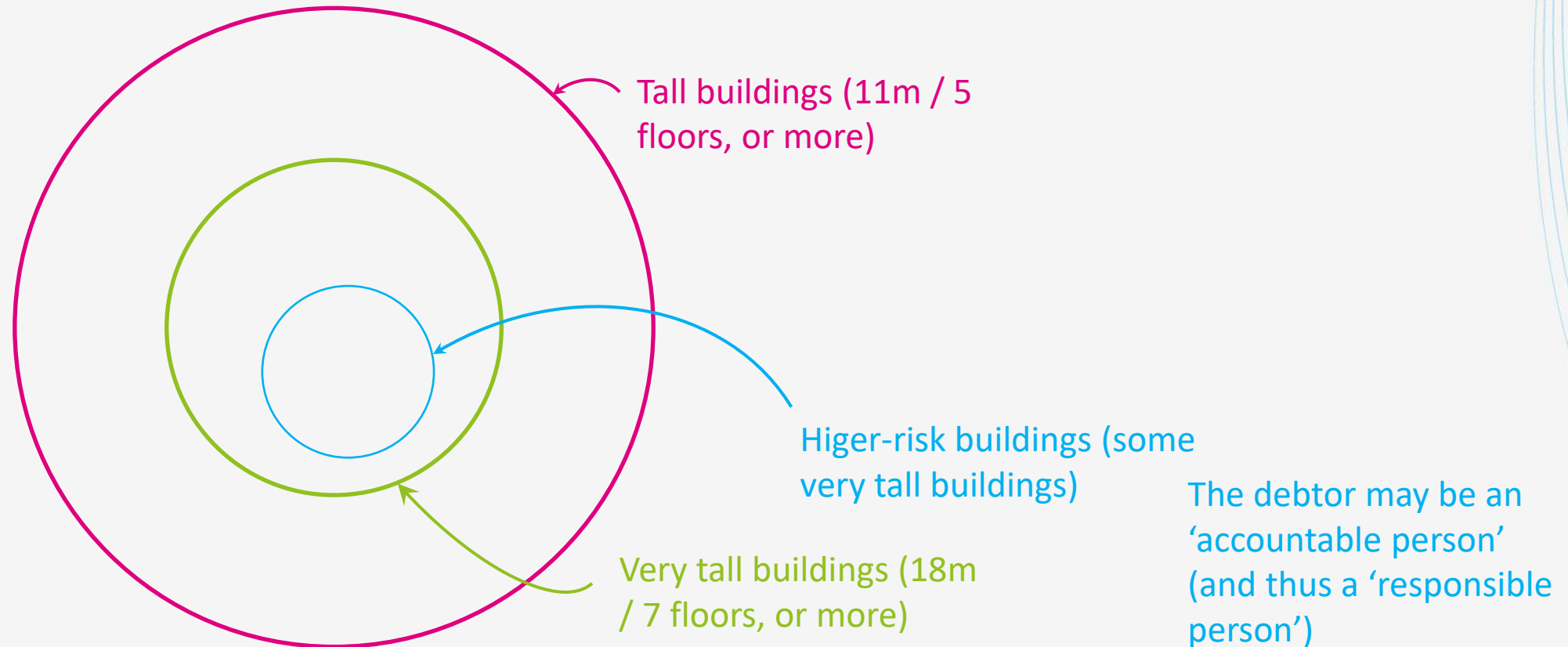




High-rise blocks

## Insolvency of a 'Responsible Person'

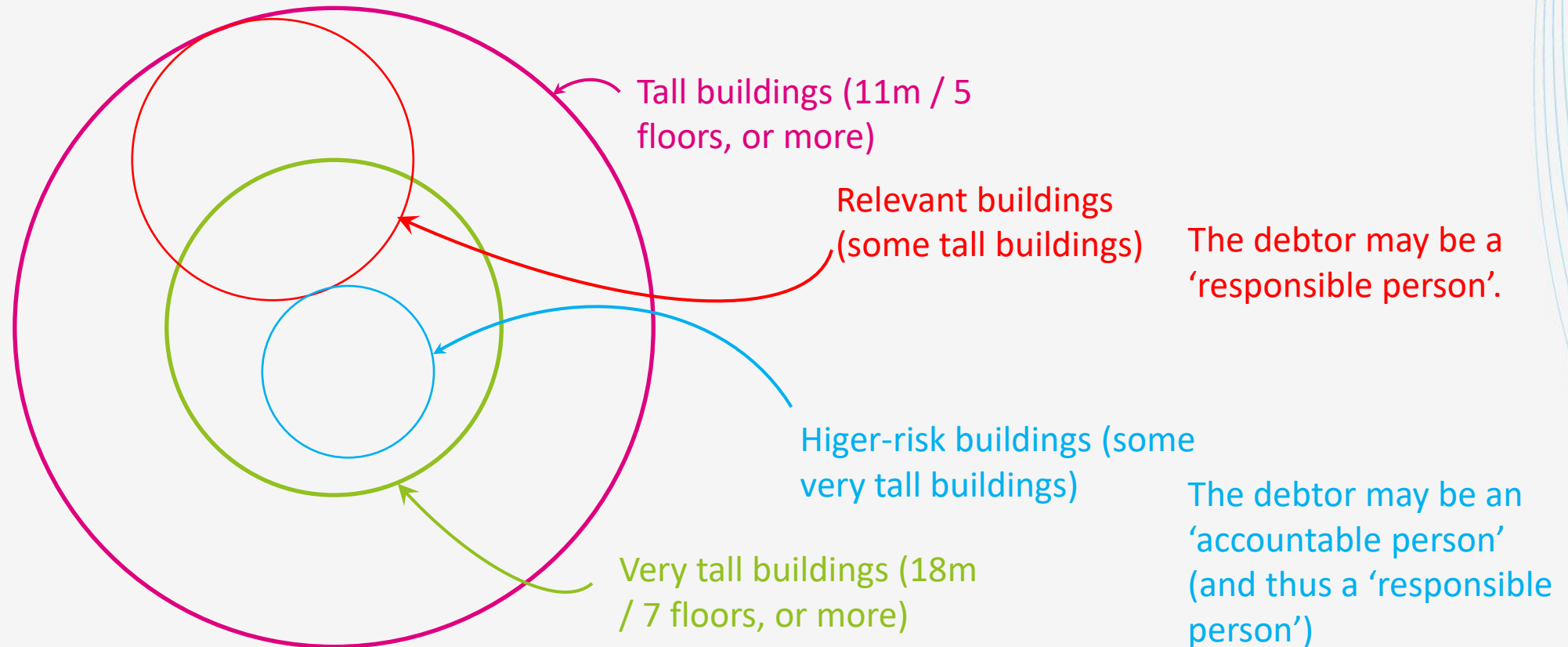
What's the difference between a 'tall' building, and a 'very tall' building?



High-rise blocks

## Insolvency of a 'Responsible Person'

What's the difference between a 'tall' building, and a 'very tall' building?



High-rise blocks

## Insolvency of a 'Responsible Person'

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    - 11m / 5 floors
  - Only a Very Tall building may be a 'Higher-Risk Building'.
    - 18m / 7 floors



*\*There are small differences in the legal instructions on how you measure the height, depending on whether you need to know if it is Tall, or Very Tall.*

High-rise blocks

## Insolvency of a 'Responsible Person'

What's the difference between a 'Relevant' building, and a 'Higher-Risk' building?

| Type of building:                             | Ordinary | Relevant | Higher-Risk |
|---|----------|----------|-------------|
| Give notice to the local authority?           | x        | ✓        | ✓           |
| Give notice to the fire and rescue authority? | x        | ✓        | ✓           |
| Give notice to the Building Safety Regulator? | x        | x        | ✓           |
| Has an 'Accountable Person'?                  | x        | x        | ✓           |
| May be less than 11m / 5 storeys high?        | ✓        | x        | x           |
| May be less than 18m / 7 storeys high?        | ✓        | ✓        | x           |



## High-rise blocks

# Insolvency of a 'Responsible Person'

What's the difference between a 'Relevant' building, and a 'Higher-Risk' building?

| Type of building:                             | Ordinary | Relevant | Higher-Risk |
|---|----------|----------|-------------|
| Give notice to the local authority?           | x        | ✓        | ✓           |
| Give notice to the fire and rescue authority? | x        | ✓        | ✓           |
| Give notice to the Building Safety Regulator? | x        | x        | ✓           |
| Has an 'Accountable Person'*?                 | x        | x        | ✓           |
| May be less than 11m / 5 storeys high?        | ✓        | x        | x           |
| May be less than 18m / 7 storeys high?        | ✓        | ✓        | x           |



\*There will be an 'Accountable Person'. Even if neither identified, nor registered.

## High-rise blocks

# Insolvency of a 'Responsible Person'

What's the difference between a 'Relevant' building, and a 'Higher-Risk' building?

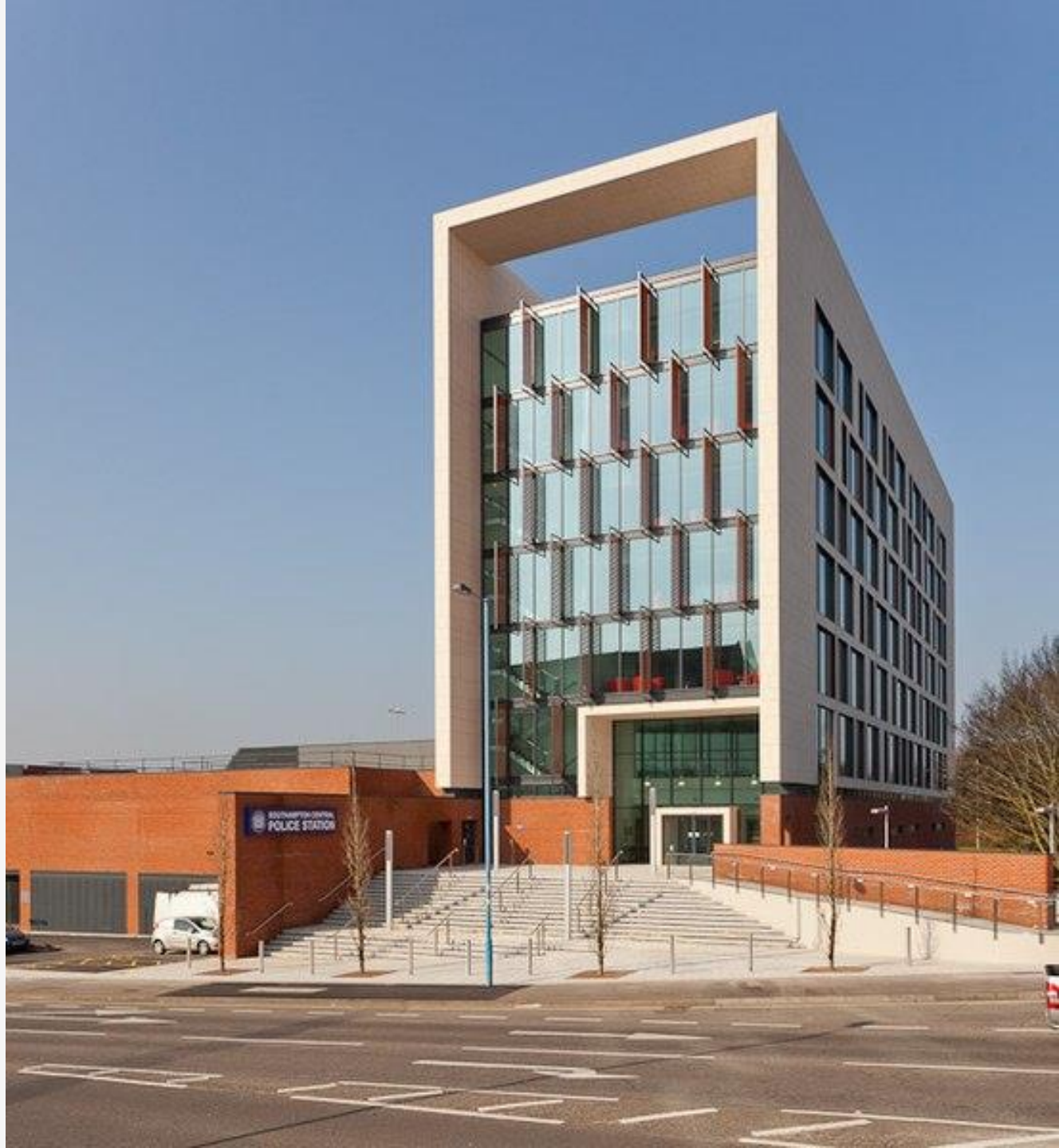
| Type of building:                              | Ordinary | Relevant | Higher-Risk |
|--|----------|----------|-------------|
| May be a hotel?                                | ✓        | ✓        | ✗           |
| May be a care home?                            | ✓        | ✓        | ✗           |
| May be a hospital*?                            | ✓        | ✓        | ✗           |
| Must have more than one 'Dwelling'**?          | ✗        | ✓        | ✗           |
| Must have more than one 'Residential Unit'***? | ✗        | ✗        | ✓           |



\*Other uses, eg prisons and barracks also exclude a building from being 'Higher-Risk' But they are unlikely to go into administration, etc.

\*\* Not defined. But everyone knows what a 'dwelling' is, right?

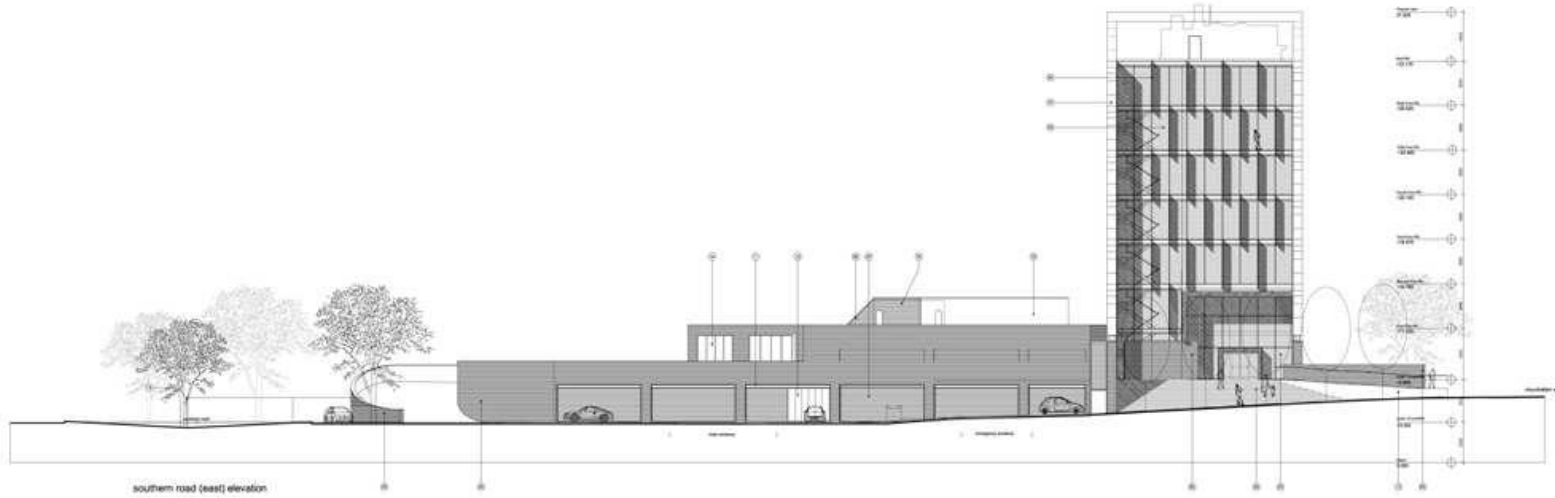
\*\*\* Defined as including 'dwellings'.



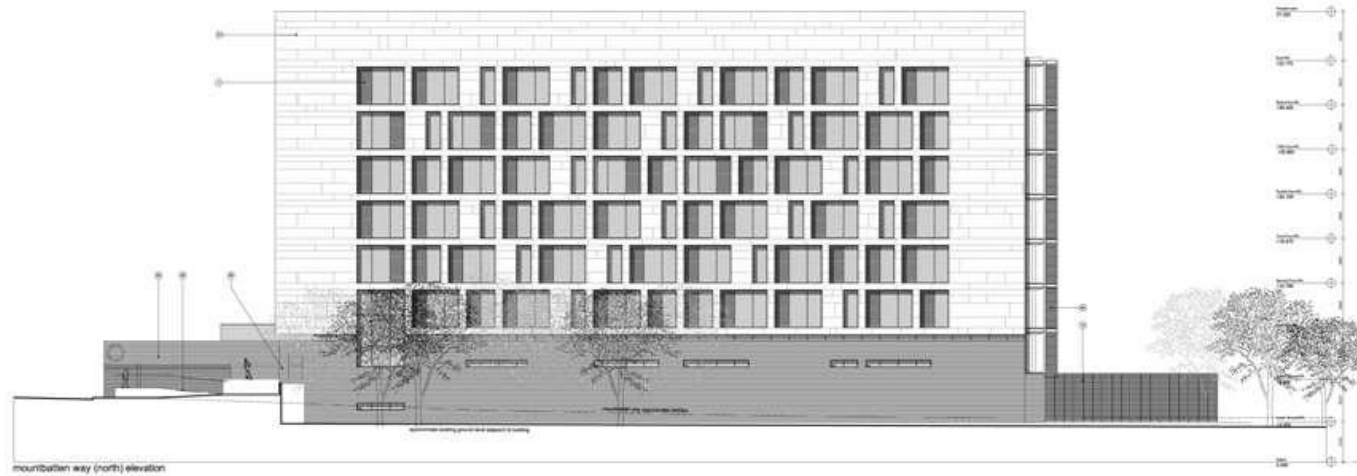








southern road (east) elevation



mountbatten way (north) elevation

Contractors are not to scale dimensions from this drawing.

| Rev | Description                                | Date     | By     |
|-----|--|----------|--------|
| -   | Issued for Planning                        | 17.03.08 | SJB    |
| A   | Cushty not & van not amended.              | 13.03.08 | KAS/JB |
| B   | Amendments as agreed with SCC case officer | 18.03.08 | KAS/JB |

**MATERIAL LEGEND**

- 01 lime stone veneer system
- 02 metal louvres
- 03 curtain wall glazing system
- 04 metal fins - copper appearance
- 05 hot multi-stack brick
- 06 brick paving
- 07 metal louvre/grille
- 08 render
- 09 double glazed units
- 10 louvred / masonry screening to cushty A&J
- 11 steel c-section / lead detail
- 12 copper / copper appearance cladding
- 13 concrete
- 14 metal roller shutter
- 15 existing metal fence
- 16 louvred secure fence

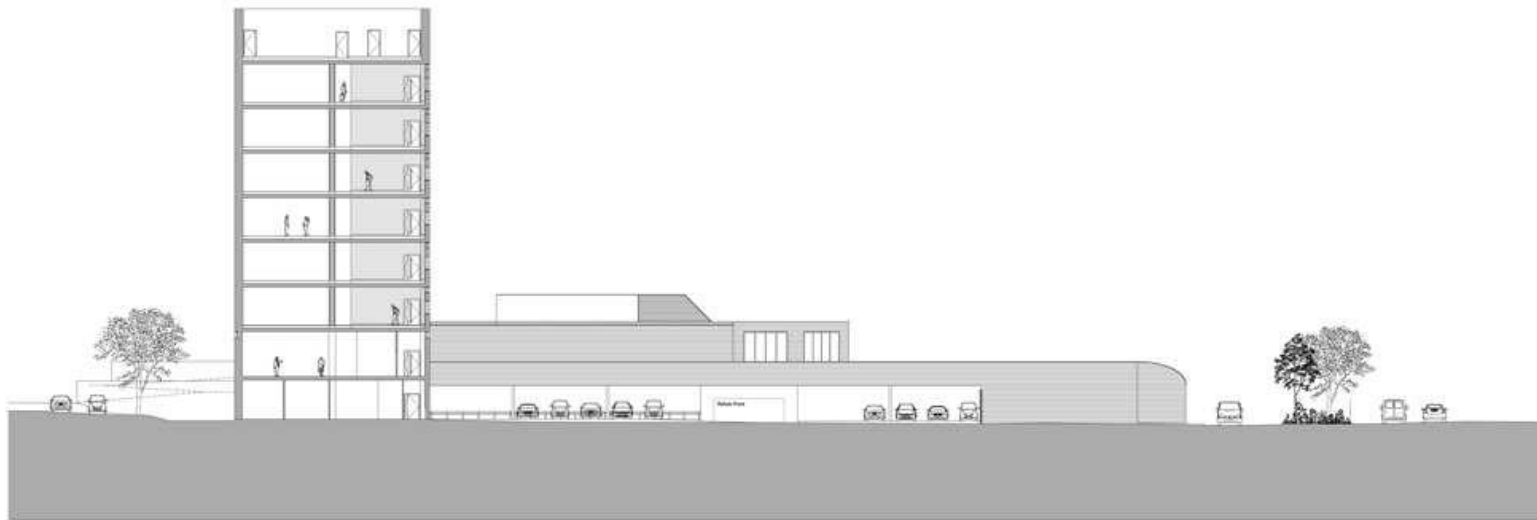
**WORK IN PROGRESS - NOT TO BE USED FOR CONSTRUCTION**  
 The drawing contained within this file can only be used for information and does not form part of any contract documents. All design/construction work based on Broadway Malayan plans must be coordinated with formally issued drawings. Broadway Malayan accepts no responsibility.

**BroadwayMalayan**

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 Southampton SO15 2ED  
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 F: +44 (0)23 8023 096  
 E: info@broadwaymalayan.com

Client  
**Hampshire Constabulary / Kler Regional**  
 Project  
**Southampton Operational Command Unit**  
 Description  
**North & East Elevations**

Status  
**Planning**  
 Scale: 1:200@A1  
 Date: Mar 08  
 Drawing number: 25394  
 Drawing number: A-05-P 001  
 Revision: 0



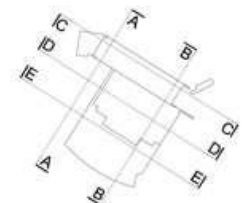
section AA



section BB

Contractors are not to scale dimensions from this drawing.

| Rev | Description                             | Date     | By  |
|-----|---|----------|-----|
| -   | Issued for Planning                     | 17.03.06 | SJB |
| A   | Floor to ceiling amended                | 23.06.08 | cc  |
| B   | Amended as agreed with SCC Case Officer | 19.03.09 | DAT |



location plan

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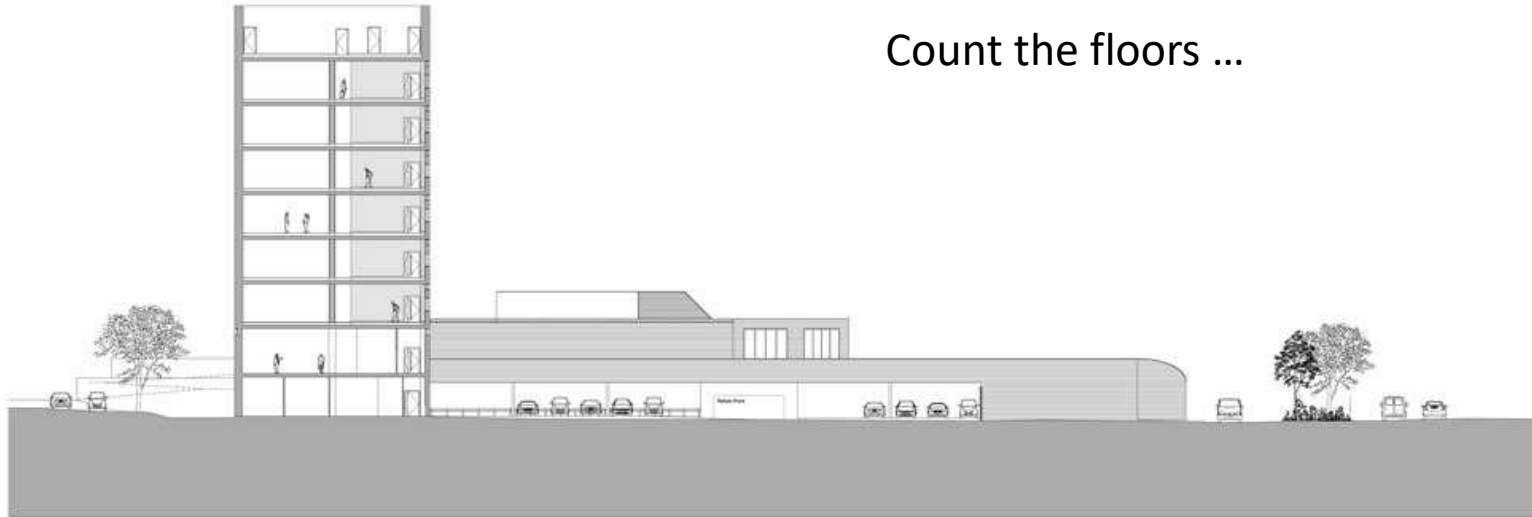
**Broadsley Malayan**

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 4 Southampton Street,  
 Southampton SO15 2ED  
 T: +44 (0)23 8024 9000  
 F: +44 (0)23 8022 0966  
 E: info@broadsley-malayan.com

Client  
**Hampshire Constabulary / Klier Regional**  
 Project  
**Southampton Operational Command Unit**  
 Description  
**Section AA & BB**

Status  
**Planning**  
 Scale: 1:200@A1  
 Date: Feb 07  
 Drawing number: 25394  
 Revision: A-04-P 002

Count the floors ...



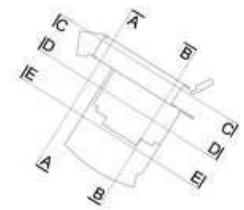
section AA



section BB

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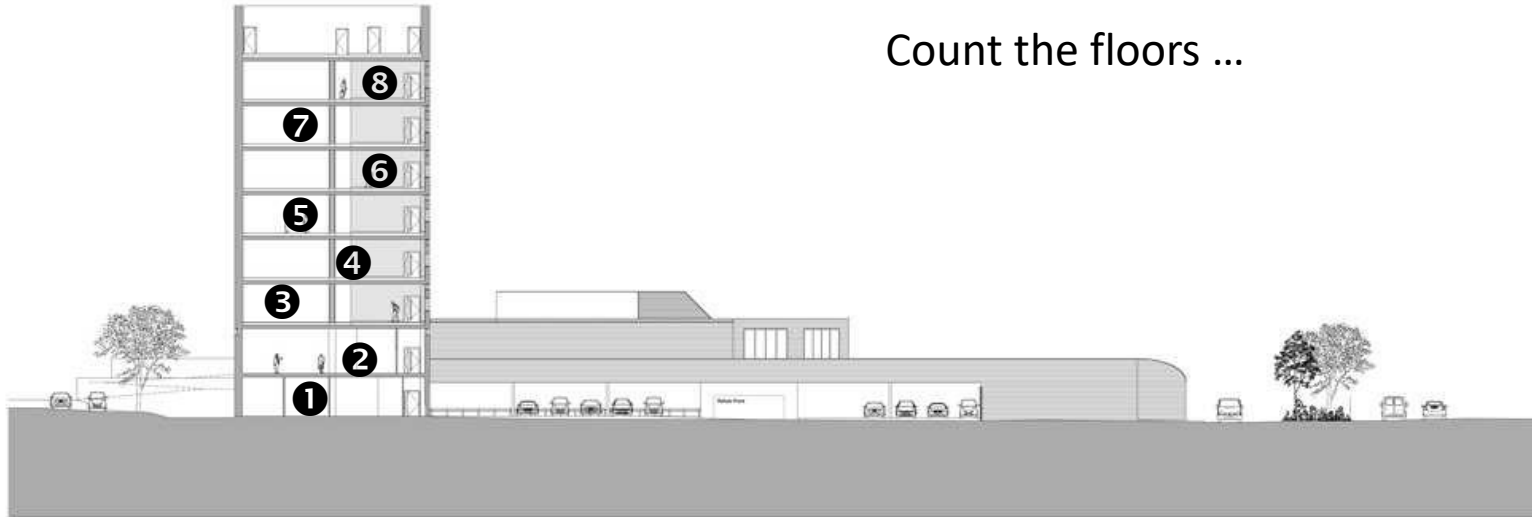
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 Southampton SO15 2ED  
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 E: info@broadwaymalayan.com

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**Hampshire Constabulary / Klier Regional**  
 Project  
**Southampton Operational Command Unit**  
 Description  
**Section AA & BB**

Status  
**Planning**  
 Scale: 1:200@A1  
 Date: Feb 07  
 Drawn: KA  
 Checked: B  
 Job number: 25394  
 Drawing number: A-04-P 002

Count the floors ...



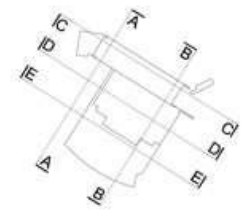
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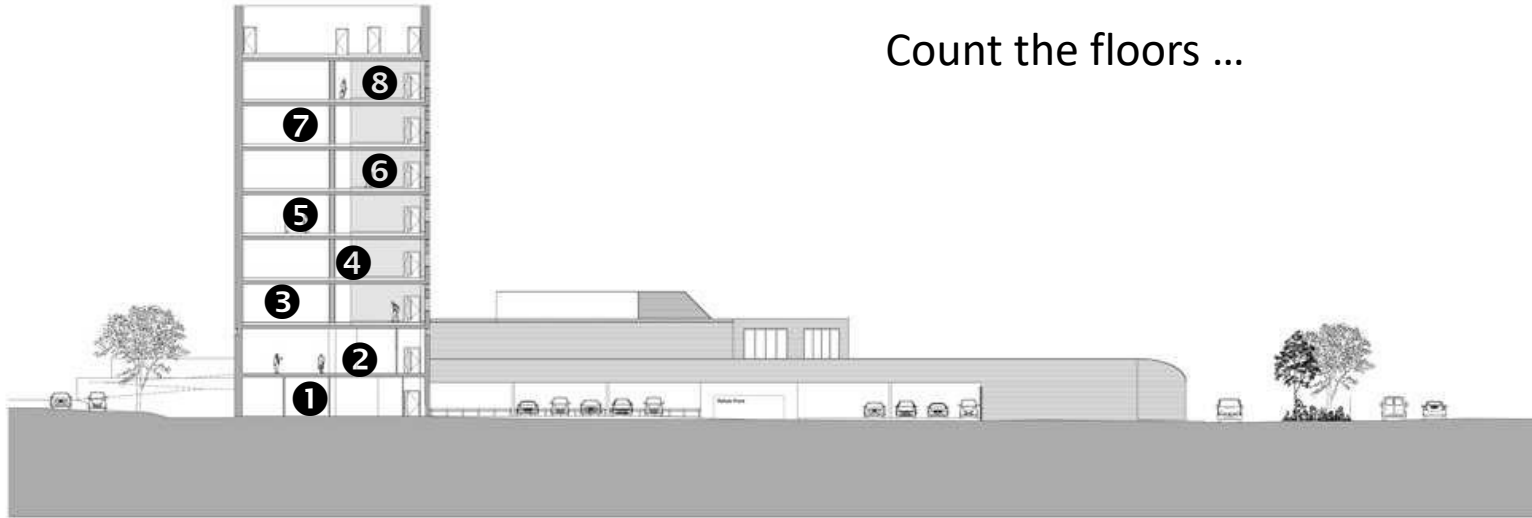
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 Scale: 1:200@A1  
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 Date: Feb 07  
 Job number: 25394  
 Drawing number: A-04-P-002  
 Revision: 0

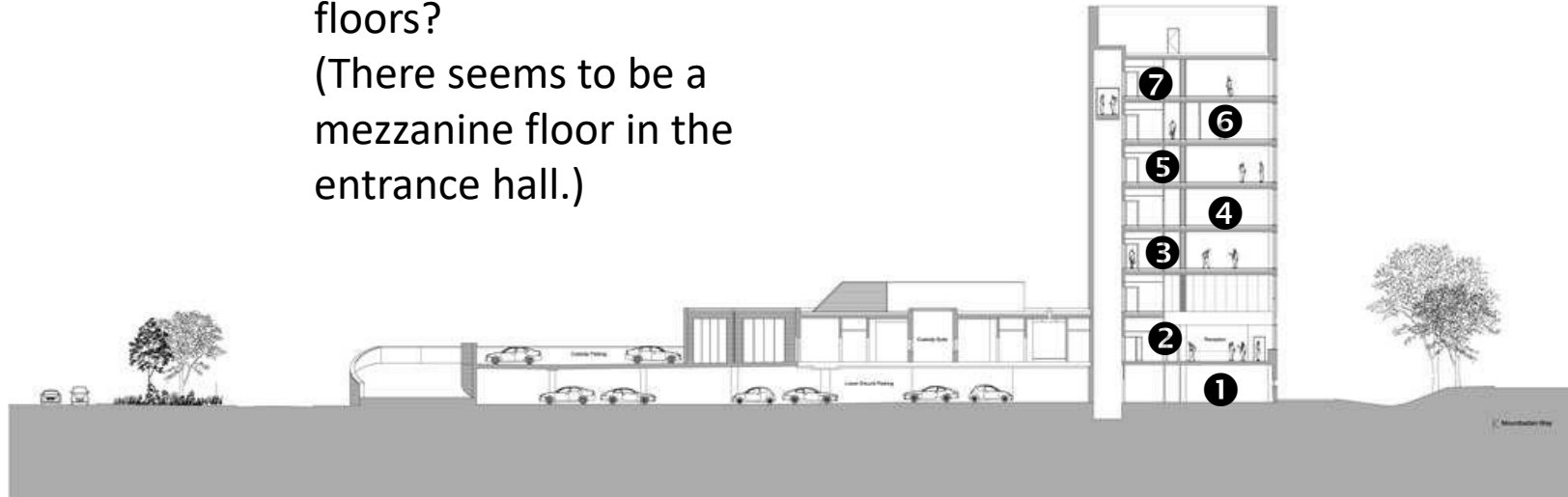


Count the floors ...



section AA

Are there seven, or eight floors?  
 (There seems to be a mezzanine floor in the entrance hall.)

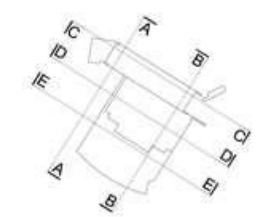


section BB

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Description  
**Section AA & BB**

Status  
**Planning**

Scale  
 1:200@A1

Drawn  
 KA

Date  
 Feb 07

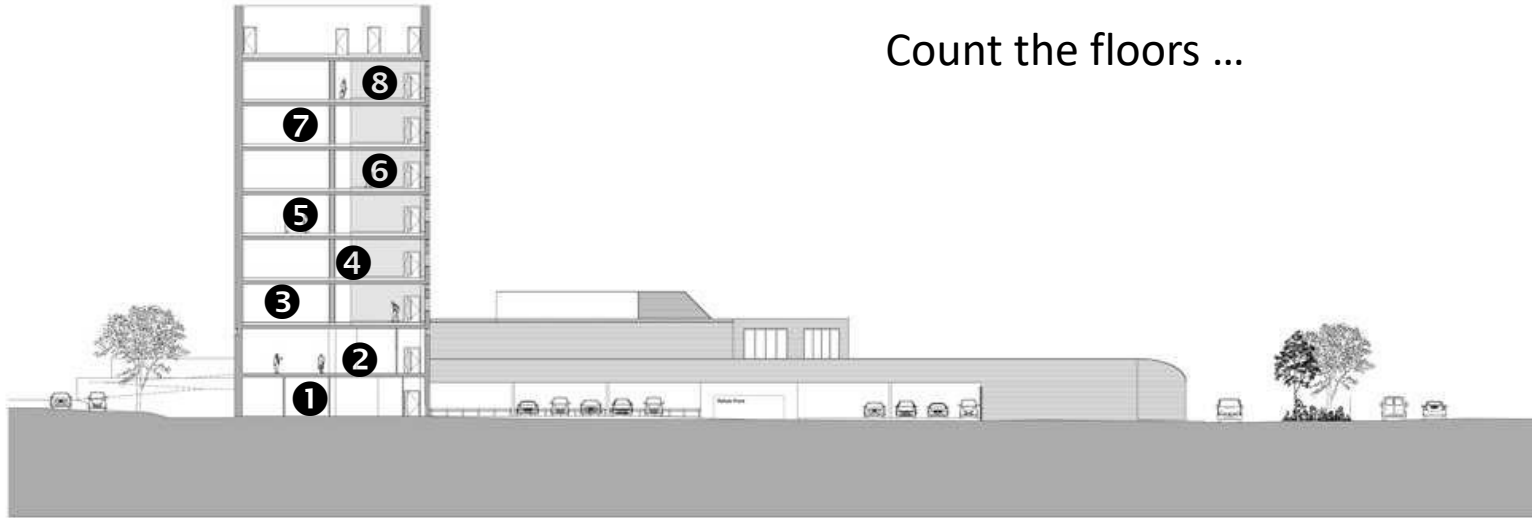
Job number  
 25394

Drawing number  
 A-04-P 002

Revision  
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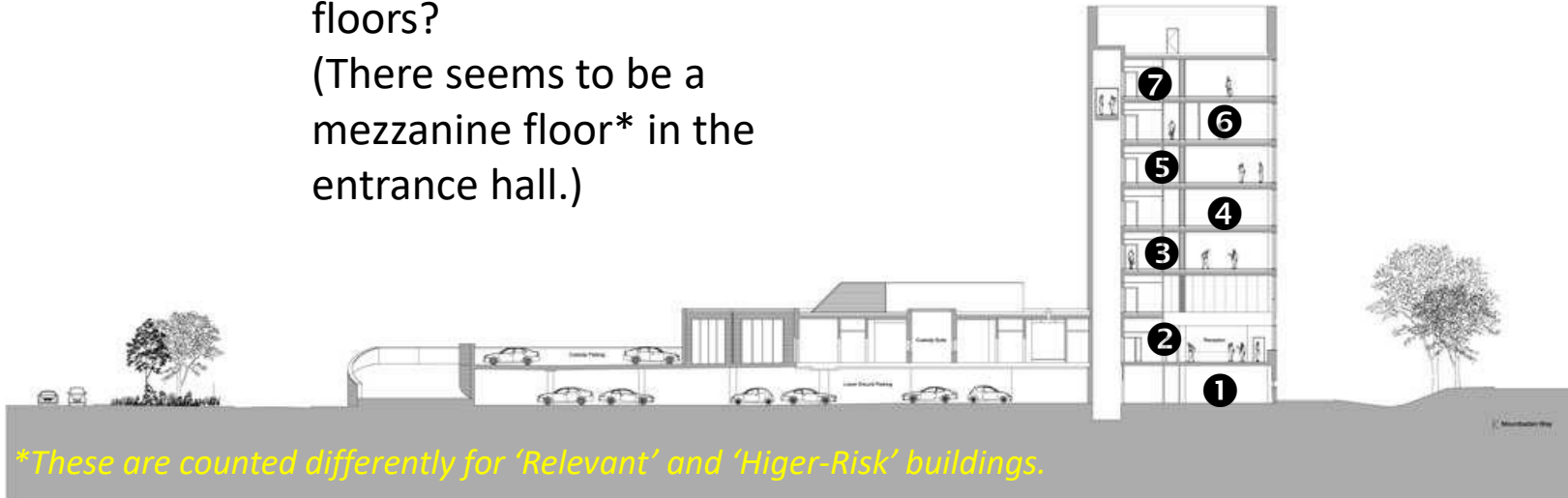
Original size 280mm B x 1. Copyright Broadway Malayan Limited

Count the floors ...



section AA

Are there seven, or eight floors?  
 (There seems to be a mezzanine floor\* in the entrance hall.)

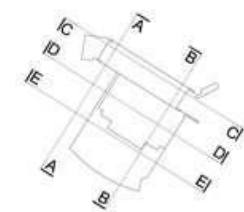


section BB

*\*These are counted differently for 'Relevant' and 'Higer-Risk' buildings.*

Contractors are not to scale dimensions from this drawing.

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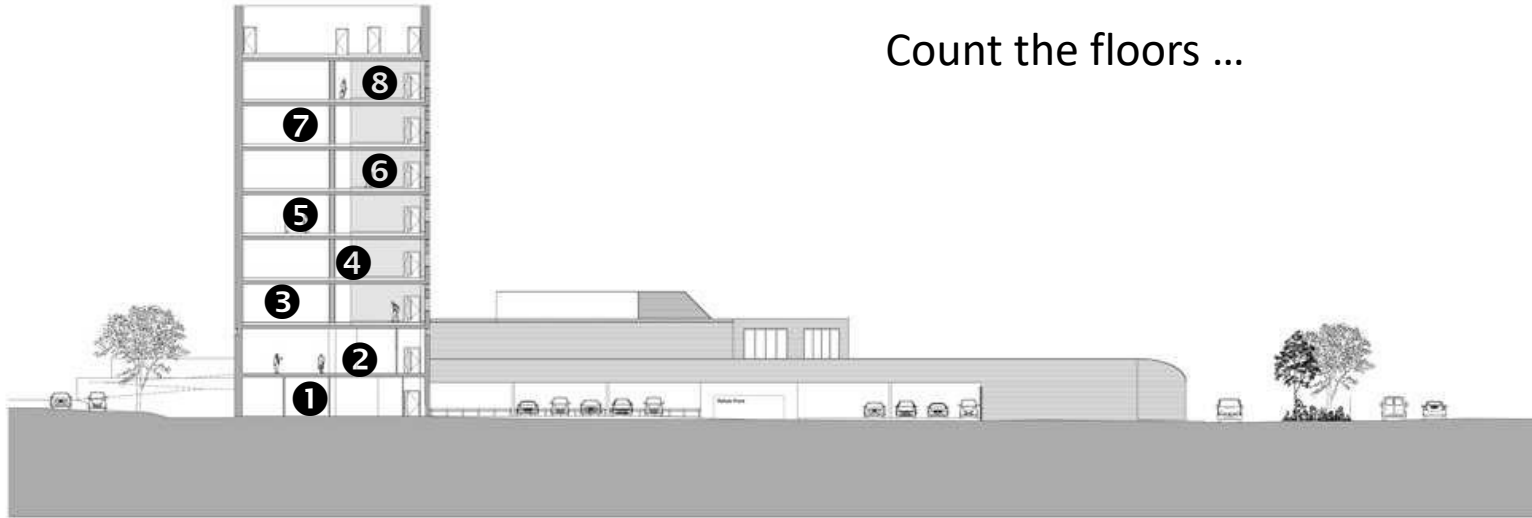
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 Scale: 1:200@A1  
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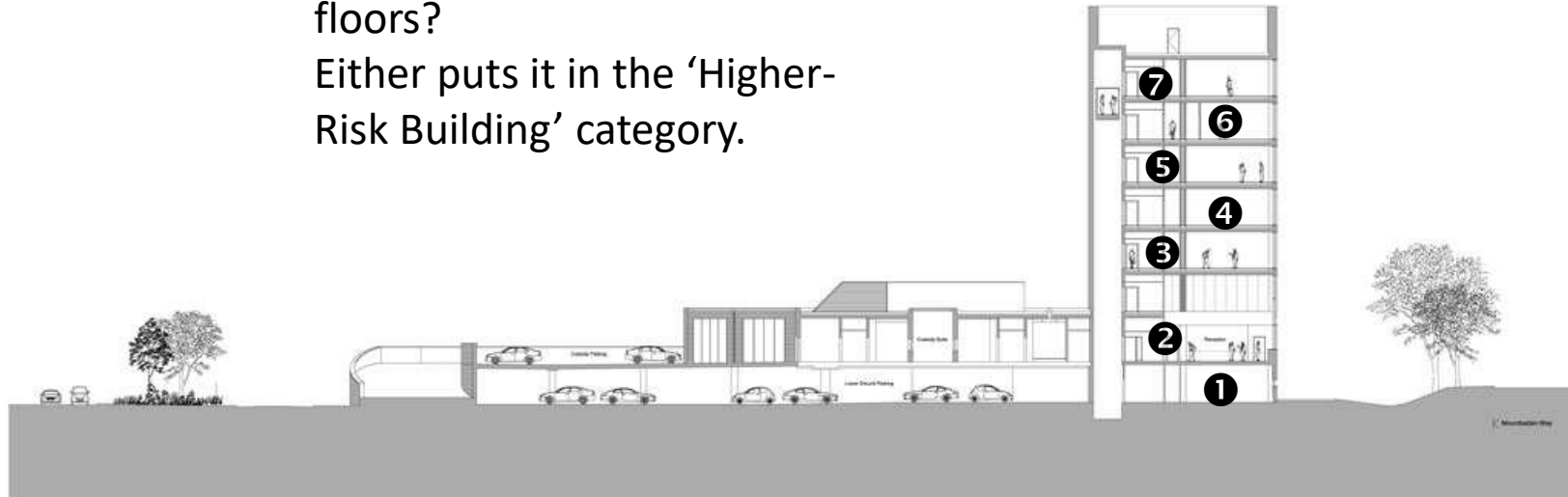


Count the floors ...



section AA

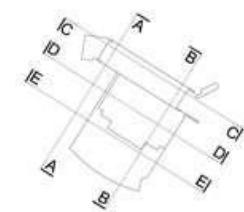
Are there seven, or eight floors?  
Either puts it in the 'Higher-Risk Building' category.



section BB

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**Section AA & BB**

Status  
**Planning**  
Scale: 1:200@A1  
JMB number: 25394  
Drawing number: A-04-P-002  
Date: Feb 07  
Revision: 0

Original size 25394 @ A1 Copyright Broadway Malayan Limited

## High-rise blocks

# Insolvency of a 'Responsible Person'

What's the difference between a 'Relevant' building, and a 'Higher-Risk' building?

| Type of building:                              | Ordinary | Relevant | Higher-Risk |
|--|----------|----------|-------------|
| May be a hotel?                                | ✓        | ✓        | ✗           |
| May be a care home?                            | ✓        | ✓        | ✗           |
| May be a hospital*?                            | ✓        | ✓        | ✗           |
| Must have more than one 'Dwelling'**?          | ✗        | ✓        | ✗           |
| Must have more than one 'Residential Unit'***? | ✗        | ✗        | ✓           |



\*Other uses, eg prisons and barracks also exclude a building from being 'Higher-Risk' But they are unlikely to go into administration, etc.

\*\* Not defined. But everyone knows what a 'dwelling' is, right?

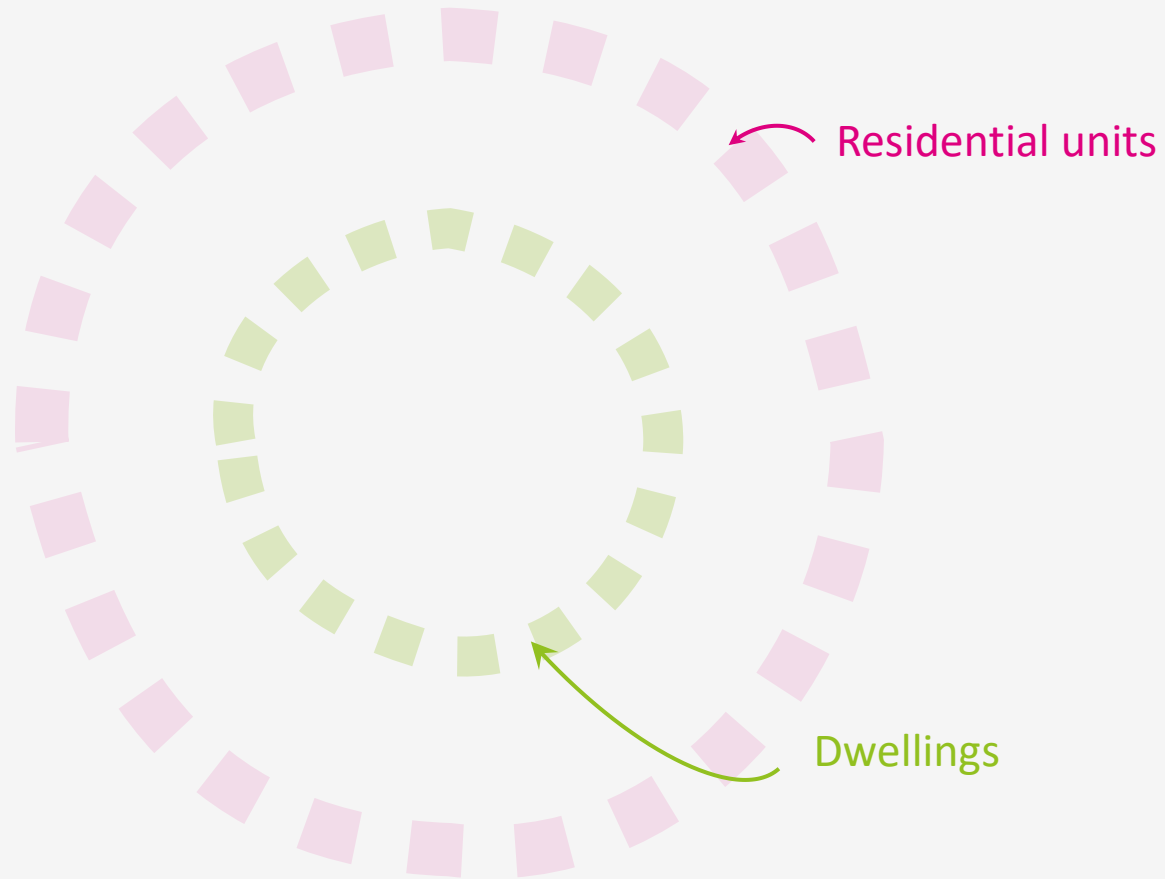
\*\*\* Defined as including 'dwellings'.



High-rise blocks

# Insolvency of a 'Responsible Person'

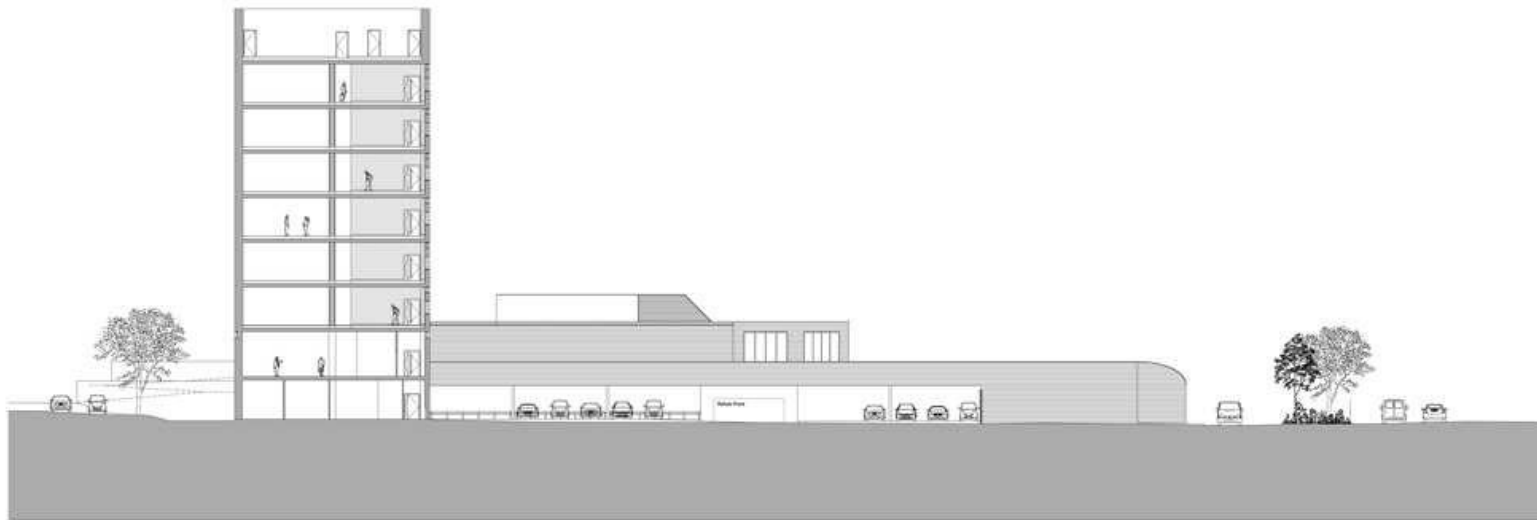
What's the difference between a 'dwelling', and a 'residential unit'?



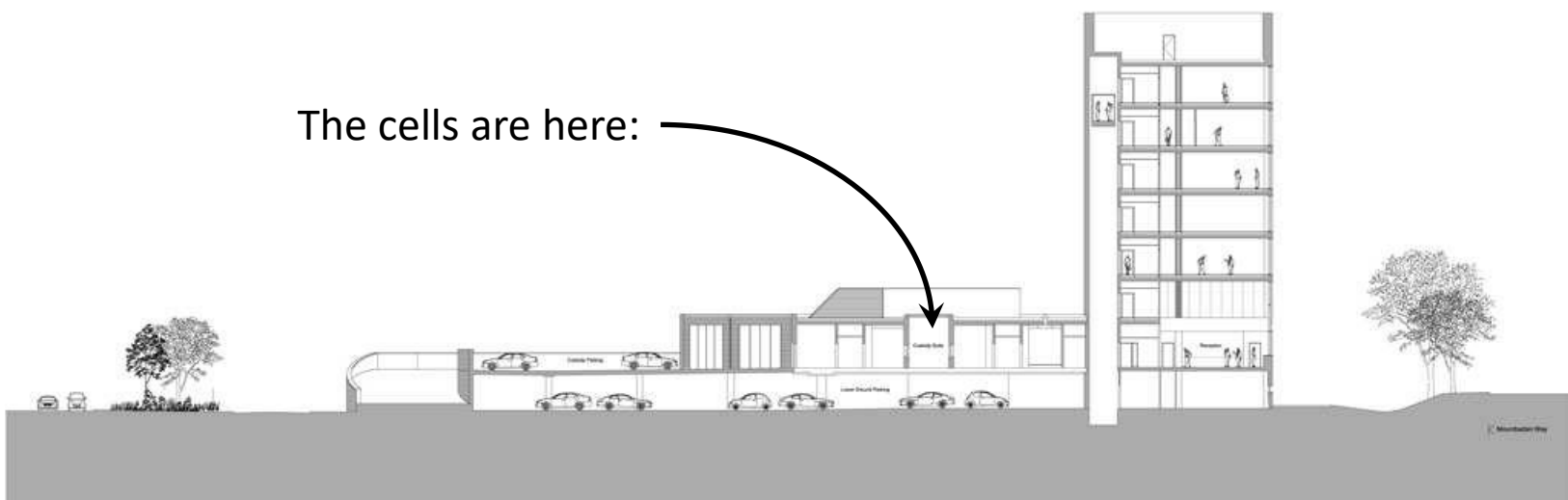


There are 36 cells  
in the station.





section AA

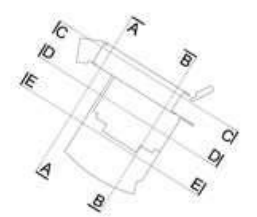


The cells are here:

section BB

Contractors are not to scale dimensions from this drawing.

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|-----|---|----------|-----|
| -   | Issued for Planning                     | 17.03.06 | SJB |
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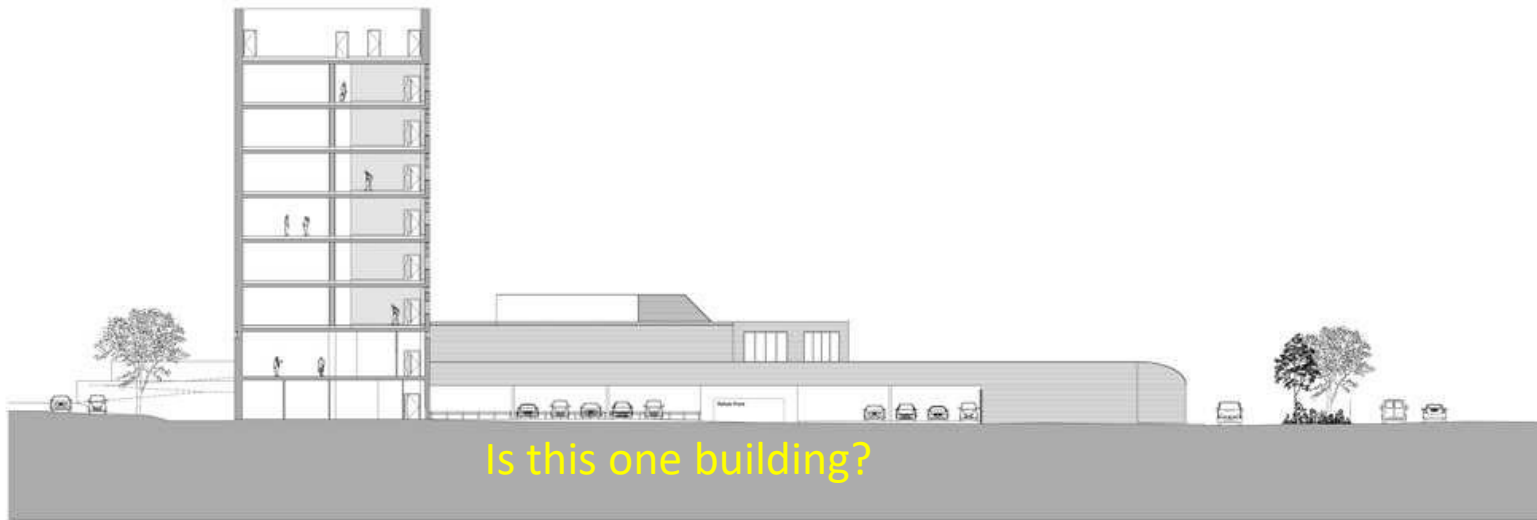


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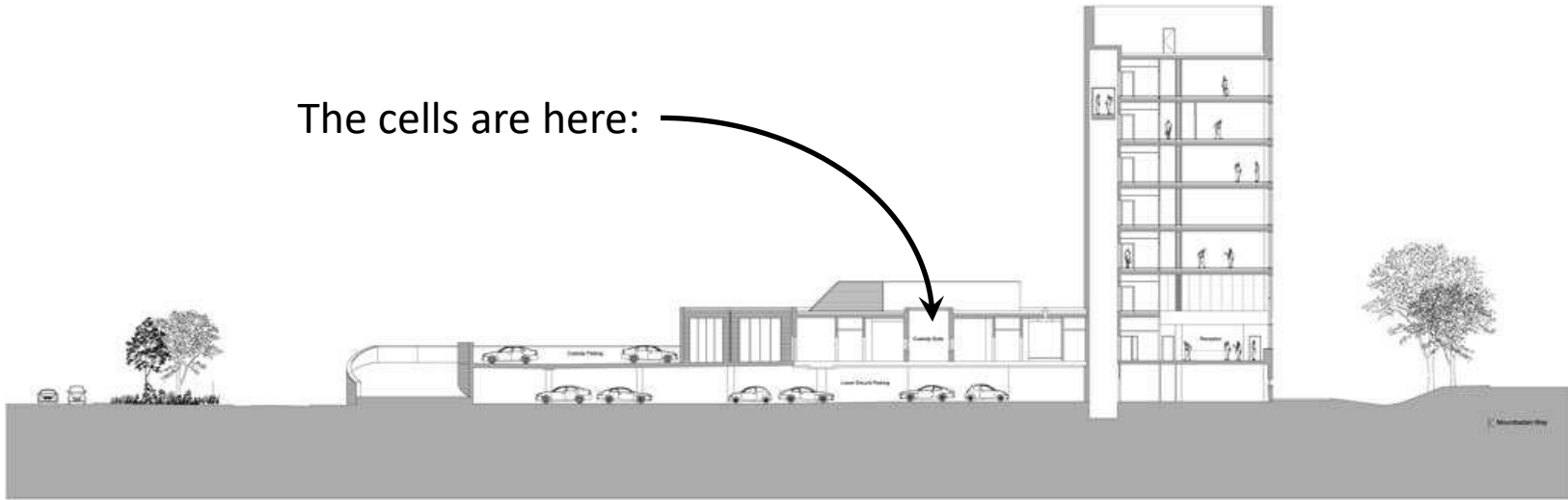
Client  
**Hampshire Constabulary / Klier Regional**  
Project  
**Southampton Operational Command Unit**  
Description  
**Section AA & BB**

Status  
**Planning**  
Scale: 1:200@A1  
JMB number: 25394  
Drawing number: A-04-P-002  
Date: Feb 07  
Revision: 0



Is this one building?

section AA

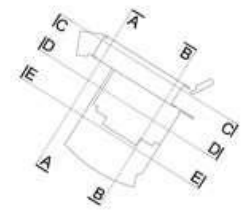


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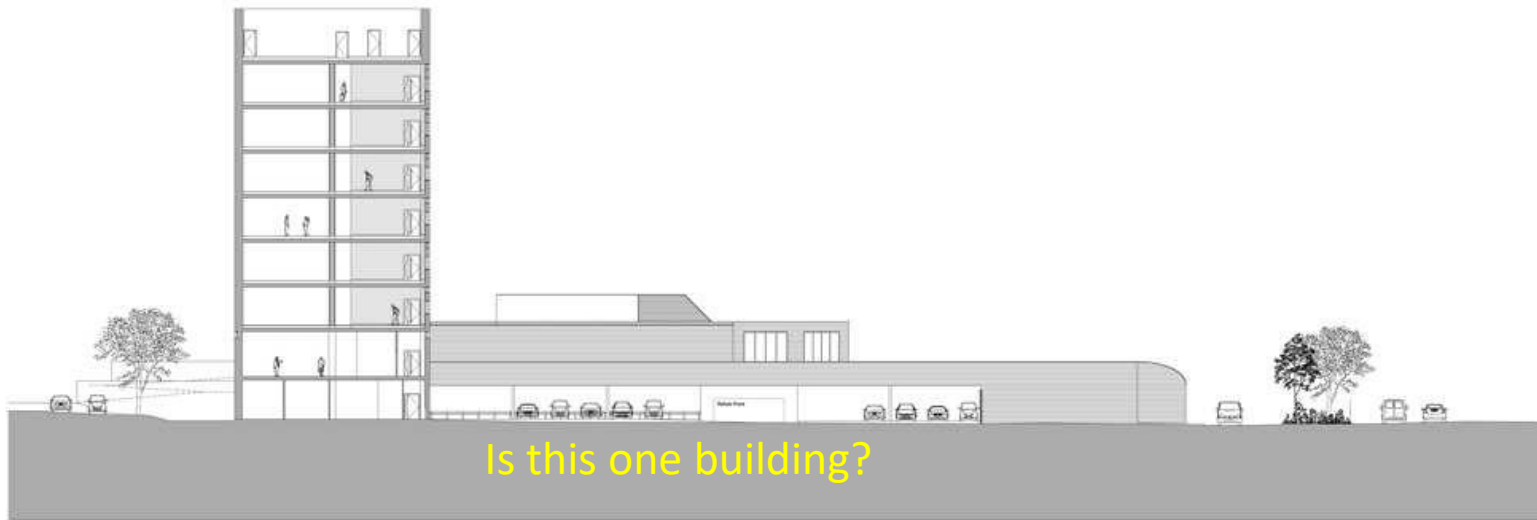
**BroadwayMalayan**

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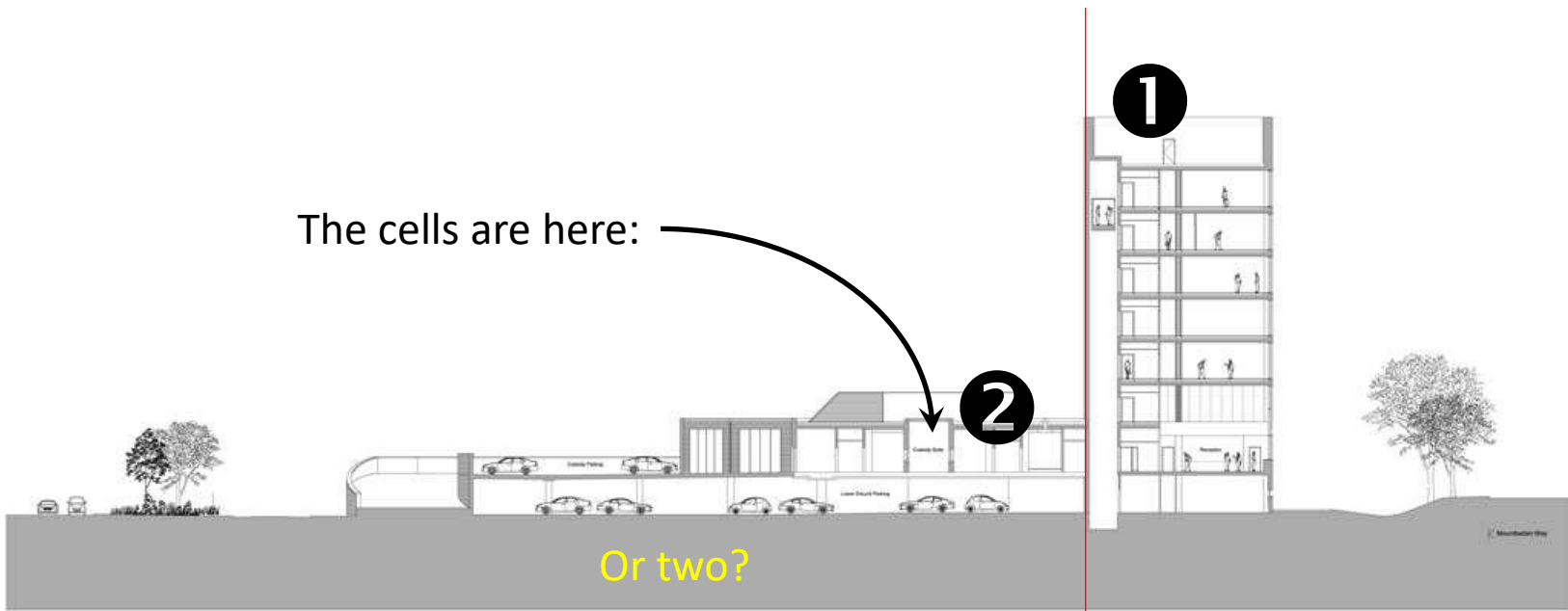
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**Planning**  
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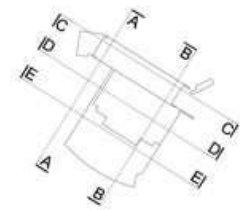
section AA



section BB

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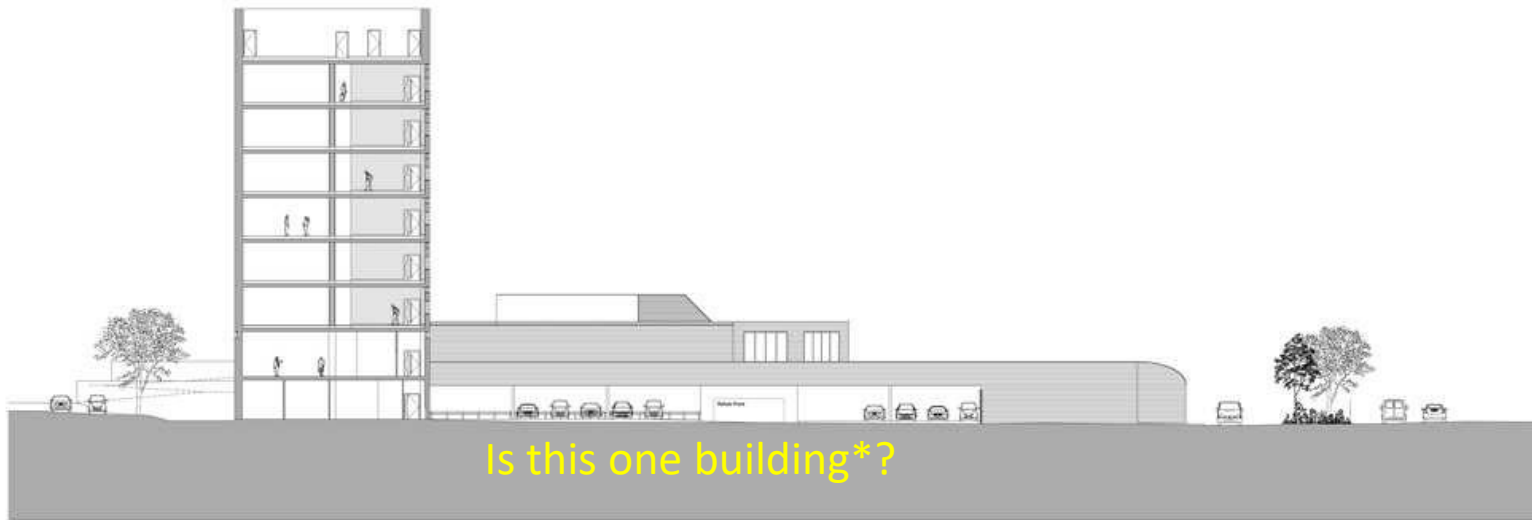
Description  
**Section AA & BB**

Status  
**Planning**

Scale: 1:200@A1  
 Drawn: KA  
 Date: Feb 07

Job number: 25394  
 Drawing number: A-04-P 002  
 Revision: 0

Original size: 280mm B x 411mm  
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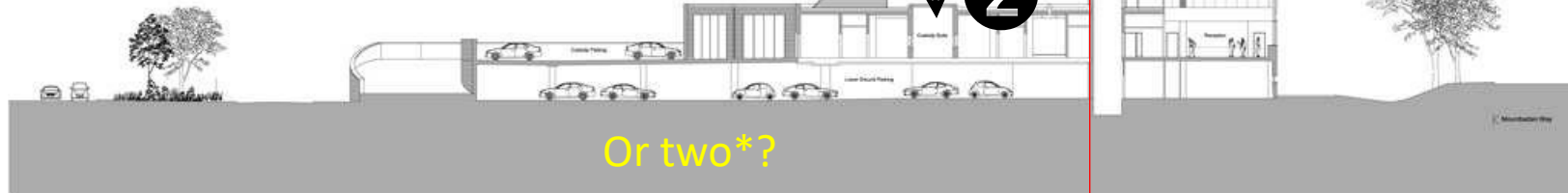
Is this one building\*?

section AA



\* There is an answer to this question. But it's complicated. Surveyors and lawyers may need to be paid to answer it.

The cells are here:

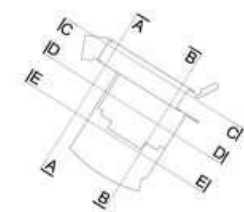


Or two\*?

section BB

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Drawn: KA  
Date: Feb 07  
Job number: 25394  
Drawing number: A-04-P 002  
Revised: 0

Original size 25394 @ A1 Copyright Broadway Malayan Limited

High-rise blocks

## Insolvency of a 'Responsible Person'

What you must do if the debtor is responsible for a 'Relevant' building, or a 'Higher-Risk' building?

| Type of building:                             | Ordinary | Relevant | Higher-Risk |
|---|----------|----------|-------------|
| Give notice to the local authority?           | x        | ✓        | ✓           |
| Give notice to the fire and rescue authority? | x        | ✓        | ✓           |
| Give notice to the Building Safety Regulator? | x        | x        | ✓           |
| Has an 'Accountable Person'?                  | x        | x        | ✓           |
| May be less than 11m / 5 storeys high?        | ✓        | x        | x           |
| May be less than 18m / 7 storeys high?        | ✓        | ✓        | x           |

High-rise blocks

## Insolvency of a 'Responsible Person'

Contents of the statutory notice:

- a) Debtor's name and address (and company number)\*.
- b) Building's address.
- c) Land Registry title and plan for the building.
- d) Type of appointment.
- e) Your name and (all) contact details.
- f) Court name and number (if any).



\* Suppose it's an overseas, or unincorporated company? Give the information listed in r1.6 IR'16.





High-rise blocks

# Your legal responsibilities

Topics

- (1) Background – ownership and management of flats
- (2) Responsibility for safety of the block – Building Safety Act 2022
- (3) Insolvency of a ‘Responsible Person’ – notices to others
- (4) Insolvency of a ‘Responsible Person’ – the IP’s other duties

High-rise blocks

# Insolvency of a Responsible Person - other duties



High-rise blocks

## Insolvency of a 'Responsible Person' – other duties

Suppose your debtor is a 'Responsible Person'

- Your primary duty is to notify two or three authorities.
- Within 14 days after appointment.
- That's a personal duty (s125A(3) BSA'22).

What if you don't do it?

- It's not an offence.
- Probably RPBs will review compliance.
- Reputational risk.



High-rise blocks

## Insolvency of a 'Responsible Person' – other duties

As a 'Responsible Person', your debtor will have:

- Obligations under lease covenants.
- Some statutory duties as a 'Responsible Person' (for a Tall building).
- Additional statutory duties if they are an 'Accountable Person' (for a Very Tall building).





High-rise blocks

## Insolvency of a 'Responsible Person' – other duties

As office holder, you don't have personal liability for those duties. But:

- A trustee in bankruptcy:
  - will become the 'Responsible Person' or 'Accountable Person';
  - if they take legal title from the bankrupt.

High-rise blocks

## Insolvency of a 'Responsible Person' – other duties

As office holder, you don't have personal liability for those duties. But:

- There are criminal sanctions in BSA'22; for example:
  - Giving misleading information to the Regulator;
  - Allowing occupation of a Higher-Risk Building before it is registered.
- An 'officer' of a company can be prosecuted if:
  - The company has offended; and
  - The officer consented, connived, or was negligent.

High-rise blocks

## Insolvency of a 'Responsible Person' – other duties

As office holder, you don't have personal liability for those duties. But:

- Other parties may seek to enforce against the debtor:
  - Covenanted obligations; or
  - Statutory obligations.
- Compliance may be difficult and expensive.
  - But might be important, for the safety of occupiers.
- Non-compliance risks:
  - Reputational.
  - Regulatory.





High-rise blocks

## **Insolvency of a 'Responsible Person' – other duties**

You might decide to decline an appointment like this?





High-rise blocks

## Insolvency of a 'Responsible Person' – other duties

You might decide to decline an appointment like this?

- Perhaps add some questions to your pre-appointment risk assessment?

High-rise blocks

## Insolvency of a 'Responsible Person' – other duties

1. Ask if the debtor is responsible for maintenance or safety of any tall buildings.
2. Ask if they are 'relevant' or 'higher-risk' buildings.
3. Search the Register.
4. Assess how the estate can fund compliance.
5. Get copies of leases.
6. Find out how the building is used.
7. Get a surveyor's report.
8. Get legal advice.

High-rise blocks

## Insolvency of a 'Responsible Person' – other duties

- A. Consider giving notice, if in doubt, if it's a Tall building (but not Very Tall).
- B. Giving notice, if in doubt, when it's a Very Tall building might trigger compliance with the obligation to register.
- C. Failing to give notice, when you should, is not an option.
- D. Make sure you appoint competent agents to manage the building, if you take the appointment.



High-rise blocks

# Five-Slide Summary





High-rise blocks

## Insolvency of a 'Responsible Person'

You're about to take appointment.

- Are you to be appointed:
  - Administrator?
  - Administrative receiver?
  - Receiver
    - (appointed by a court
    - or mortgagee)?
  - Liquidator?
  - Trustee in bankruptcy?

(Not on the list:

- VA supervisors
- VA nominees
- Moratoria monitors
- Restructuring plans
- Schemes of arrangement
- Etc)

High-rise blocks

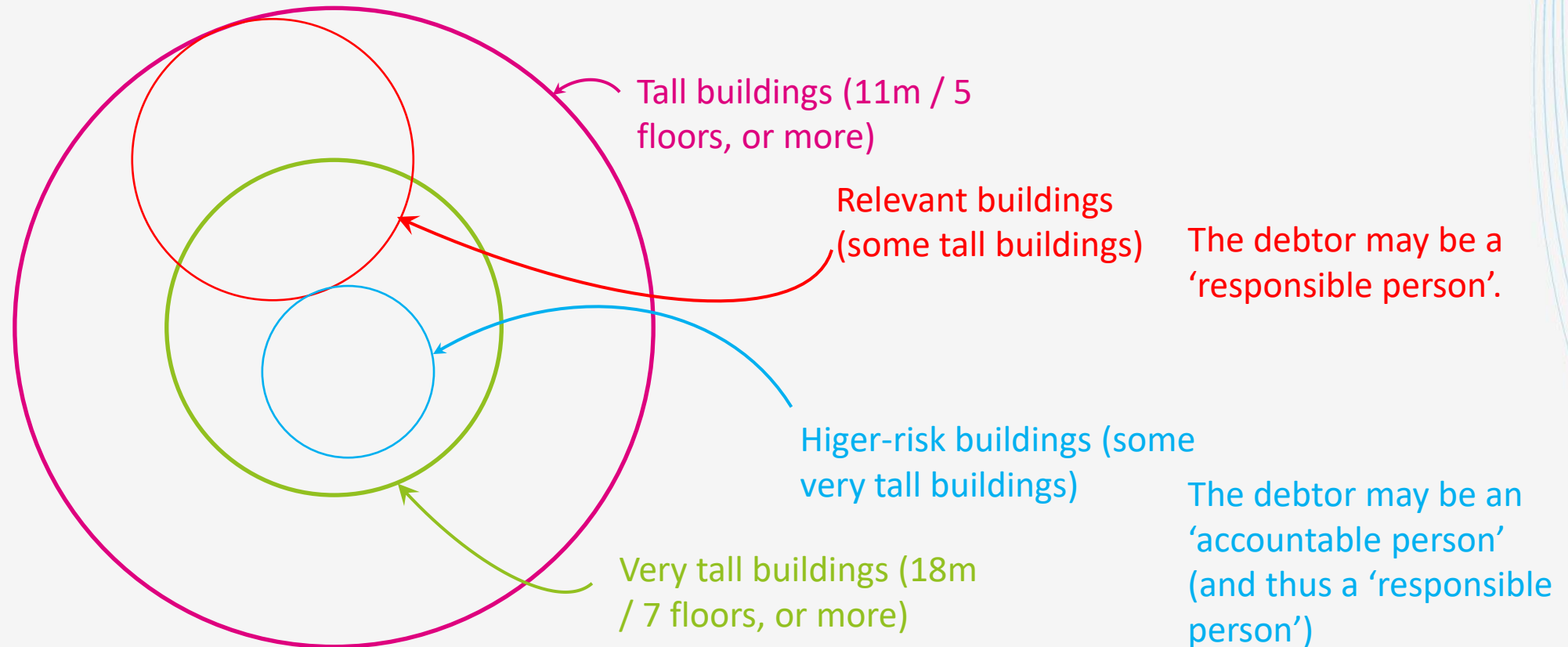
## Insolvency of a 'Responsible Person'

- What sort of debtor might be a 'Responsible Person'?
  - Freeholders
  - Estate owners
  - Landlords
    - Not landlords' agents
  - Management companies
    - Not management agents
  - Residents' management companies
    - Not residents' associations
  - Right To Manage companies
  - Commonhold associations

High-rise blocks

## Insolvency of a 'Responsible Person'

What's the difference between a 'tall' building, and a 'very tall' building?



## High-rise blocks

# Insolvency of a 'Responsible Person'

What's the difference between a 'Relevant' building, and a 'Higher-Risk' building?

| Type of building:                              | Ordinary | Relevant | Higher-Risk |
|--|----------|----------|-------------|
| May be a hotel?                                | ✓        | ✓        | ✗           |
| May be a care home?                            | ✓        | ✓        | ✗           |
| May be a hospital*?                            | ✓        | ✓        | ✗           |
| Must have more than one 'Dwelling'**?          | ✗        | ✓        | ✗           |
| Must have more than one 'Residential Unit'***? | ✗        | ✗        | ✓           |



\*Other uses, eg prisons and barracks also exclude a building from being 'Higher-Risk' But they are unlikely to go into administration, etc.

\*\* Not defined. But everyone knows what a 'dwelling' is, right?

\*\*\* Defined as including 'dwellings'.



High-rise blocks

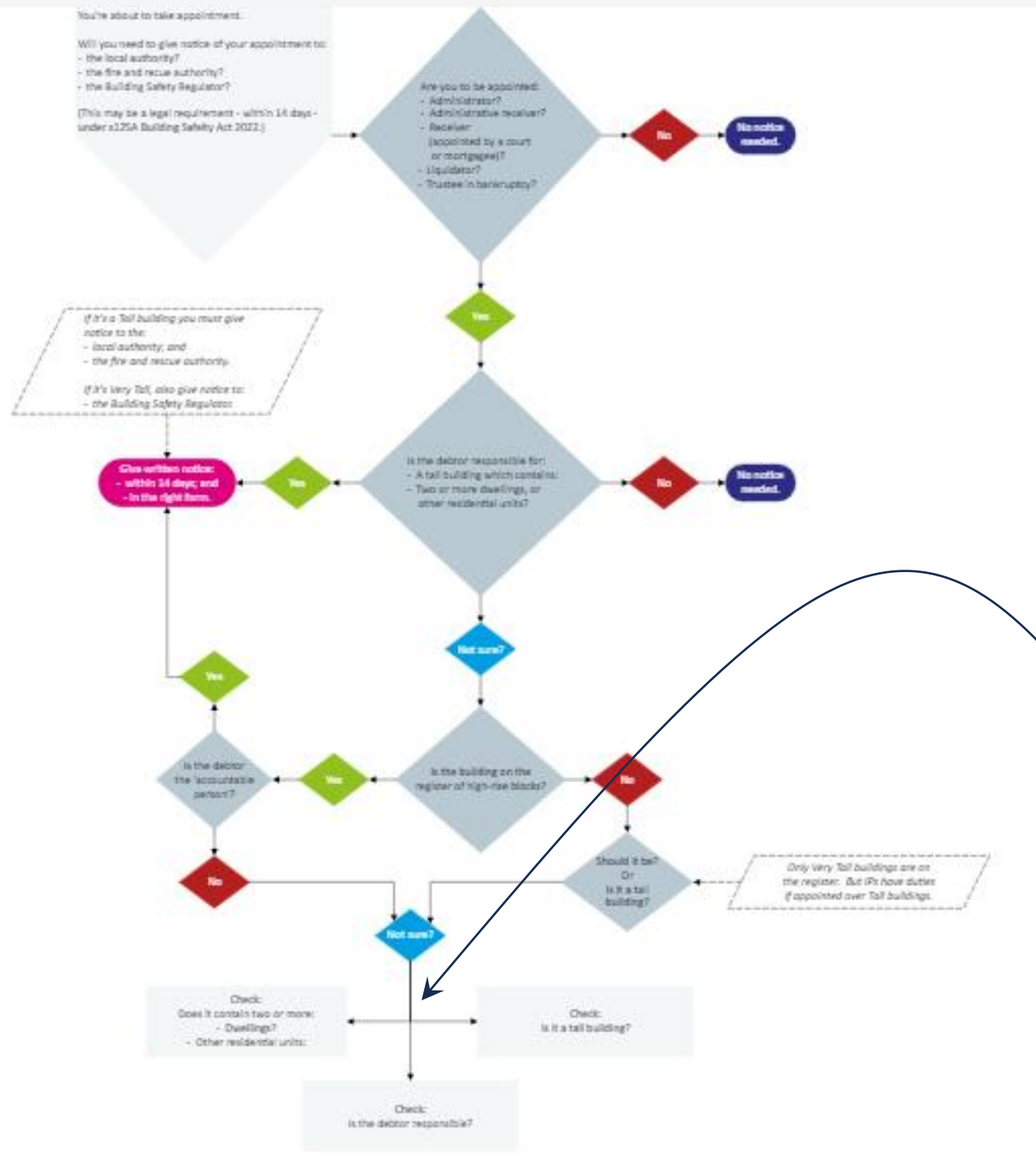
## Insolvency of a 'Responsible Person'

What you must do if the debtor is responsible for a 'Relevant' building, or a 'Higher-Risk' building?

| Type of building:                             | Ordinary | Relevant | Higher-Risk |
|---|----------|----------|-------------|
| Give notice to the local authority?           | x        | ✓        | ✓           |
| Give notice to the fire and rescue authority? | x        | ✓        | ✓           |
| Give notice to the Building Safety Regulator? | x        | x        | ✓           |
| Has an 'Accountable Person'?                  | x        | x        | ✓           |
| May be less than 11m / 5 storeys high?        | ✓        | x        | x           |
| May be less than 18m / 7 storeys high?        | ✓        | ✓        | x           |

Any questions?





Do ask – if you'd like to see any of these three further flowcharts.



# Dates for your diary

- 7 October – Coffee Break Briefing – Third Parties Rights Against Insurers
- 12-13 September – SESCO Conference (Reading University)
- 10 October – SESCO seminar (Denbies)
- 4 November – Coffee Break Briefing – Insolvent Partnerships
- 6-8 November – R3 SPG forum

## 2025

- 20 March – R3 Southern & Thames Valley Forum (Bournemouth)
- TBC – June – Frettons Fourth Annual Insolvency Conference



# Contact the team



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