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Remediation of unsafe non-ACM cladding systems on residential buildings

The country is facing an unprecedented challenge due to the COVID-19 (coronavirus) pandemic. During this difficult time for the country, we recognise the extreme disruption the necessary actions are having on people's lives, their businesses, their jobs and the nation's economy. And that's why we have produced a huge and unprecedented programme of support both for workers and for business.

The Chancellor has announced an unprecedented package of government-backed and guaranteed loans to support businesses, making an initial £300 billion of guarantees – equivalent to 15% of GDP. This was on top of a series of measures announced at Budget 2020, where the government announced £30 billion of additional support for public services, individuals and businesses experiencing financial difficulties because of COVID-19. This includes a new £5 billion COVID-19 Response Fund, to provide any extra resources needed by the NHS and other public services to tackle the virus.

The Government has put in place new legal powers in the Coronavirus Act 2020, enabling it to offer whatever further financial support it thinks necessary to support businesses. You can see the Government's full guidance on support for businesses affected by COVID-19 here: <https://www.gov.uk/government/publications/support-for-those-affected-by-covid-19/support-for-those-affected-by-covid-19>.

Ensuring that buildings are safe, including progressing the remediation of high-rise buildings with unsafe cladding, particularly those with unsafe Aluminium Composite Material (ACM) cladding; and maintaining measures to ensure buildings are safe ahead of remediation, remains an absolute priority for the Government. The Government's view is that this work is critical to public safety and should continue, working within the safety guidance, wherever possible. This update provides links to useful sources of information which the construction industry and others with an interest in building safety may find helpful within the current context.

The Government has now put in place additional project management support with construction expertise to help oversee remediation. The additional support will identify blockers to progress and work directly with those responsible for remediation to support individual projects. This new team will work with those responsible for remediation and the Department to understand the impact of COVID-19 on remediation projects and identify ways to reduce the impact on pace. You can see the Government's full guidance on how to do this here: <https://www.gov.uk/guidance/remediation-and-covid-19-building-safety-update-27-march-2020>.

The Government has also now published its response to the consultation *Building a Safer Future*. The consultation sought views on proposals for a radically new building and fire safety system, based on the recommendations of Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety. The response to the consultation along with other key building safety announcements is on the gov.uk website at: <https://www.gov.uk/government/publications/government-update-on-building-safety>. Ahead of implementing the new regime it is important that existing buildings with unsafe cladding are remediated as a priority now.

That is why the Government on 11 March 2020 announced in the Budget that it will provide £1 billion in 2020/21 to also fund the removal and replacement of unsafe non-ACM cladding systems on residential buildings 18 metres and over. This funding is in addition to the £600 million which Government has already made available to ensure the remediation of the highest risk Aluminium Composite Material (ACM) cladding of the type that was in place on Grenfell Tower.

In preparation for this new fund, we have been collecting data on the cladding of all buildings over 18m and this work continues. The deadline for the collection of the data was 31 March 2020, and we encourage local authorities and housing associations who have not yet submitted their data ahead of the deadline to do so as quickly as possible.

Though this fund will help greatly in making buildings safe, building owners also need to be aware of the range of measures and advice set out below which are coming together to ensure all residential blocks are safe.

Building Safety Fund

The Building Safety Fund will support the remediation of non-ACM cladding systems, such as unsafe types of high-pressure laminate (HPL), wood and other class C /D cladding. These have been installed on some high-rise residential buildings in both the private and

social housing sectors. This should never have been the case. Requirement B4 from Part B of Schedule 1 to the Building Regulations is clear and requires that “*the external walls of the building shall adequately resist the spread of fire over the walls and from one building to another, having regard to the height, use and location of the building*”.

The Building Safety Fund will be available to remediate buildings in both the social and private residential sectors of 18 metres in height, and over, that have such cladding systems. It is this combination of risks that experts, including Dame Judith Hackitt, have advised pose the greatest threat to public safety and should be remediated.

In the private sector, this funding will be for the benefit of leaseholders and in the social sector, it will focus on those landlords who are unable to pay, ensuring the necessary works take place and cost is not a barrier to remediation. We expect building owners who have already committed to fund remediation works without passing on the costs to leaseholders to honour these commitments. We know many building owners in the social sector are already rightly prioritising and taking forward this remediation work. We expect them to continue with this action so we can prioritise this funding for those who cannot afford the cost, which is creating a barrier to remediation and building safety.

The funding is a short-term intervention to incentivise greater pace in the remediation of unsafe cladding across the existing stock of high-rise buildings. It will deliver positive change in advance of a more systematic approach to remediation, which will be implemented through the Building Safety Bill and the new regime of ‘safety case reviews’ recommended in Dame Judith Hackitt’s Independent Review of Building Regulations and Fire Safety. We are clear that the unprecedented total investment of £1.6bn to support remediation of ACM and non-ACM cladding systems on private and social buildings above 18 metres will be the limit to the Government’s funding support for such remediation.

Building owner responsibility

The fund also does not absolve industry from taking responsibility for any failures that led to unsafe cladding materials being put on these buildings. As a condition of funding, building owners must pursue warranty claims and appropriate action against those responsible for putting unsafe cladding on these buildings, with any damages recovered paid to Government once recouped. As with the ACM Fund, we will also expect developers, investors and building owners who have the means to pay to take responsibility and cover the costs of remediation themselves, without passing on costs to leaseholders.

Building owners remain legally responsible for the fire safety of their buildings. In blocks of flats this will generally be the freeholder. We are supporting local authorities and Fire and Rescue Services to take enforcement action where building owners are refusing to remediate high-rise buildings with unsafe cladding. The Fire Safety Bill, which was introduced to Parliament on 19 March 2020, will also make clear that the Fire Safety Order applies to external walls, including cladding, putting beyond doubt that Fire and Rescue Services can use their enforcement powers to address these risks. Details of the Fire Safety Bill can be found on the on the Parliament website at:

<https://services.parliament.uk/bills/2019-21/firesafety.html>.

The Expert Panel's Advice Note for building owners

The Government acknowledges that there are a number of risk factors – in addition to height and cladding - which can compromise the safety of a building, but when it comes to achieving safe evacuation in the event of a fire, it is clear that high-rise buildings with unsafe cladding is where funding needs to be focused . However, other fire safety risks, including those on lower-rise buildings, need to be addressed by building owners and landlords - these will not be funded by Government. The Independent Expert Advisory Panel's consolidated Advice Note provides advice for building owners of existing multi-storey, multi-occupied residential buildings on how to assess whether their buildings are safe and what action to take if they are not. The Advice Note is available at:

www.gov.uk/government/publications/building-safety-advice-for-building-owners-including-fire-doors.

Engagement with the mortgage industry

The Government funding for non-ACM remediation over 18m provides support to leaseholders to ensure their buildings are made safe. It means that building owners have no reason not to remediate such buildings. In addition, this funding together with the expectation that those responsible should pay, will mean that banks and mortgage lenders have some certainty that remediation costs for these buildings will be paid for. This should allow them to have confidence in lending on flats within high-rise blocks.

Furthermore, the Government has been supportive of industry efforts to apply consistency in how such properties are valued. The industry solution for buildings 18 metres and over has been the introduction of a new process to support valuation through an 'EWS1' form. Surveyors, lenders, insurers and other parts of industry, working with building owners, now need to ensure that the EWS1 form is shared appropriately to support this section of the housing market. To that end, an industry group is designing a data-sharing portal so that lenders and leaseholders can access the information needed to proceed with sales and re-

mortgaging. Industry is also working on devising an approach which will apply reasonable valuation judgements to buildings under 18m and Government plans to hold a roundtable with mortgage lenders to ensure this is taken forward.

It is apparent that many construction professionals have experienced challenges in accessing adequate Professional Indemnity Insurance. This has been a particular concern for fire engineers, who are crucial to assessing fire safety both in new and existing high-rise residential buildings. The insurance industry has recognised this as an issue and Government is working with the industry to consider potential solutions.

Finally, there is a need to ensure that fire engineers are able to play the part they should in advising on the safety of high-rise and other complex buildings. Government will therefore work with the fire engineering profession to establish a way to maintain a clear and consistent approach to fire risk assessments of cladding, as well as setting up a panel of fire engineers to help with the assessment of more difficult or complex buildings. MHCLG officials will also work with colleagues at the Home Office and relevant professional bodies to ensure there is a pipeline strategy to ensure this essential assessment work can be scaled up, at pace.

Next steps

We are working to make this new funding available as quickly as possible and aim to publish the prospectus for the new Fund in May and open for registrations soon after. In the meantime, building owners should establish the exact materials used in the external wall systems of their buildings. They should fully consider and mitigate the risks of any external wall systems and take action in line with their responsibilities, including ensuring they have an up-to-date fire risk assessment.

I know that you share the Government's commitment to remove unsafe cladding from high rise buildings and look forward to working with you over the coming weeks and months.



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