

18 March 2021

## **Building Safety update**

### **Purpose of report**

For discussion.

### **Summary**

This report updates members on the LGA's building safety related work since the last SSCB meeting.

#### **Recommendation:**

That members note and comment on the LGA's building safety related work.

#### **Action:**

Officers to incorporate members' views in the LGA's ongoing building safety related work.

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## **Building Safety update**

### **Remediation**

#### *Progress*

1. [MHCLG statistics](#) show that by the end of January 2021, 91% (419) of all identified high-rise residential and publicly owned buildings in England had either completed or started remediation work to remove and replace unsafe Aluminium Composite Material (ACM) cladding (93% of buildings identified in December 2019) – an increase of two buildings since the end of December 2020. During 2020, 159 buildings started works, compared to 90 in 2019 and 111 in 2018.
2. There are no social sector residential buildings that have yet to begin remediation; 144 (92%) have had their ACM cladding removed.
3. 84% (178) of private sector buildings have either completed or started remediation. Of these, 115 (54%) have had their ACM cladding removed. 46 Student blocks have completed with 8 underway and none yet to begin.
4. While these statistics suggest a positive direction of travel ACM buildings represent around a sixth of the total number of buildings over 18m with dangerous cladding and the improved rate is the result of significant official effort and ministerial pressure on owners.

#### *Joint Inspection Team (JIT)*

5. MHCLG has confirmed that the JIT will continue working next year with a remit that expands to cover non-ACM dangerous cladding. Work is underway to agree the details of the revised indemnity for the LGA from the Treasury for this expansion in the JIT's remit.
6. The team's inspections were briefly suspended due to Covid in January but have now resumed.

#### *Fire Protection Board*

7. The Building Risk Review programme overseen by the Board, remains ahead of its target schedule to ensure all residential buildings over 18m in height have been assessed or inspected by the end of 2021.

#### *Waking watch relief fund*

8. In December the Government announced that it would provide £30m to cover the cost of installing fire alarms in buildings that currently have a waking watch because they have dangerous cladding.

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9. The fund was launched on 31 January, it applies to private sector buildings over 18m<sup>1</sup> in England only. To be eligible a building must have an unsafe cladding system with a waking watch in place where these costs have been passed on to leaseholders.
10. Social sector buildings where the Registered Provider can evidence that waking watch costs have been passed to leaseholders and the costs of installing an alarm will fall on leaseholders will also be eligible.
11. The fund will only cover the cost of alarms installed on or after 17 December 2020.
12. There will be a staged roll out of the fund with a six-week period in which applications must be made. This begins on 31 January 2021 and ends on 14 March 2021 for all buildings except private sector buildings in London, where arrangements for administering the fund are still being finalised.
13. Installation costs that are above a £1,500 per dwelling threshold will require additional scrutiny and may require additional evidence from the applicant to show whether the costs are necessary and reasonable.
14. £22 million of the £30 million funding available has been allocated to the eight metropolitan areas estimated to have the largest number of eligible buildings across England based on [Building Safety Fund: registration statistics](#) with adjustments made to account for social sector funding. These allocations are:

<b>Local/Combined Authority</b>	<b>Allocated Funding (£m)</b>
Greater London	16.1
Greater Manchester	2.1
Birmingham	1.1
Leeds	0.7
Liverpool	0.5
Bristol	0.5
Newcastle	0.5
Sheffield	0.5
<b>Total</b>	

<sup>1</sup> Actually, over 17.70m in height when measured according to diagram D6 of Approved Document B (Annex A).

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15. In Manchester the Combined Authority will administer the fund; in London the GLA is expected to take on the role. In the other six areas local authorities have agreed to administer it.
16. The remaining £8 million of the fund will be centrally administered and is available to buildings across all other areas of England.
17. Guidance and application forms are available [here](#).
18. The fund has been developed very quickly. While this has drawbacks (e.g. it is not large enough to meet demand) it is understandable given that delivering the fund quickly is essential if it is to be of any value.
19. LGA was consulted by MHCLG as part of its development of the fund. However, MHCLG tended to discuss the matter directly with the councils involved. At the time of writing the greater difficulty posed by administering the fund in London are we understand close to being resolved.

#### *Leaseholder costs*

20. In January the LGA published [a position statement on leaseholder costs](#).
21. On 10 February, the Secretary of State announced further measures in response to the cladding crisis. The announcement has three key elements set out on the [Government website](#). The Government has said the measures announced will:
  - 21.1 provide reassurance and security to leaseholders;
  - 21.2 give mortgage providers confidence that where cladding removal is needed, properties will be worth lending against; and
  - 21.3 will mean people living in homes which they have been prevented from selling, or re-mortgaging, through no fault of their own, will now be able to move on with their lives.
22. The first element is **£3.5bn to pay for cladding remediation over 18m**.
  - 22.1. This is simply an increase (a very substantial one) in the £1bn already announced for the non-ACM Building Safety Fund. The level of increase suggests the HCLG Select Committee was right to estimate that the initial £1bn would cover less than a quarter of the full cost.
  - 22.2. There is a 30cm tolerance in the 'over 18m' requirement, meaning that buildings over 17.7m can apply.
  - 22.3. The fund only covers external wall systems but does cover insulation as well as cladding. The Government website implies that the new money will be subject to the same limitations as the existing non-ACM fund, which would

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mean that it will [not cover balconies](#), but would cover render-based systems and cavity barrier issues within cladding systems. We are checking these details with MHCLG.

22.4. We have also asked MHCLG to confirm it will cover costs to leaseholders that are imposed by social providers where social providers own blocks (as the initial £1bn covered this).

**23. The second element is low interest loans for cladding remediation for buildings of 4-6 stories or 11-18m.**

23.1. Interest payments will be capped at £50 per month for each leaseholder. We understand that costs that cannot be met through the repayments will be met by the taxpayer.

23.2. It is unclear what effect this might have on the value of a flat, but it might be expected to reduce the value by an amount that would reduce a typical mortgage by £50 per month. We have seen no reference to a time limit on the payments, but there have been [suggestions](#) by campaigners that £50 per month would service a loan of between £14,500 over 30 years or up to £25,000 over 60 years, each at 1.5%.

23.3. At present the loans only cover cladding costs.

23.4. A key question raised by leaseholders is whether the loan stays with the property or with the leaseholder.

23.5. We are seeking further information from the Government.

**24. The third element is measures to make the industry pay.** This comes in two parts:

24.1. A 'Gateway 2' developer levy. This will be payable when developments pass through Gateway Two of the new Building Safety system (GW2). GW2 will not exist until the Building Safety Bill becomes law at some point in 2022 and will only apply to 'high risk' residential buildings (currently defined as those over 18m). GW2 is the beginning of construction. It is likely that this announcement will encourage developers to seek planning permission as soon as possible and seek to technically commence work before the levy can be introduced. This would be unfortunate, given that the purpose of GW2 is to ensure buildings are built safely. The LGA will raise this with MHCLG.

24.2. A new tax will be introduced for the UK residential property development sector. This will raise at least £2 billion over a decade to help pay for cladding remediation costs. The tax will ensure that the largest property developers make a fair contribution to the remediation programme, reflecting the benefit they will derive from restoring confidence to the UK housing market. The government will consult on the policy design in due course.

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- 24.3. The LGA has already asked MHCLG whether the GW2 levy will apply to social providers and has stressed the need to ensure the cost of any levy is kept separate from s.106 and does not erode the value of that to councils.

*Will this solve the problem?*

25. The initial reaction from cladding campaigners has been negative, and it appears that [Conservative backbenchers](#) will not drop their proposed amendment to the Fire Safety Bill, prohibiting landlords from passing costs on to leaseholders, when it returns to Parliament later this month.
26. Much of this opposition is based on two arguments about fairness.
- 26.1. Why should cladding issues be covered when other fire safety issues are not? The Government has previously indicated that cladding poses a particular risk because it spreads fire, while compartmentation issues are simply a failure of measures that resist the spread of fire. While this is a valid safety distinction that could usefully be taken into account when considering the need for remediation, once remediation is deemed necessary the financial consequences of these building/regulatory failures for leaseholders are the same.
- 26.2. Why should buildings over 18m have all their costs covered while those in blocks of 4-6 storeys only get low-interest loans and those in blocks under 4 storeys get nothing? Again, the Government argues that the higher blocks pose a greater danger (which is broadly true) and once again, although this might mean remediation is less likely to be required in lower blocks, it is irrelevant once remediation is deemed necessary.
27. With the exception of those living in blocks over 18m where the only issue is cladding remediation, the announcement does not appear to have provided security or reassurance to leaseholders.
28. Aside from arguments about fairness, the success or failure of this initiative is likely to rest on whether it resolves the problems of mortgage lending and unblocks the housing market – as indicated in the Government's stated aims.
29. These measures will not in themselves remove the demand for EWS1 forms, because buyers will want a clear indication of what the position in relation to a given block is. The difficulty in obtaining these forms derives from a lack of qualified surveyors and the difficulty of obtaining professional indemnity insurance, so in that respect the measures above are unlikely to have any effect.
30. It is conceivable that in blocks of 4 storeys and higher, where the only remediation required is covered by the new arrangements (i.e. only cladding is affected), flats will be

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mortgageable and sellable once the funding is in place – whether a grant or a loan (whether buyers will be found before remediation is complete must be open to question).

31. However it is unclear what the impact of remediation loans on prices will be for blocks between 4 and 6 storeys and how mortgage lenders will react to clients whose flats have been reduced in value by the effect of remediation loans, but whose outgoings are now increased by the cost of those loans.
32. A key unknown is what proportion of blocks *only* have cladding issues. Our understanding is that in one major city half the blocks with interim measures do not have cladding issues and would therefore not benefit from these measures. Moreover, some of the buildings with cladding issues will have other issues *as well* and so will only derive partial relief from the new arrangements.
33. If this is a typical scenario it seems likely that a significant proportion of flats will remain unmortgageable for the foreseeable future, even if the EWS1 issues are resolved. It is also possible that the measures outlined may not bring relief even to all leaseholders over 18m with cladding issues. However, this is very much an initial impression and members may have additional points.

#### *Social landlords*

34. We understand the Government is not going to help social providers with remediation costs except where these might fall on leaseholders or where a provider's viability is threatened.
35. We have asked MHCLG whether it has any views on mitigating the impact of these costs on maintenance and improvement budgets (bearing in mind that cost pressures on social housing provider refurbishment were a significant factor in causing this crisis in the first place).
36. We have also asked whether the Government is expecting applications to raise rents above the usual cap?
37. We are seeking views of member councils on the impact these costs are having and may have in the future.

#### *EWS form*

38. Earlier this month RICS published [updated information on the EWS1 form](#), including a [Q&A](#). We have questions about the content of the guidance which we have raised with MHCLG.

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## **Reform**

### *Building Safety Bill*

39. The Government has still not responded to the HCLG Select Committee's pre-legislative scrutiny of the Bill (nor has it responded to the PAC report).

### *Fire Safety Bill*

40. The Bill returned to the House of Commons for the start of ping pong on 24 February. The LGA [briefed for the debate](#). The commons overturned two Lords amendments: one on leaseholder costs and another on the implementation of some of the recommendations of the Grenfell Tower Inquiry. The Bill returns to the Lords on 17 March. It is now expected to commence in June.

41. The LGA continues to be involved in producing guidance to accompany the commencement of the Bill.

## **Implications for Wales**

42. The devolved administrations will receive additional funding through the Barnett formula, except where new departmental spending is funded by an England-only levy (where the devolved administrations can instead implement their own levies should they choose to do so).

43. Building regulations and fire and rescue services are devolved responsibilities of the Welsh Assembly Government, and the main implications arising from the recommendations of the Hackitt Review and the government's response to it are on building regulations and fire safety in England. However the Welsh government has announced that it will be making the changes recommended in the report to the regulatory system in Wales, and the LGA has been keeping in contact to ensure the WLGA is kept informed of the latest developments in England.

## **Financial Implications**

44. Although the LGA has set up the Joint Inspection Team, the cost of doing so is being met by MHCLG. Other work arising from this report will continue to be delivered within the planned staffing budget, which includes an additional fixed term post in the safer communities team to support the LGA's building safety work.

## **Next steps**

45. Officers to continue to support the sector's work to keep residents safe and reform the buildings safety system, as directed by members.