

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD3363

Title: Delegating delivery of social sector cladding remediation funding

Executive Summary:

To meet government objectives to streamline and accelerate remediation of unsafe cladding, the GLA has received a request from the Ministry of Housing, Communities and Local Government (MHCLG) that Homes England assume responsibility for delivering remediation funding for 53 social sector buildings over 18 metres in London. This funding has previously been delivered by MHCLG. MHCLG is also requesting that Homes England should deliver remediation funding for any further social sector buildings that might apply for support. To enable this, a delegation by the Mayor is required to authorise Homes England to operate in London for this purpose.

Decision:

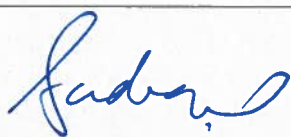
That the Mayor, under section 38(1) of the Greater London Authority Act 1999 (as amended) (GLA Act), authorises the Homes and Communities Agency (trading name: Homes England), as of the date of this Mayoral Decision, to exercise such of the GLA's powers under sections 30 and 34 of the GLA Act as Homes England considers necessary or expedient for the purposes of undertaking or continuing all or any of the activities specified in the Instrument of Delegation, in relation to the remediation of social sector buildings over 18 metres with unsafe cladding in London through the government's Building Safety Fund.

Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

21/4/22

PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR

Decision required

1. Introduction and background

- 1.1. In June 2017, the disaster at Grenfell Tower revealed the widespread use of unsafe cladding materials on high-rise residential blocks across the country. The latest government estimates suggest that between 9,000 and 12,000 buildings above 11 metres across England have unsafe cladding.
- 1.2. The government initially launched three separate funds to facilitate the replacement of unsafe cladding systems on residential buildings over 18 metres – the Private Sector Cladding Remediation Fund (PSCRF), the Social Sector Cladding Remediation Fund (SSCRF), and the Building Safety Fund (BSF). Mayoral Decisions (MDs) 2346, 2490 and 2630 approved the GLA's role in administering the majority of this funding in London. MHCLG retained responsibility for the delivery of remediation funding for a cohort of social sector buildings over 18 metres that did not have aluminium composite material (ACM) but had other unsafe cladding systems identified on their external walls.
- 1.3. In July 2023, the then Secretary of State for Levelling Up, Housing and Communities launched a new £4bn grant scheme for the remediation of 11–18 metre buildings with unsafe cladding systems, the Cladding Safety Scheme (CSS). MD3004 delegated delivery of the London element of this programme to Homes England.
- 1.4. For the reasons set out below, approval is sought to delegate delivery of funding for 53 social sector buildings in the MHCLG's BSF, together with any additional social sector buildings over 18 metres in London that might apply in the future where funding would otherwise have been delivered by MHCLG, to Homes England's CSS. The proposed delegation is contained in the Instrument of Delegation at Appendix A and has been agreed by Homes England and MHCLG.
- 1.5. There are no costs or operational implications to the GLA of the transfer of delivery of funding for these buildings from MHCLG to Homes England.

2. Objectives and expected outcomes

- 2.1. The government's Remediation Acceleration Plan (December 2024) outlines its aim to streamline and accelerate delivery of cladding remediation. There are 5,025 residential buildings over 11 metres nationally with unsafe cladding where remediation is progressing as part of the government's remediation portfolio. The GLA has received a request from MHCLG that Home England's CSS assumes responsibility for delivering remediation funding for 53 18m+ social sector buildings in London that have not yet signed a grant funding agreement. This funding has previously been delivered by MHCLG under the BSF. MHCLG has also requested that funding for any further social sector buildings over 18 metre that might apply for support to this fund in the future would be delivered in the same way via the CSS by Homes England. MHCLG has therefore requested a delegation by the Mayor to authorise Homes England to operate in London for this purpose.
- 2.2. While the GLA currently administers remediation funding for three government programmes (BSF, PSCRF, SSCRf), these programmes have not required the apportionment of funding to some leaseholders, which has been a requirement of this government funded programme. The GLA does not currently have a system to process the apportionment of funding in line with the policy of the fund. In addition, there is the risk that the GLA would not be able to source sufficient levels of appropriately qualified staff at the pace required, thereby potentially delaying delivery of critical remediation funding. MHCLG and Homes England have worked together to put in place a plan to transfer funding delivery between the organisations where the appropriate resourcing and systems are in place.
- 2.3. MHCLG has assessed the risks and benefits of transferring delivery of funding for the cohort of buildings referred to within paragraph 2.1 and determined that it will have positive impacts for these social sector buildings. Buildings that are transferred are expected to benefit from the CSS's

automated system and streamlined processes. The expected benefits include improved pace, lower delivery costs, tighter grip, improved resident and leaseholder support and information, tighter fraud controls, and improved data systems and accountability. MHCLG has also reviewed risks and mitigations for transferring these social sector buildings.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010, as a public authority, the Mayor of London must comply with the public sector equality duty which provides that the Mayor must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and any other conduct prohibited by the Act; and to advance equality of opportunity, and foster good relations, between people who have a protected characteristic and those who do not. This involves having due regard to the need to remove or minimise any disadvantage suffered by those who share a relevant protected characteristic that is connected to that characteristic; taking steps to meet the different needs of such people; and encouraging them to participate in public life or in any other activity where their participation is disproportionately low.
- 3.2. The relevant protected characteristics under section 149 of the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, marital or civil partnership status, race, religion or belief, sex, and sexual orientation. Compliance with the duty may involve ensuring people with a protected characteristic are provided with all the opportunities that those without the characteristic would have.
- 3.3. Analysis identifies that there are likely to be a higher proportion of people with certain protected characteristics living in social sector housing compared to the private sector. Granting the delegations in this decision will facilitate remediation works for residents living in high rise social sector buildings with unsafe cladding. In particular, across England there are proportionally more people with disabilities in social high rise residential buildings compared to the general population. Data also shows that there are proportionally more households in social sector high rise residential buildings with at least one disabled person compared to the general population. Granting the delegation should particularly benefit residents who are elderly, have a disability, are pregnant and small children who may find it more difficult to evacuate from a tower block in an emergency. In such circumstances, these residents may face a greater level of safety risk – making the need to remediate these buildings at pace even more pressing.
- 3.4. MHCLG has confirmed that both the BSF and CSS have been subject to comprehensive equalities impact assessments. Homes England and MHCLG are subject to the Public Sector Equality Duty and, where relevant, are required to consider that duty in future activities and decisions pursuant to this delegation.

4. Other considerations

Key risks and issues

- 4.1. The 2023 Public Body Review of Homes England recommended that responsibility for administering building safety schemes was moved from Homes England in the medium term. MHCLG and Homes England assert that the recommendation was not related to Homes England's performance in administering the schemes, rather it reflected the view that the remediation of cladding falls outside of the Homes England mission. There remains the risk that the government accepts the recommendation of the Public Body Review of Homes England and removes responsibility for administering building to another organisation, creating instability in the funding arrangements for cladding remediation for residents in those buildings. The impacts of this risk are considered to be low because under any scenario the government will need to ensure there are stable long-term arrangements in place for the administration of all remediation funding currently undertaken by Homes England.

- 4.2. There is a risk that the transfer of buildings between funding schemes in different organisations negatively impacts the pace of remediation, particularly for those buildings that are due to start remediation in the next three to 12 months. MHCLG and Homes England have planned mitigations to reduce this risk.
- 4.3. Leaseholders and campaign groups may perceive the lack of GLA's direct involvement negatively. However, the GLA does not currently have any role in administering funding or oversight of these buildings. With a new role via a local remediation acceleration plan for London, the GLA will work in partnership with Homes England, MHCLG and regulators to accelerate the pace of remediation of all buildings above 11 metres in London.

Links to Mayoral strategies and priorities

- 4.4. The London Housing Strategy sets out the Mayor's commitment to improve the safety and quality of homes, including ensuring the remediation of unsafe cladding where it exists on high rise residential buildings. The Mayor is committed to working in partnership with the government, as well as local and national agencies and regulators, to accelerate the pace of remediation. The Mayor will continue to work in partnership with the government to achieve its aim for all high-rise buildings with unsafe cladding in a government funded scheme to have been remediated as soon as possible, and at the latest by the end of 2029.
- 4.5. The Mayor is committed to ensuring that residents are safe, and feel safe, in their homes; and that all buildings with unsafe cladding systems are remediated so that residents can have peace of mind. The impact of unsafe cladding is widely reported to have had an adverse impact on the mental wellbeing of leaseholders. The Mayor's priorities include reducing health and income inequalities by ensuring Londoners' mental health and physical health are equally valued and supported. This is aligned to delivering this remediation programme consistently and at pace with the rest of England.

Consultations and impact assessments

- 4.6. MHCLG has requested that the Mayor enable a transfer of the delivery of funding for 53 social sector buildings via a delegation authorising Homes England to operate in London for this purpose with the aim to support the Government's objectives to streamline and accelerate remediation. Officers have engaged with MHCLG and Homes England to limit and aim to avoid any negative impacts on building residents from this transfer. MHCLG and Homes England are working together on a communications plan to communicate to applicants to the funds and residents impacted. It is not considered necessary to undertake any further consultation in relation to this decision.

Conflicts of interest

- 4.7. There are no conflicts of interest to declare from any of the officers involved in the drafting and clearance of this MD.

5. Financial comments

- 5.1. This decision is seeking approval for the Mayor to authorise that Homes England assume responsibility for delivering remediation funding for 53 social sector buildings over 18 metres in London as requested by MHCLG. The transfer of responsibility to Homes England is expected to meet the government's objective of streamlining and accelerating remediation of unsafe cladding.
- 5.2. This delegation has no financial impact on the GLA. Homes England will incur the cost and responsibility of delivering the scheme in London.

6. Legal comments

- 6.1. Section 30 of the GLA Act allows the Mayor, acting on behalf of the GLA, and after appropriate consultation, to do anything that the Mayor considers will further the promotion of economic development and wealth creation, or social development, or the improvement of the environment within Greater London.
- 6.2. Section 32 of the GLA Act provides that the power under section 30 is exercisable only after consultation with such bodies or persons as the GLA considers appropriate in the particular case. Paragraph 4.6, above, notes that the GLA has consulted with Homes England, and that it is not considered that any further consultation is appropriate.
- 6.3. Section 33 of the GLA Act requires the GLA, when exercising a section 30 power, to make appropriate arrangements with a view to securing that there is due regard to the principle that there should be equality of opportunity for all people. In addition, section 149 of the Equality Act 2010 requires that GLA and the Mayor have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; and to advance equality of opportunity, and foster good relations, between people who share a protected characteristic and those who do not. Pursuant to this duty, section three of this Mayoral Decision above sets out the equality implications of the proposed decision. As is noted in that section, Homes England is also subject to statutory duties under the Equality Act 2010.
- 6.4. Section 34 of the GLA Act provides a further power for the Mayor to do anything that is calculated to facilitate, or is conducive or incidental to, the exercise of any of his functions (including his functions under section 30).

Delegation to Homes England

- 6.5. Homes England's objects are specified in the Housing and Regeneration Act 2008 (the HRA 2008) and include improving the supply and quality of housing in England, and securing the regeneration or redevelopment of land or infrastructure in England. The HRA 2008 provides that Homes England may do anything it considers appropriate for the purposes of its objects, or for purposes incidental to those purposes.
- 6.6. Homes England's powers in the HRA 2008 used to cover the whole of England, including Greater London. From 1 April 2012 Homes England's powers to operate in Greater London ceased, by virtue of the Localism Act 2011. As a consequence, Homes England no longer has the legal power to operate in Greater London; its property, rights and liabilities in Greater London were transferred to the GLA by statutory transfer scheme.
- 6.7. Sections 38(1) and (2) of the GLA Act allows the Mayor to authorise Homes England to exercise his functions under the Act on behalf of the GLA, including those contained in sections 30 and 34. It is therefore necessary that the Mayor delegates his powers under sections 30 and 34 to Homes England, to enable it to carry on the activities specified in this MD in Greater London on behalf of the GLA.
- 6.8. Section 38(3) of the GLA Act requires that Homes England must consent to the delegation in writing. Homes England has consented to the delegation; and will, in due course, be providing formal written consent to the Mayor.
- 6.9. Section 38(7) of the GLA Act gives Homes England the power to exercise any functions delegated to it by the Mayor pursuant to section 38, whether or not Homes England would otherwise have had that power and irrespective of the nature of that function.
- 6.10. Section 38(10) of the GLA Act requires the delegation to be in writing. The proposed Instrument of Delegation is attached at Appendix A. The Mayor may impose conditions on any delegations under section 38(1), and a number of conditions have been included in addition to the delegation.
- 6.11. The powers contained in sections 30 and 34 of the GLA Act, which are to be delegated to Homes England, are sufficient to enable Homes England to do all things it considers necessary or expedient to undertake the activities specified in the Instrument of Delegation at Appendix A.

6.12. Where Homes England exercises the Mayor's powers under delegation, it is likely that the GLA would retain legal liability for Homes England's exercise of those delegated powers.

Appendices and supporting papers:

Appendix A – Instrument of Delegation.

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after it has been approved or on the defer date.

Part 1 - Deferral

Is the publication of Part 1 of this approval to be deferred? YES

If YES, for what reason: To allow MHCLG and Homes England to communicate the decision to their staff as well as to prepare and align communications to the applicants and residents of the buildings effected

Until what date: 14 April 2025.

Part 2 – Sensitive information

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a Part 2 form? NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Roxanne Ohene has drafted this report in accordance with GLA procedures and confirms the following:

✓

Sponsoring Director:

Tim Steer has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Tom Copley has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

✓

Mayoral Delivery Board

This decision was agreed by the Mayoral Delivery Board on the 31 March 2025.

✓

CHIEF FINANCE OFFICER:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature:

Anna Casbolt

Date:

31/03/2025

pp. Anna Casbolt, Assistant Director, Financial Services, on behalf of the Chief Finance Officer

CHIEF OF STAFF:

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature:

D. Bellamy

Date:

31/03/2025

