

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2490

Title: Private Sector Cladding Remediation Fund

Executive Summary:

On 9 May 2019 the Government committed £200m to a national Private Sector Cladding Remediation Fund to pay for the removal and replacement of unsafe aluminium composite material (ACM) cladding from privately-owned residential tower blocks over 18 metres. The Greater London Authority (GLA) will administer this fund for eligible buildings in London. All substantive decisions regarding the scope of the fund and approval of applications will be carried out by the Ministry for Housing, Communities and Local Government (MHCLG).

This decision seeks approval of expenditure of the London element of the fund, estimated to be £150m, during 2019/20 to 2023/24. The GLA will receive funds from MHCLG equal to the total approved grants such that there is no net cost to the GLA. This decision delegates authority to the Executive Director for Housing and Land to agree the operational details of the fund.

Decision:

That the Mayor approves:

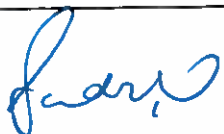
1. Expenditure of the London element of the Private Sector Cladding Remediation Fund, estimated to be £150m, commencing in 2019/20 and running to 2023/24. This will be issued as capital grant to private sector entities responsible for carrying out works to eligible buildings in London to fund the removal and replacement of unsafe ACM cladding from residential tower blocks over 18m;
2. Receipt of the London element of the Private Sector Cladding Remediation Fund by the GLA from MHCLG to fully cover all capital grants awarded in London under the Private Sector Cladding Remediation Fund (such that there is no net cost to the GLA);
3. Delegated authority to the Executive Director for Housing and Land to agree operational details through a memorandum of understanding (MOU) between the GLA and MHCLG; and
4. Delegated authority to the Executive Director for Housing and Land to receive revenue funding from MHCLG and take decisions on revenue expenditure, including procurement of external legal and technical advice (on the basis that there is no net cost to the GLA).

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:

9/7/19

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

Decision required – supporting report

1. Introduction and background

- 1.1. The cladding on the external walls of Grenfell Tower has been identified as one of the significant contributing factors in the rapid fire spread during the tragedy on 14 June 2017. The Government undertook a testing programme to identify other high-rise buildings with unsafe aluminium composite material (ACM) cladding systems. Following identification of this cladding, building owners were expected to notify the Ministry of Housing, Communities and Local Government (MHCLG), put interim fire safety measures in place, and begin the process of remediation.
- 1.2. The Government announced on 16 May 2018 that it would fully fund the removal and replacement of unsafe ACM cladding for buildings owned by a local authority or housing association. In September 2018, MD2346 approved the GLA's role in administering this funding. This fund will operate until the last building remediation is complete in 2021/22. Homes England is administering this funding for the rest of England.
- 1.3. Despite positive progress in the social sector, concerns have continued about the lack of pace in remediating privately-owned buildings and the costs faced by individual leaseholders. Following calls from the Mayor and others, on 9 May 2019 the Government announced it would fully fund the replacement of unsafe ACM cladding on high-rise private residential buildings where building owners have failed to do so.
- 1.4. Funds will be allocated to 'responsible entities', namely those with an obligation to carry out works to the relevant building and the legal right to recover funds from the leaseholders (which cannot be exercised in relation to works covered by this fund), or a body acting on behalf of the 'responsible entity' (this could be, for example the freeholder, developer or managing agent). The ultimate beneficiaries of the funding are the individual leaseholders.
- 1.5. The funding will be administered by the GLA in London, while Homes England will perform this role for buildings outside of London. The eligibility criteria for this fund is controlled by the Government and will be set out in the Government's funding prospectus to be published in mid-July 2019. As with the Social Sector ACM Cladding Remediation Fund, the GLA's role will be administrative, with all decisions regarding the scope of the fund and approvals of applications carried out by MHCLG.

2. Objectives and expected outcomes

- 2.1. This funding has two objectives. The first is to speed up the pace of remediation of high-rise private sector residential buildings with unsafe ACM cladding, so that people can be safe and feel safe in their own homes. The second objective is to prevent individual leaseholders from having to pay for something which has happened through no fault of their own, as a result of an exceptional and widespread failure of national building regulations.

3. Equality comments

- 3.1. This decision will have a positive impact for all residents and leaseholders of affected privately-owned buildings. The funding will expedite remediation, removing a health and safety risk to life, and ensure that costs are not passed onto leaseholders.
- 3.2. This decision will not create any negative impacts on groups with protected characteristics.

4. Other considerations

Risks and issues

- 4.1. Government delays in commissioning the GLA as a delivery partner have created challenges mobilising in time for the funding applications being received in September. The key challenges include:
- Recruiting a team to manage this programme: to mitigate this, the GLA will prioritise appointing someone to lead the programme, and all options will be explored to ensure the wider team is appointed urgently. The GLA currently estimate that a team of seven dedicated full-time equivalent staff will be required to deliver this programme, not including external expertise.
 - Configuring a new programme in OPS (the GLA's grant management system): to mitigate this, the GLA will explore how the current schedule of OPS enhancements could be reprioritised to deliver the functionality required within challenging timescales.
 - Putting in place the significant external legal and technical advice required to administer this funding: to mitigate this, the GLA will explore all possible procurement frameworks to ensure that external expertise is appointed as quickly as possible.
- 4.2. There is a reputational risk to the GLA if it fails to administer this funding quickly and correctly. The GLA will mitigate this risk by seeking to ensure sufficient revenue funding is secured from MHCLG to provide adequate staffing, external professional advice, and funding to develop the grant management system.
- 4.3. In addition to the administrative risks above, there are a range of risks inherent to the scope and design of the fund. These include: the risk that private building owners do not apply and the weak enforcement powers that could be used in this instance; the fact that the fund will not cover other types of unsafe cladding; and the risk that individual leaseholders still face charges when recladding uncovers additional fire safety works which will not be covered by the fund. These risks are owned by the Government but the GLA is committed to working with MHCLG to support mitigations and solutions wherever possible.

Links to Mayoral strategies and priorities

- 4.4. Chapter 5 of the London Housing Strategy 2018 sets out the Mayor's call for urgent action to address unsafe cladding on privately owned tower blocks. It sets out the Mayor's view that individual leaseholders should not be forced to pay for remediation and that the Government should provide immediate funding to ensure works can be carried out without delay.
- 4.5. The Mayor has written to the current and previous Secretary of State for Housing, Communities and Local Government to call for the Government to step in to fund remediation works where disputes over costs are causing delays.

5. Financial comments

- 5.1. The decision is seeking approval for the GLA to receive grant funding from MHCLG (estimated to be £150m) for eligible private sector building owners in London to fund the removal and replacement of ACM Cladding from residential tower blocks of over 18m.
- 5.2. Grant payments will be paid in advance in stages during 2019/20 to 2023/24.
- 5.3. In addition to the capital grant funding, the GLA will receive a revenue grant from the Government for the administration of the funding, the amount of which is yet to be decided.

6. Legal comments

- 6.1. The GLA is empowered to receive funding from MHCLG and provide grant funding to those responsible for private sector residential buildings in London to fund the removal and replacement of ACM cladding from residential tower blocks under sections 30(1) and 34 of the Greater London Authority Act 1999 (the GLA Act), provided the Mayor considers that doing this will further one or more of the GLA's principal purposes: promoting economic and social development in Greater London, and improving the environment in Greater London. It is open to the Mayor to take the view that the provision of funding to remove ACM cladding from high-rise residential buildings in London helps create safe places to live and reduces risk to life, which is arguably important for the wellbeing of the individuals living in those buildings (promoting social development) and/or improves the environment.
- 6.2. In determining whether or how to exercise the power conferred by section 30(1) of the GLA Act, the Mayor must:
 - Have regard to the effect that these decisions will have on the health of persons in Greater London, health inequalities between persons living in Greater London, the achievement of sustainable development in the United Kingdom and climate change and its consequences (sections 30(3-5) of the GLA Act); and
 - Pay due regard to the principle that there should be equality of opportunity for all people (section 33 of the GLA Act).
- 6.3. In this respect the Mayor should have regard to section 3 above.
- 6.4. In addition to the above, where the Mayor is proposing to use the power conferred in section 30(1) of the GLA Act, the Mayor must consider consulting in accordance with section 32 of the GLA Act.
- 6.5. Officers have indicated that this project amounts to the provision of grant funding and not payment for services. Officers must ensure that:
 - No reliance is placed upon the MHCLG funding until a legally binding commitment is secured from MHCLG in this regard and the GLA is able to comply fully with any conditions applicable to the provision of such funding;
 - The funding is distributed fairly, transparently in accordance with the GLA's equalities duties, and in a manner which affords value for money in accordance with the GLA's Contracts and Funding Code; and
 - Appropriate funding agreements are put in place between and executed by the GLA and successful applicants before any commitment to fund.
- 6.6. Any funding must be provided in compliance with state aid rules, which will require further analysis of, amongst other matters, the amount proposed to be provided to each grant recipient and the type of grant recipient. Officers should ensure that the state aid position is clarified prior to signing any MOU with MHCLG in respect of this programme. Specialist legal advice should be sought as necessary.
- 6.7. In taking the decisions requested, the Mayor must have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not (section 149 of the Equality Act 2010). To this end, the Mayor should have particular regard to section 3 (above) of this report.

7. Planned delivery approach and next steps

- 7.1. The GLA will begin to develop and configure a programme in OPS (the GLA's grant management system) to receive applications, manage payments, and provide reports. The GLA expects to spend approximately £200k on this work but will include this cost in the revenue funding request to MHCLG.
- 7.2. The Executive Director for Housing and Land will agree an MOU with MHCLG on the operational details of this fund. The Executive Director for Housing and Land will also agree, receive and spend revenue funding from MHCLG to support programme delivery.
- 7.3. The Executive Director for Housing and Land will exercise delegated authority without reference to further decision forms (ie. Director Decision Forms), but a record in writing will be kept of details of expenditure and associated approvals. The GLA's role in this fund is administrative and all substantive decision-making will be taken by the Government, as such the delegated authority will involve minimal discretion.
- 7.4. Approval of applications will be carried out by MHCLG. Once approval is granted, under the GLA's general delegation, the Executive Director for Housing and Land will take decisions on proceeding to contract and will keep a record of individual grant allocations.

Activity	Timeline
Government's funding prospectus released	Mid July 2019
Deadline for Expressions of Interest	End August 2019
Full applications open	September 2019
Indicative end of programme	March 2024

Appendices and supporting papers:

None.

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? NO

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:

Megan Life has drafted this report in accordance with GLA procedures and confirms the following:

Sponsoring Director:

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

Mayoral Adviser:

James Murray has been consulted about the proposal and agrees the recommendations.

Advice:

The Finance and Legal teams have commented on this proposal.

Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 8 July 2019.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

M. D. Allen

Date

8.7.19

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

8/7/2019.