

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD3004

**Title: Delegating to Homes England the delivery of government's funding for the remediation of unsafe cladding systems on London buildings 11-18 metres tall**

### Executive summary:

In January 2022, the Secretary of State for Levelling Up, Housing and Communities announced a circa £4bn grant scheme for the remediation of 11 – 18 metre buildings with unsafe cladding systems. A decision is sought to delegate delivery of the London element of this programme to Homes England.

### Decision:

That the Mayor, under section 38(1) of the Greater London Authority Act 1999 (as amended) (GLA Act), authorises 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 buildings measuring between 11 and 18 metres with unsafe cladding (Appendix A).

### 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:**

4/7/22

## **PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE MAYOR**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1. The disaster at Grenfell Tower, in June 2017, revealed the widespread use of unsafe cladding materials on high-rise residential blocks across the country.
- 1.2. The government has launched three separate funds to facilitate the replacement of unsafe cladding systems on residential buildings over 18 metres. Mayoral Decisions (MDs) 2346, MD2490 and MD2630 approved the GLA's role in administering this funding.
- 1.3. In January 2022, the Secretary of State for Levelling Up, Housing and Communities announced that the government would be launching a circa £4bn grant scheme for the remediation of residential buildings that are between 11 and 18 metres tall and have unsafe cladding systems.
- 1.4. The Department for Levelling Up, Housing and Communities (DLUHC) is still developing the programme design; eligibility criteria is also still to be determined. However, through conversations with DLUHC officials, the GLA understands that the programme could fund approximately 7,500 buildings, of which it is anticipated that around 50 per cent will be in London. The GLA also understands that, unlike previous cladding remediation funding programmes, the DLUHC is proposing that building eligibility and grant-funding decisions will be carried out by delivery partners.
- 1.5. For the reasons set out below, approval is sought to delegate delivery of the London element of this programme to Homes England, resulting in one delivery partner across the whole of England. The proposed delegation is contained in the Instrument of Delegation at Appendix A and has been agreed by Homes England and the DLUHC.

#### **2. Objectives and expected outcomes**

##### Rationale for delegation

- 2.1. This decision seeks approval for the GLA to delegate the London element of the government's cladding remediation funding programme, for buildings between 11 and 18 metres tall, to Homes England.
- 2.2. Based on staffing levels and the delivery model for the Building Safety Fund (BSF), it is estimated that 185 additional GLA staff would be required, were the GLA to deliver this programme in London.<sup>1</sup> This would represent an increase of more than 50 per cent to the Housing and Land directorate's establishment. There is also a risk that the GLA would not be able to source sufficient levels of appropriately qualified staff at pace, thereby delaying delivery of this high-profile programme.
- 2.3. The DLUHC's expectation that delivery partners for this programme should determine building eligibility and approval of grant funding is fundamentally different to the role played by the GLA on all previous cladding remediation funding programmes. Decision-making of this kind requires a level of technical expertise on building safety that the GLA does not currently have and, given there is an

---

<sup>1</sup> Based on a case officer to building ratio of 1:25, plus management, across an estimated total London portfolio of 3,500 residential buildings between 11 and 18 metres tall.

industry-wide shortage of qualified professionals in fire safety, may also struggle to source externally. Insufficient technical expertise would increase the risk of sub-optimal decision-making.

- 2.4. The GLA has previously delegated delivery of similar large-scale programmes to Homes England. For example, MD2758 and MD2936 delegated the Help to Buy equity loan and Help to Build programmes to Homes England.
- 2.5. A decision to delegate delivery of this programme in London to Homes England would ensure consistency of decision-making and applicant experience throughout England. There may also be economies of scale in having a single delivery partner. Processes and decisions could be streamlined and professional fees and team directives could be more succinct when coming from a single client with a larger brief.
- 2.6. Delegating delivery of the cladding remediation fund for buildings between 11 and 18 metres tall will allow the GLA to focus resources and skills from the existing Building Safety Team on delivering its current commitments on the Social Sector ACM Cladding Remediation Fund (SSCRF), the Private Sector ACM Cladding Remediation Fund (PSCRF) and the BSF.
- 2.7. Following delegation, the GLA will retain no formal role in designing, implementing or overseeing the delivery of this programme. This decision therefore generates no cost to the GLA.

### **3. Equality comments**

- 3.1. Under the Public Sector Equality Duty (PSED) in section 149 of the Equality Act 2010, the Mayor must have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and any conduct that is prohibited by or under the Act; and to advance equality of opportunity, and foster good relations, between people who share a protected characteristic and those who do not. Protected characteristics under the Equality Act are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status (the duty in respect of this last characteristic is to eliminate unlawful discrimination only). Further to the PSED, the GLA has identified and evaluated the likely potential impacts, both positive and negative, of this decision on those with protected characteristics. This is set out below.
- 3.2. Granting the delegations in this decision would support timely and consistent implementation of the remediation works across England, to the benefit of all leaseholders. This should particularly benefit residents who are elderly or have disabilities and 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.
- 3.3. In MD2630, the GLA raised concerns about the equality impact of excluding social landlords from full access to the BSF. It is assumed that these concerns may also arise under the cladding remediation funding programme for buildings between 11 and 18 metres tall that is the subject of this Mayoral Decision. This is because it is understood, although not confirmed, that social landlords will have similar levels of access to the cladding remediation funding programme for buildings between 11 and 18 metres tall as they do to the BSF. Under the BSF, councils and housing associations could access funding to cover only the costs that would have been passed onto leaseholders. Costs associated with rented properties would therefore have to be met by the landlord. This may have a negative impact on wider routine repairs and maintenance, and on the supply of new affordable housing. This would disadvantage those in housing need – a group in which those with protected characteristics are over-represented. As mentioned above, it is assumed that these equality impacts may also arise under the cladding remediation funding programme for buildings between 11 and 18 metres tall.

- 3.4. Homes England is subject to the PSED; and, where relevant, is required to consider that duty in future activities and decisions pursuant to this delegation.

#### **4. Other considerations**

##### Key risks and issues

- 4.1. If delegated, Homes England would carry out the activities and functions specified in the Instrument of Delegations on behalf of the GLA. This means that, in law, the GLA would likely be legally responsible (and potentially liable) in respect of the discharge of these activities and functions.
- 4.2. The GLA would likely remain legally accountable for the delegated programme but would have no input to the practical delivery of the programme. Therefore, if Londoners seek updates or raise issues with the Mayor's Office, there could potentially be a limited amount of assistance that the GLA can provide. It is expected that Homes England or the DLUHC will publish regular fund updates, allowing the GLA to direct Londoners to these resources for updates.
- 4.3. There is a reputational risk to the Mayor from delegating the programme – leaseholders and campaign groups may perceive the lack of GLA's direct involvement negatively. GLA officers will engage early with leaseholders to ensure they understand the rationale for the delegation and will stress its benefits for the delivery of the programme.
- 4.4. Given the GLA's role as a delivery partner for the SSCRF, the PSCRF and the BSF, there is a risk that the GLA's approach to the cladding remediation fund for buildings between 11 and 18 metres tall is seen as inconsistent. For applicants with several buildings, who are applying to multiple funding programmes, this may create confusion as to why the conditions or the processes differ. GLA case officers will provide clear guidance to existing applicants to ensure any queries or confusion is dealt with quickly and efficiently.

##### Links to strategies, and Mayoral and corporate priorities

- 4.5. The Mayor's London Housing Strategy outlines the objective to provide a fairer deal to private renters and leaseholders. The GLA believes that delegating this programme to Homes England will result in an accelerated pace of programme set up and therefore increase the pace of remediation. This means the financial and mental burden being felt by leaseholders and renters will be lifted as soon as possible.
- 4.6. 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.

##### Impact assessments and consultation

- 4.7. Officers have consulted Homes England and the DLUHC; both are content with the proposed delegation. It is not considered necessary to undertake any further consultation in relation to this decision.

##### Conflicts of interest

- 4.8. 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. The decision is seeking approval for the GLA to delegate to Homes England the delivery of the DLUHC programme for the remediation of residential buildings in London that are between 11 and 18 metres tall and have unsafe cladding systems. Although the GLA is delegating its powers to Homes England to deliver the scheme in London, the GLA likely remains legally responsible and accountable for the delivery of the programme.
- 5.2. The GLA has no responsibility for the costs, which Homes England will incur by 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 4.7, 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 3 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? NO**

**Part 2 – Sensitive information**

Only the facts or advice that would be exempt from disclosure under the 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:**

Stephanie Bigley has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Rickardo Hyatt 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.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 27 June 2022.

✓

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**

*D. Gove*

**Date: 1/7/22**

**CHIEF OF STAFF:**

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

**Signature**

*D. Bellamy*

**Date 27/05/22**

