

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – M2630

Title: Building Safety Fund

Executive Summary:

At spring budget on 11 March 2020, the Government committed £1bn to a nationwide Building Safety Fund (BSF) to fund the removal and replacement of unsafe non-aluminium composite material (ACM) cladding systems on tower blocks of over 18 metres owned by councils, housing associations and private sector entities. The Greater London Authority (GLA) will be administering 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 for the GLA to receive and expend the London element of the fund, estimated to be £700m, primarily during 2020/21, but potentially extending beyond that. The GLA will receive funds from MHCLG equal to the total expenditure such that there is no net cost to the GLA.

Decision:

That the Mayor:

1. Approves expenditure of the London element of the Building Safety Fund, estimated to be £700m, from 2020/21. This will be issued as capital grant to Registered Providers of social housing and private sector bodies responsible for carrying out works to eligible buildings in London to fund the removal and replacement of unsafe non-ACM cladding from residential tower blocks over 18m;
2. Approves receipt of the London element of the Building Safety Fund by the GLA from MHCLG to fully cover all capital grants awarded and revenue costs incurred by the GLA that are associated with delivering the Building Safety Fund in London;
3. Delegates authority to the Executive Director for Housing and Land to agree operational details through a memorandum of understanding (MOU) between the GLA and MHCLG without the further need for a Decision Form; and
4. Delegates authority to the Executive Director for Housing and Land to take decisions on revenue expenditure, including procurement of external legal and technical advisors, without the further need for a Decision Form (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: 27 May 2020

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 revealed the widespread use of unsafe cladding materials on high-rise residential blocks across the country. Aluminium composite material (ACM) cladding on the external walls of Grenfell Tower was identified as one of the significant contributing factors in the rapid fire spread during the tragedy on 14 June 2017. Following a large-scale testing programme to identify the extent of the problem, the Government has been operating two separate funds to facilitate the replacement of unsafe ACM cladding on buildings over 18m.
- 1.2. The Social Sector ACM Cladding Remediation Fund (SSCRF) of £400m was announced on 16 May 2018 for buildings owned by local authorities and housing associations. In September 2018, Mayoral Decision (MD)2346 approved the GLA's role in administering this funding. The fund is due to operate until 2021/22 and there are 65 London buildings in the programme.
- 1.3. On 9 May 2019, the Government announced a separate Private Sector ACM Cladding Remediation Fund (PSCRF) of £200m to fund remediation on privately-owned buildings. In July 2019, MD2490 approved the GLA's role in administering this funding. The fund is due to operate until 2023/24 and there are approximately 60 private London buildings in the programme.
- 1.4. As these programmes have developed, it has become clear that ACM cladding is not the only form of unsafe cladding placing residents at risk. Other forms of cladding, including high-pressure laminate (HPL) and timber panelling, on external walls have been implicated in significant fires across the country. The Mayor has been calling for the existing cladding remediation programmes to be extended to cover all types of unsafe materials. At the 2020 spring budget, the Government announced an additional £1bn from 2020/21 to remediate unsafe high-rise buildings where building owners have failed to do so. 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.
- 1.5. The number of eligible buildings is currently unknown. However, the average cost of remediating an ACM building is £1.7m (nationally), meaning approximately 600 buildings could be remediated using the total funding of £1bn. Of the 600, 65 per cent are expected to be in London, providing an estimated 390 London buildings that could receive funding.
- 1.6. 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).
- 1.7. As with the SSCRf and PSCRf, the Building Safety Fund will be administered by the GLA in London; Homes England will perform this role 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 expected to be published in May 2020. 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 programme will fund remediation of unsafe non-ACM cladding on buildings above 18m where building owners are unable to fund this work themselves.

- 2.2. In the private sector, this funding will be for the benefit of leaseholders; 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.
- 2.3. 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 recommended in Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety.

3. Equality comments

- 3.1. This decision will have a positive impact for all residents and leaseholders of eligible tower blocks. This programme will reduce the health and safety risk of fire for residents of both private sector and social sector buildings that are eligible for the fund. It will also ensure that the costs of remediation are not passed on to leaseholders and residents.
- 3.2. The Government's announcement of the Building Safety Fund said "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 on those who cannot afford the cost". At this stage, it is unconfirmed how this will be implemented in practice, but it is possible Registered Providers of social housing may be excluded from applying for Government funding for remediation work already undertaken or where a commitment has already been made to fund the works. This could have a negative impact on social landlords and their tenants in three ways - first, curtailing the provision of new affordable housing; second, an increase in rents; third, spending less on repairs and maintenance and other ongoing services. Given that homeless households, those on the housing register and existing social tenants are more likely to be older, families with children, ethnic minorities or living with a disability, this would have negative impact for groups with protected characteristics.
- 3.3. The Government is wholly responsible for the scope and design of the Building Safety Fund. The GLA has communicated the impacts associated with this aspect of the programme and will continue to do so.

4. Other considerations

Risks and issues

- 4.1. HM Treasury has made the funding available in 2020/21. MHCLG is therefore operating within a challenging timeframe. MHCLG is currently in the early stages of programme design, and intend to open for registration in mid-May, shortly after launching a fund prospectus. The onset of the Covid-19 pandemic renders this timeframe more difficult. Key challenges for the GLA include:
 - expanding the Building Safety Team significantly. The GLA will ensure it considers all options for mobilising at pace, including agency staff and short-term redeployment of existing Housing and Land staff;
 - rolling out a new OPS programme (the GLA's grant management system). To reduce the lead-in time, the GLA will work with MHCLG to ensure the Building Safety Fund application mirrors the Private Sector ACM Cladding Remediation Fund application wherever possible; and
 - procuring external legal and technical advice required to administer this funding; to mitigate this the GLA will consider all possible procurement frameworks to ensure that external advisers are 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 ensuring that there is sufficient revenue funding secured from MHCLG via the MOU between the parties, to provide adequate staffing, external professional advice, and funding to develop the grant management system.
- 4.3. The £1bn made available by HM Treasury is unlikely to be sufficient to cover all potential buildings within scope of the fund. This means that some building owners, notably social landlords, will miss out on funding. Prior to publication of the programme prospectus the GLA will work with MHCLG and Homes England to ensure that its parameters are as inclusive as possible. Operationally, the GLA's role is purely administrative and as ultimate executor of funding, MHCLG is accountable for final programme design. It is possible that the sector will lobby the Government for an increase in funding. There will be no circumstances in which the GLA is expected to make up any shortfall in funding and the GLA will ensure this is confirmed in the MOU with the Government.
- 4.4. There is a significant programme risk associated with the timeframe for spending the £1bn (estimated at £700m for London) budget set by HM Treasury. Both the SSCRF and PSCRF have demonstrated that cladding remediation is an extremely complex issue. Responsible entities need time to submit a funding application. The GLA has communicated its concerns and called for a more realistic timeframe.

Links to Mayoral strategies and priorities

- 4.5. Chapter 5 of the London Housing Strategy highlights that many high-rise blocks across London are fitted with dangerous cladding and must be made safe. Though the two existing ACM cladding remediation funds go some way towards addressing this, the new Building Safety Fund aims to remove unsafe cladding other than ACM on many more high-rise blocks.
- 4.6. The Mayor has repeatedly written to the Secretary of State for Housing, Communities and Local Government calling for the scope of the ACM cladding remediation funds to be expanded to include other types of unsafe materials.

Conflicts of interest

- 4.7. There are no known conflicts of interest to declare for those involved in the drafting or clearance of this Mayoral Decision.

5. Financial comments

- 5.1. This decision requests approval for the receipt of approximately £700m of capital grant income from the Building Safety Fund from MHCLG in order to fund expenditure to Registered Providers of social housing and private sector bodies to carry out the replacement of unsafe non-ACM cladding from residential tower blocks, together with reasonable administration costs for the GLA.
- 5.2. The GLA has received a letter from MHCLG committing to pay reasonable revenue costs (administrative costs) in addition to legal/technical consultancy costs and system development costs directly associated with delivering the Building Safety Fund.
- 5.3. The funds are anticipated to be received and the spend profile will be confirmed once the initial bid round closes in September 2020. There will be no net cost to the GLA. The GLA will be reimbursed by MHCLG on at least a quarterly basis in arrears as with the social sector and private sector cladding funds.

6. Legal comments

- 6.1. The GLA is empowered to receive funding from MHCLG and provide grant funding to those responsible for social and private sector residential buildings in London to fund the removal and replacement of unsafe 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 the GLA's principal purposes of: 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 unsafe 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 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 agreements in respect of this programme and 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.
- 7.2. The GLA will begin the process of recruiting additional staff to enable it to fulfil its administrative role in this programme. All staffing costs will be included in the revenue funding request to MHCLG.
- 7.3. 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.
- 7.4. The Executive Director for Housing and Land will exercise delegated authority without reference to further decision forms (i.e. 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.
- 7.5. 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 May 2020
Expression of interest / registration open	May 2020
Indicative end of programme	March 2021

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:

James Fenna 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 11 May 2020.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

13 May 2020

CHIEF OF STAFF:

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

Signature



Date

11 May 2020