MINISTERIAL DIRECTION: REMEDIATION OF PRIVATE SECTOR RESIDENTIAL BUILDINGS

As you will be aware, the Permanent Secretary at the Ministry for Housing, Communities & Local Government (MHCLG) has sought and received a ministerial direction which instructs the department to implement the Private Sector Remediation Fund for buildings over 18 metres high which have unsafe aluminium composite material (ACM) cladding.

In 2018, government introduced a scheme to fund remediation of social sector buildings. The policy for the remediation work in private sector buildings has consistently been that it sits with the freeholders. However, it is now almost two years since the fire at Grenfell Tower and there are still tens of thousands of residents living in buildings with unsafe ACM cladding. The department estimates that most of these residents are likely to continue living in buildings that they do not feel safe in for many more months and some for several years.

The Secretary of State considered that the only effective way to achieve an increase in the pace of work and protect leaseholders financially is for the department to fund the remediation of all private residential high-rise buildings with unsafe ACM cladding (except where the remediation work is being covered by a valid warranty). The Permanent Secretary recognised the public policy reasons behind the proposal but concluded that the fund did not meet the value for money tests set out in Managing Public Money (MPM), therefore, she sought a formal written direction. The direction was issued on 8 May 2019.

The department has prepared a business case in support of the fund, which we have used for our review, however, they recognise that this is an outline business case and a more developed case is needed (expected in July 2019).

Options considered in the business case largely focused on the question of loans versus grants, with recipients being either the freeholders or leaseholders. More radical options were initially considered including the compulsory purchase of buildings, but legal advice was that the department did not have sufficient authority to do so. Ultimately, only grants to freeholders was assessed to be fit for purpose. The loans option was expected to perform better, as it is more likely to be recoverable, but it might not achieve the policy objectives of speeding up remediation as there was no guarantee of loan take-up. The department concluded that the grant should go to freeholders as it would be much simpler to administer (as there are around a hundred freeholders but many thousands of leaseholders) and there was a greater likelihood that freeholders would have the means to
progress the recovery of the costs from those found to be responsible for erecting the cladding.

Neither the direction nor the letter from the Permanent Secretary mentioned the quantum of the Fund, but the accompanying announcement said that around £200 million would be made available. In the outline business case, the department recognises that there is a risk that the final costs will be higher, due in part to concerns around the reliability of the data currently available. The central estimate in the department's outline business case is £275m and to be prudent there is a 20% margin on either side resulting in a range of £220m to £330m. Uncertainties include whether there are more buildings requiring remediation than estimated and that further owners may only come forward following the announcement.

There is also a risk that this policy will set a precedent and that government may be called upon to support further remediation for both the social and private sectors. For example, the government has already stated that it intends to review the 18-metre threshold for the use of ACM cladding; smaller buildings may therefore also need to be remediated. The safety of non-ACM cladding systems is also currently being tested by the Building Research Establishment (this is expected to report by summer 2019).

To protect the public purse, the department plans to attach conditions to the grant requiring the recipient to make efforts to recover the costs from those responsible for erecting the cladding. However, there is no detailed estimate of how much this is expected to recoup or whether responsibility can be attributed to a specific individual or entity, particularly if the use of ACM cladding was installed in compliance with building regulations at the time.

In accordance with MPM, the department will be required to fully disclose the existence of the Ministerial Direction in the 2018-19 Annual Report and Accounts; we will consider this as part of the audit. We will also consider this as part of the 2019-20 audit, when the scheme should start incurring costs.

We will continue to monitor developments as the department finalises its business case and determines how to deliver on its stated commitments, and of course I would be happy to discuss this with you at our next meeting.