



Ministry of Housing,
Communities &
Local Government

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**Ministry of Housing, Communities &
Local Government**

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Dear Ms Moffett,

Firstly, I would like to take this opportunity to thank you for your continued efforts and your ongoing support of the Department's work to remediate buildings with unsafe cladding.

BSF Deadlines

I am writing to inform you that the Department has just announced that the deadlines for the non-ACM Building Safety Fund will be extended. Applicants now have until 30/06/21 to submit full applications based on tender prices. Building owners wishing to claim funding related to leasehold units can now also do so until June 30, 2021. To qualify for funding, all projects must now start on site by September 30, 2021. The announcement is published here: <https://www.gov.uk/government/news/new-30-million-waking-watch-relief-fund-announced>.

There will be one further change to the scheme, which is important for Registered Providers of Social Housing to note. To ensure parity with private sector building owners, claims for projects which cannot begin on or before the 31st March 2021 will need to submit claims including costs informed by a completed tender process. The fund will continue to agree funding based on estimates where projects can begin by 31st March and a claim is submitted by December 31st.

I'm sure that the extended deadlines are welcome news and will allow remediation projects to continue at pace. In our discussions with you we agreed that we would clarify the Department's approach to the following issues:

Section 20 Consultation

Our guidance is clear that we do not expect building owners to have to undertake a S.20 process or demonstrate an intent to exercise their contractual rights. The Prospectus is clear on the costs which are eligible under the Building Safety Fund.

Broadly these are only costs which directly relate to the removal and replacement of unsafe materials to make the External Wall System safe. It is of course for responsible entities to consider what wider remediation may be required and whether a S.20 consultation is required for any elements that are not in scope of our funding.

Eligibility in Relation to BS8414 and BR135

Combustible materials may be safe where they have been used in a combination which has been tested in accordance with the BS8414 test and received a BR135 certificate. Where this is the case, then they are not eligible for funding on the basis that the wall system is likely to be safe, if the system was correctly installed and is being appropriately maintained.

To note, potential sources of certificated systems are available at:

- BRE – <https://www.bregroup.com/services/testing/fire-safety-testing/regulatory-testing/>
- Other information on passed systems is available direct from manufacturers.

You may be aware that Kingspan has recently withdrawn 3 BS8414 tests conducted at the BRE. Where your professional teams have relied on these tests to make a judgement as to the safety of your wall system you should ask them to review these based on current evidence and contact us bsfsocialsector@communities.gov.uk to discuss your eligibility for the fund.

Eligible works and EWS1 forms

The Building Safety Fund is intended to fund the remediation of cladding systems which do not adequately resist the spread of fire. We are aware that building owners have submitted some buildings to the fund where their own professional team's advice suggests that the materials can be left safely in situ. For the avoidance of doubt, where no cladding remediation work is required to make a building safe, such buildings should be withdrawn from the fund.

In some instances where we have seen this, the building as an EWS1 form with a B1 rating. An EWS1 form must be supported by appropriate professional studies and reports. Whilst an EWS1 form provides an indication that a building's fire system/combination of materials is likely to be safe, it is important to note that an EWS1 form is not a replacement for a fire risk assessment, carried out by a competent professional. The professional reports that sit behind the EWS1 form provides a competent professional's judgement and it is these supporting reports which the department would rely on to make any judgements around eligibility.

State Aid

We have been asked for clarity in defining the term 'undertaking' for State Aid purposes. This is set out in guidance as a person that is engaged in economic activity in relation to all or part of the Building. This may be an individual, company or trust.

All undertakings must submit a declaration. Where undertakings are not Registered Providers of Social Housing, the 'de minimis' (less than €200,000 over 3 consecutive fiscal years) threshold will apply.

For Registered Providers of Social Housing, in their capacity as leaseholders, funding is provided under the Services of General Economic Interest Provisions (state). This means that funding is not considered against the de minimis threshold, though a declaration will still be required. Leaseholders whose lease is held in a registered building may count as undertakings.

To note, if an applicant does not receive a completed and signed State Aid declaration form within 30 days from a leaseholder, the applicant may assume that the leaseholder is not an undertaking, as long as the applicant has taken reasonable steps to identify all undertakings.

For further information on the criteria set out, please see State Aid Guidance, available [here](#).

Waking Watch

The National Fire Chiefs Council has made their advice on interim measures even clearer, including the benefits of considering alarm systems instead of or to complement Waking Watch services and Fire Services are actively promoting this advice to building managers. We know that your members are keen to ensure that waking watches are employed only where they are absolutely necessary and in a way which balances the safety and financial position of residents.

Today we also announced a new £30m fund to incentivise building owners to install fire alarms in high rise buildings awaiting remediation and where there is currently a waking watch service. This fund will be open from January and we look forward to providing further information on how to access funding in the new year.

I would be grateful if you would circulate this note to your members and look forward to working with you to progress the remediation of unsafe buildings.

Yours sincerely,



Neil O'Connor, Director, Building Safety Programme