

BRIEFING NOTE TO LEASEHOLDERS

THE BUILDING SAFETY CRISIS - COMMENTARY ON MICHAEL GOVE'S ANNOUNCEMENT ON MONDAY 10TH JANUARY 2022

Rendall and Rittner welcomes Michael Gove's announcement made on Monday 10th January shedding light on how building owners can ensure that buildings are safe, whilst ensuring that leaseholders are not left having to shoulder the financial consequences. The main focus of his announcement was on how the Government is intending to ensure that buildings between 11-18 metres can be made safe. There are a number of key tenets to the announcement which include the following:

I. MAKE ASSESSMENTS MORE PROPORTIONAL TO RISK

- Withdraw Consolidated Advice
- Introduce PAS9980
- Work with RICS to reset EWS1

There have been concerns over whether current External Wall System assessments are overly risk averse. These assessments are currently based on the Consolidated Advice, introduced by Government in January 2020 to replace a raft of advice notes issued shortly after the tragic events of Grenfell and which included AN14 (advice on checking of external wall systems) and AN21 (checking of external wall attachments).

One of the key elements of Michael Gove's announcement is that the consolidated advice note is to be replaced by PAS9980, which it is hoped will bring a much more measured and proportional approach to risk, recommending a more holistic approach to the assessment of the risk loading of each building.

The Government is also seeking to work with RICS to revise the guidance upon which EWS1 forms are based and to encourage them to adopt a more pragmatic approach to risk; although it remains to be seen whether they will achieve this aim and whether this will be accepted by mortgage providers and insurers.

2. REQUIRE DEVELOPERS TO CONTRIBUTE TO £4BILLION FUND

- Scrap proposed loan scheme for buildings 11-18 metres
- Fund be used to for remediation of buildings 11-18 metres
- Developers given two months to respond with a plan

The Government is intending to scrap the loan scheme which was announced in the Spring of last year.

In place of this they will be looking to developers to contribute to a £4billion fund, which will be used to remediate buildings under 18 metres. Developers have been given two months to respond to the Government, with detailed plans as to how they will deliver this funding.

3. ADDITIONAL FUNDING FOR ALARM SYSTEMS (£27 MILLION)

There will be additional funding for alarm systems in order to facilitate a change from a stay put strategy to simultaneous evacuation in the event of fire (where this has been deemed necessary). The £27million which was announced is over and above the previous £26 million waking watch relief fund (intended to cover the cost of installing alarms in order to remove waking watches on buildings over 18 metres).

There has been some discussion around whether in some instances, rather than remediating buildings under 18 metres, it may be better to consider other forms of mitigation such as switching from stay put to simultaneous evacuation on a permanent basis. It is hoped that PAS9980 will enable experts to factor such mitigation into their advice going forward.

4. LAUNCH OF 'OPERATION APEX' TO TACKLE SPVS

Finally, it was announced that a team of forensic accountants will be engaged to track down and hold to account, companies who are responsible for building unsafe buildings, and which are seeking to hide behind Special Purpose Vehicles (SPVs).

SPVs are generally companies which have been established to hold and/or develop a property. One implication of an SPV is that it can protect parent companies from potential liabilities (such as building defects) and risks which stem from construction.

It remains to be seen how this will be achieved in practise and legislation may well be required in order to give Operation Apex the teeth it will need. The Government also intends to legislate to enable building owners and leaseholders to hold developers to account for non-compliant fire safety issues for up to 30 years. This announcement is still very new we have not yet seen what its full implications will be.

CONCLUSION

R&R welcomes this news. It helps to bring greater clarity and will ultimately reduce the financial and emotional burden currently faced by 1000's of leaseholders. It is also pleasing to note that Michael Gove has adopted the principles of 'polluter pays' which R&R has supported since its inception.

Even so, there are a number of questions which have not yet been addressed by this announcement:

- **What will happen to those costs to remediate external wall systems on high-rise buildings which fall out of scope for the Building Safety Fund?**

These include combustible attachments such as balconies as well as missing and defective cavity barriers.

- **What about other fire safety issues such as compartmentation and fire stopping?**

Leaseholders are facing significant costs for remediation of these other elements of fire safety. These currently fall out of scope for the Building Safety fund on buildings over 18 metres, and yet nothing has been said about these costs.

R&R has been working closely with our professional associations, ARMA and IRPM, together with a small number of larger managing agents to engage with government, and to seek proportionate and fair solutions to the challenges faced. We shall continue to work together to address these outstanding questions. Meanwhile, these most recent announcements are certainly a significant step forward.