

## BRIEFING NOTE TO LEASEHOLDERS

### CONSULTATION NOTICES FOR BUILDINGS WHICH HAVE REGISTERED FOR THE BUILDING SAFETY FUND

We are acutely aware that this is a particularly worrying time for leaseholders living in high-rise buildings, since the Government has highlighted the need to check the safety of external wall systems in all such buildings (following the tragic events of Grenfell). This has resulted in a high demand for expertise and extreme bottlenecks in being able to commission the necessary checks. Please see [R&R's August briefing note](#) for more information on this subject.

You will see from this briefing note that as Managing Agent, we offer expert guidance to and are obliged to act upon the instruction of our clients, as defined in the Building Safety Fund Prospectus as the 'Responsible Entity' (generally resident directors or the Freeholder)

The Government has launched a fund to cover the cost of these works and has invited the Responsible Entity to register qualifying buildings for the fund. The deadlines to access the fund are impossibly tight. In a number of instances, we are yet to receive the necessary instructions to proceed with carrying out external walls system safety checks. Where this is the case, we are continuing to liaise with clients to obtain their instructions.

Where we have been instructed to progress this work on behalf of our clients, we need to do all that we can to comply with these deadlines. One area where we need to do this is compliance with landlord and tenant legislation with regard to consultation on qualifying works.

### WHAT IS THE CONSULTATION PROCESS?

Section 20 of the Landlord and Tenant Act 1985 (as amended) states that, where leaseholders are required to contribute more than £250 towards the cost of qualifying works, the landlord or management company must follow the Section 20 consultation process. It is required before any qualifying works are undertaken which meet the threshold.

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## DOES THIS APPLY TO EXTERNAL WALL SYSTEM REMEDIATION WORKS?

The duty to consult applies to external wall system remediation works for several reasons:

1. It is possible that the fund will not cover all aspects of the works required to remediate a building (such as timber on balconies or missing fire barriers);
2. The fund is oversubscribed, and it is possible that the fund will not provide full funding for eligible works, but may instead only pay out a proportion;
3. Leaseholders who do not qualify for the State Aid exemption, will be liable to pay their share of the costs.

## WHY ARE WE CONSULTING NOW?

The Government has applied deadlines which must be met in order to qualify for funding. The deadlines (which require submission of tendered costs by 31<sup>st</sup> December and then for works to commence by 31<sup>st</sup> March 2021) are extremely tight. We are therefore taking the unusual step of issuing the first stage of consultation now (Notice of Intention to carry out works), even where we do not yet have confirmation that works are necessary.

## IF COSTS ARE MET BY THE FUND, WHAT WILL HAPPEN?

If the Building Safety Fund pays for the entire cost of any remediation works, then you will not be asked to make a financial contribution.

A successful application to the fund will cover the approved works including ancillary costs; however, there may be certain exclusions as outlined above. Full details of what is covered (and what is excluded) from the fund are contained in the [MHCLG Building Safety Fund Registration prospectus](#).

Your property manager will of course keep you updated as this process progresses and how it may apply to your building. We will also let you know as soon as we can, if there are any additional costs which will need to be covered.

**Rendall and Rittner Limited**

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