



## BRIEFING NOTE TO LEASEHOLDERS FIRE SAFETY IN EXTERNAL WALL SYSTEMS

### 1. Background

Fire Safety in External Wall Systems continues to be a key industry focus. Rendall and Rittner has published several briefing notes, which are listed below in section 7.1 'FURTHER READING' and which explain more fully the history and how best practise has developed in recent months.

This note updates leaseholders on how we are progressing with the necessary external wall system safety checks, in response to government advice and the launch of the £1 Billion government fund for remediation of non-ACM systems in high-rise buildings (18 metres or more). It also outlines some of the serious challenges faced by the industry and our customers in dealing with these safety issues.

### 2. Accessing the Non-ACM Remediation Fund

The Fund Prospectus (see section 7.3) places a duty to carry out external wall system safety checks on the Freeholder or Responsible Entity (defined as being the body with the legal right to carry out the remediation works and to legally recover the costs from leaseholders as service charge). Rendall and Rittner are keen to support the responsible entity where needed to ensure that this work is carried out and that leaseholders are provided with the necessary assurances concerning the safety of their homes.

There are several key stages and deadlines which must be met, as outlined in the fund prospectus:

- **Registration** – the registration process opened on 1<sup>st</sup> June and closed on 31<sup>st</sup> July
- **Completion of External Wall System (EWS) Safety Checks** – these need to be completed in order to identify any necessary remedial works in order to make a fund application.
- **Fund Application** – the application process commenced from 1 August and will run through to December 2020
- **Commencement of Works** – these need to have commenced by the end of the fiscal year (31<sup>st</sup> March 2021), in order to qualify for funding.

#### 2.1 Registration

As soon as we received details of the registration process, Rendall and Rittner contacted every client to ensure that they were aware of the need to register buildings which are over 18 metres in height (note that the prospectus gives a 30 cm margin for error, so our focus has been on buildings over 17.7 metres) prior to the end of July. Several clients have chosen



to register buildings in person for which they are the responsible person. In very many cases, clients have instructed Rendall and Rittner to register buildings on their behalf.

The Fund Prospectus clearly states that if there is any doubt whatsoever as to whether a building qualifies for funding, it should be registered in the first instance.

We have registered well over 450 buildings on behalf of our clients.

## **2.2 Completion of EWS Safety Checks**

The government has recommended that checks be carried out to ensure that the external wall systems of all buildings do not support the spread of flames across the façade (see government consolidated advice in section 7.3). It is in any case necessary to complete these checks in order to evidence that a building qualifies for the fund.

Our briefing note to leaseholders, issued in June 2020 outlines a number of reasons why we are not yet at the point where every building has been checked. As outlined above, we have not yet received instructions from every client to commission the necessary works. In very many other cases, our clients have opted to carry out these checks themselves and are working through this process across their own portfolios.

Regardless of who is commissioning this work, there is a national shortage of experts who have the skills, together with the necessary Professional Indemnity (PI) insurance cover to carry out these checks, which are by their nature specialist. Across the UK, there are around 12,000 buildings over 18 metres, all of which require checks to be carried out in order to evidence whether or not a claim can be made for funding.

Regrettably, since the government changed its advice in January 2020, it is now recommending that checks be carried out on all buildings regardless of height. It is estimated that this brings an additional 88,000 buildings into scope.

We are now focusing on commissioning the necessary checks, where we have received instructions to carry these out on behalf of our clients. In light of the extremely tasking timescales set by the fund, we are having to focus attention on buildings which are over 18 metres initially.

The following table outlines how we have progressed with checking of buildings across the Rendall and Rittner portfolio as at 17<sup>th</sup> August. (Note that this table details progress on buildings which are four storeys or above).

	<b>% of Portfolio</b>
Buildings awaiting client instruction	29%
Building currently awaiting tenders	27%
Clients undertaking their own checks	14%
Investigations instructed and underway	8%
EWS1 forms on file	22%
<b>Total</b>	<b>100%</b>

If you are uncertain as to how this matter is being dealt with for your building, please contact your usual point of contact for confirmation. They will be pleased to clarify this point for you.

### **2.3 Fund Application**

We have received confirmation from the fund that for each building where we submitted a registration, it has been received. The fund administrators are in the process of reviewing all registrations. In some cases we have received requests for further information. The purpose of these requests is to assess eligibility for the fund. Once eligibility has been established, it will be necessary to work with a team of specialists to design an appropriate solution, make the necessary planning applications, tender the works, and obtain approval for funding, all prior to December 2020.

We believe that it will also be necessary for every leaseholder in any qualifying building to complete a State Aid form, which is a government requirement where funding is being sought. We shall be liaising closely with MHCLG and their representatives on this point and will write to individual leaseholders to explain what they need to do if this is deemed necessary.

### **2.4 Commencement of Works**

Once the application stage is complete, works can commence. As stated above, work must have commenced prior to April 2021 in order to benefit from the fund.

## **3. EWS1 Forms**

The EWS1 form, whilst not being a legal requirement is a practical solution to lender policy requirements, caused by the difficulty experienced by valuers in undertaking mortgage valuations of buildings over 18 metres, in the light of the twenty-two government advice notes issued post-Grenfell.



The EWS1 form was introduced in December 2019 and was intended to be a simple solution to help 'unblock' the property market, giving lenders a clearer understanding of what buildings are compliant with government advice, and allowing them to lend where this is the case.

In our Briefing note issued in February 2020, we explained that the consolidated government advice (issued in January 2020) modified previous advice, and recommended that assessments be made of all buildings, regardless of height. We expressed concern that as a result, lenders would now require that EWS1 forms be completed for all buildings, regardless of height.

Since then, the property market has stalled as a result of the COVID-19 pandemic. This has also impacted on our ability to commission the necessary façade safety checks.

More recently, we have started to receive a large number of requests for EWS1 forms for buildings below 18 metres. Whilst the form makes it clear that it is intended for buildings over 18 metres, it appears that, as predicted, mortgage lenders are not willing to lend on other buildings which are less than 18 metres (particularly, but not exclusively buildings which are between 11 and 18 metres).

It remains to be seen whether EWS1 forms are going to be universally required, and we are therefore liaising closely with clients to outline these challenges and to seek their instructions on a case by case basis as to whether they wish for us to commission the necessary checks. In light of resource challenges, together with extremely tasking deadlines set for the fund, we are having to prioritise high-rise buildings for the time-being.

## **4. KEY ISSUES AND CONCERNS**

### **4.1 The Cost of External Wall System Checks**

In order to assess whether the external wall system is safe, it is generally necessary to carry out intrusive checks at numerous points across the façade of the building. These checks, as stated above require specialist skills, which are in short supply. For this reason, they are relatively expensive and this cost is having to be borne by leaseholders in most cases. Although we don't believe it is fair for leaseholders to bear this cost, our first duty is to ensure buildings are safe in accordance with government advice. With this in mind, we have no alternative but to recommend that clients proceed with commissioning the necessary safety checks.

We are aware of a number of First Tier Tribunal cases, all of which have deemed that leaseholders should bear these costs through service charges or reserves. We continue to flag this as a concern in our dealings with government and other key stakeholders, since it seems unfair that this is the case.

## **4.2 The Cost of Risk Mitigation and Other Safety Measures**

Where significant risks are identified, experts are generally recommending that a stay-put policy is no longer appropriate and that owners should evacuate the building in the event of fire.

In order to facilitate evacuation, it is necessary to put other measures in place. A waking watch is often recommended with immediate effect, in order that the alarm can be raised and a building evacuated if necessary. As soon as practically possible, it is generally recommended that a sounding alarm system be installed in every apartment.

The costs relating to these measures tend to be extremely expensive. In many cases a waking watch is costing £10k per week or more, with alarm systems ranging from £100k to over £250k, depending on the size and complexity of the building.

Whilst the costs of building remediation are covered by the fund, these mitigating measures are not and are having to be borne by leaseholders. We believe that this is inequitable and places an extreme financial and emotional burden on leaseholders; a point which we emphasised in our evidence to the Parliamentary Steering Group Inquiry into progress of cladding remediation (see section 7.2 below)

## **4.3 Spiralling Insurance Costs**

The freeholder or responsible person has a legal obligation to declare any material changes in the risk profile of a building to insurers. This means that where defects are identified, this must be declared. We are seeing large increases in insurance premiums, with premiums often increasing 6-10 fold. Again, this extra cost is having to be borne by leaseholders, through no fault of their own.

## **4.4 Impacts of COVID-19**

Our industry is already facing extreme challenges in commissioning the necessary EWS safety checks across thousands of buildings, in the face of severe shortages in expertise with the necessary PI cover. We are now having to do this in the context of a world pandemic. This has created further delays, since it was not possible to carry out the requisite checks on most buildings during lockdown.

It has also created shortages in the materials needed to carry out remediation. To illustrate at the simplest level, it was impossible, for several weeks to purchase even the simplest materials such as plaster needed to make good once safety checks had been carried out.



## **5. How are Rendall and Rittner Rising to the Challenge?**

### **5.1 Façade Safety Team**

Rendall and Rittner have created a new team to deal with the challenges around façade safety, overseen at Board level by Sue Petri. The team provides our operational teams with additional practical support and expertise relating to façade safety requirements. This team has, in turn, created and is working closely with an external panel of experts, to ensure that we respond quickly and effectively to the changing demands and challenges relating to fire safety in external wall systems. The panel of experts includes specialist façade experts, fire engineers, surveyors and architects.

We have worked with the panel of experts to provide ongoing support and training to all Rendall and Rittner property management colleagues to ensure that they have the necessary knowledge and skills to address the challenges faced.

### **5.2 Industry Liaison**

We have initiated a working group consisting of a number of well-respected larger managing agents, together with our professional associations; ARMA, RICS and IRPM in order to raise awareness of key issues and challenges; both in the press and with government.

This group has published an open letter to the Chancellor, signed by a wide range of key stakeholders including leaseholder action groups, managing agents and freeholders. We were pleased to note that the government launched the £1 Billion fund shortly after this letter was published.

Members of this working group have met with numerous MPs, together with the Minister of State for Housing Communities and Local Government, Lord Greenhalgh to outline our concerns and to make positive suggestions as to how current issues can be addressed.

The group is firmly of the view that the limited resources need to be centrally coordinated and centrally funded. They also believe that it is essential that buildings need to be made safe as a first priority, with any discussion and debate about how this should be funded following on once work is completed.

### **5.3 Government Liaison**

Rendall and Rittner meet monthly with MHCLG to update them on progress made both with remediation of ACM and Non-ACM across the portfolio.



We also continue to raise concerns and make practical suggestions to address current challenges whenever possible. Most recently we provided evidence to the HCLG Steering Committee Inquiry into Cladding: progress of remediation. (see section 7.2 below). Many of the conclusions reached as a result of this inquiry (in their report of 12 June) accorded with the evidence which we had provided specifically:

- £1 billion remediation fund is insufficient
- The government should provide funding for the costs of interim fire safety measures
- The current External Wall Fire Review process is not working, and the government should take control and put in place a faster and fairer system

#### **5.4 Communication and Information**

Rendall and Rittner has published a number of Briefing Notes to leaseholders, which are available via the links contained in section 7.1 below. These are intended to keep leaseholders and clients informed concerning the challenges faced and the issues created by what is probably the greatest challenge ever faced by leaseholders and managing agents alike.

### **6.0 What Can You Do?**

We understand that these are extremely challenging times for all and have long had concerns over the impact which Government Policy relating to Façade Safety is having on the safety as well as the financial and emotional wellbeing of our customers.

In many cases our customers are facing huge bills for interim safety measures. Others are unable to re-mortgage or sell their apartments in the absence of an EWS1 form. We do not believe that it is fair that leaseholders have to foot the bill for what is a systemic failure by consecutive governments over many years to maintain appropriate standards of fire safety in construction methods.

In light of the size of the challenge and the risks attached, we believe that the government should step in and ensure that this cost burden is not focused on a relatively small number of individuals.

If these are issues which are affecting you, we urge you to contact your local MP and highlight to them the personal impact this is having. There are also a number of active leaseholder support groups who may also be able to assist. These are detailed below in section 8.

## 7. Further Background Reading

### 7.1 Rendall and Rittner Briefing Notes to Leaseholders

- [Guidance for leaseholders on AN14 and AN21 \(note that AN14 and AN21 have now been replaced by the Consolidated Government Advice note issued in January 20\)](#)
- [Guidance for leaseholders on the Consolidated Government Advice on Façade Safety and the implications for Apartment Owners issued in February 20](#)
- [Guidance for leaseholders on the Launch of £1 Billion Fund for Remediation of non-ACM Cladding Systems in High-Rise Residential Buildings issued in June 20](#)

### 7.2 Rendall and Rittner Engagement with Government

- [Response to Parliamentary Steering committee Inquiry into Cladding Remediation](#)
- [Open Letter to the Chancellor](#)

### 7.3 Wider Background Reading

- [Government Consolidated Advice \(Advice for Building Owners of Multi-storey, Multi-occupied Residential Buildings\)](#)
- [Remediation Fund Prospectus](#)
- [House of Commons HCLG Steering Committee Report – Cladding: progress of remediation](#)

## 8. Leaseholder Action Groups

- BrumLAG
- Manchester Cladiators
- UKCAG