

**CABINET SECRETARY FOR SOCIAL JUSTICE, HOUSING AND LOCAL GOV'T**  
**Briefing for PARLIAMENTARY STATEMENT ON CLADDING IN SCOTLAND**

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| <b><i>Date and Time of Statement</i></b> | <b>Thursday 12<sup>th</sup> May 2022</b><br><b>14:25 – 14:55</b>                                                                                                                                                                                                                                                                                                                       |
| <b><i>Key Message</i></b>                | <p>This statement provides an update on the Cladding Remediation Programme in Scotland.</p> <p>It confirm the money spent on the Single Building Assessments so far and opens up more access to this programme of work to more buildings.</p> <p>The statement also confirms the launch of a Scottish Safer Buildings Accord with the developer sector and other key stakeholders.</p> |
| <b><i>Who</i></b>                        | Statement to be made by – Cabinet Secretary for Social Justice, Housing and Local Government                                                                                                                                                                                                                                                                                           |
| <b><i>Why</i></b>                        | It is an opportunity to refocus this programme of work and announce accelerated access for buildings to join the programme of surveys                                                                                                                                                                                                                                                  |
| <b><i>Contents</i></b>                   | Background: <a href="#">Annex A</a><br>Q+A: <a href="#">Annex B</a>                                                                                                                                                                                                                                                                                                                    |

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### **ANNEX A**

#### **BACKGROUND**

The Grenfell Tower fire in London in June 2017 has highlighted concerns with regards to the safety of buildings throughout the UK, in particular high rise blocks of flats. Investigations into the cause of the fire and the evidence presented to the Grenfell Inquiry highlighted that failure of the cladding system to withstand the high temperatures created by the fire was the main cause of fire spread, which resulted in substantial loss of life. The cladding system used on the building was an aluminium composite material with a polyethylene core.

Building Standards are a devolved matter and our standards for cladding exceed those set by England, at the time of the Grenfell Tower fire. Further changes to Scottish Fire Safety Standards (Section 2) of the Building (Scotland) Act 2003 were made in 2019 and then 2021 to further improve the safety of new cladding systems.

In Autumn 2019 owners of flats (both high rise blocks and progressively lower rise) began to contact the Scottish Government to highlight that they were unable to sell their property due to the installation of cladding on the building. Surveyors and mortgage lenders were assigning a 'zero' valuation where there was cladding regardless of type. The Royal Institution of Chartered Surveyors (RICS) launched a process called the EWS1 form in late 2019 at a UK level to try to assist in the assessment of actual risk. However, this has had a mixed response and did not produce a solution to the mortgage issues.

The Ministerial Working Group on Mortgage Lending and Cladding which reported on 19 March 2021, provided a number of recommendations to resolve the issues around properties with cladding. The key outcome was the creation of a Single Building Assessment (SBA), involving an assessment of both the fire risk and the risk of cladding in the event of a fire.

The SBA is to be undertaken in a phased process, with those buildings which have cladding which could pose a risk to life safety as a result of cladding system, materials used and / or poor construction being targeted in the first stages of the process. Building owners were invited to submit an 'Expression of Interest' (EOI) to participate in the pilot phase, and to submit fire and cladding assessments for buildings where there is a risk to life. Applicants not selected for the pilot phase are due to be informed when the full roll out commences.

There are 25 buildings participating in the first phase. Some of the Single Building Assessment reports are now being received and we are reviewing the detail of these reports to inform our learning for the next stage of our programme.

The Scottish Government received £97.1m in consequentials following the UK Government's announcement in March 2020 to fix any potentially dangerous cladding. Further analysis by policy and finance officials has determined a further £300m of funding is likely built into the block grant in the next three years as a result of prior commitments by UKG relating to its original £5.1bn programme. Advice

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submitted on 25/3/22 by officials confirms the total cost of the programme will far exceed £97m and is likely to be nearer (or possibly in excessive of) £1bn – although it is not expected Scottish Government will fund all of this.

The UK Government has not taken a four nations approach to developer pledges and leaves us with no option but to pursue our own approach with developers.

The safety of people in their own homes and other buildings is a main priority for the Scottish Government.

That is why we have taken action through the Ministerial Working Group on Building and Fire Safety since the Grenfell fire and the subsequent Ministerial working Group on Mortgage Lending and Cladding.

While Fire, Housing and Building Standard are devolved matters, we welcome the opportunity to work collectively with all governments of the UK on these important matters – but it is now clear we cannot wait any longer before establishing a comprehensive policy that meets the needs of Scotland's homeowners.

Q+A contents:

1. [SBA Pilot Programme Update](#)
2. [Expanding the SBA Programme](#)
3. [Providing Assurance to Lenders, Insurers and homeowners](#)
4. [UK Relations / Developer Fund](#)
5. [Funding](#)
6. [Scottish Safer Buildings Accord](#)
7. [Sanctions \(legislation\)](#)
8. [Speed of programme and future timings](#) *(not a section in statement)*
9. [Register of safe buildings](#) *(not a section in statement)*
10. [EWS1](#) *(not a section in statement)*
11. [New guidance on external wall cladding systems](#) *(not a section in statement)*

## **SBA Pilot Programme Update**

### **How many assessments are complete?**

- We have a number of assessments undergoing rigorous technical review to determine what remediation needs to take place
- Some of these reviews are happening alongside developers who have come forward to fix buildings

### **Why is it taking so long?**

- In pure process terms, as my statement made clear, the extra steps in our original method which require building owners to submit a complex application, agree to grant conditions, undertake a competitive commissioning process and appoint a contract before overseeing the survey is what takes much of the time. We have removed almost all of this for new surveys.

### **When will residents in buildings get their buildings fixed?**

- The reason we are speeding up the assessment programme is to get buildings ready to remediate quicker.
- This is large scale complex engineering on a massive scale – but complicated by a tenure system not designed for this.
- And it is important we bring homeowners into the process so they know what is happening and when.

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### **What do you say to people who are scared and anxious living in these buildings?**

- Firstly, it is not acceptable that homeowners have to live in fear.
- My clear intention with today's statement is to make clear that we need to pick up the pace of surveys in the first instance.
- What I would say is that I want to hear from homeowners who have experienced particular difficulties caused by this issue – and I will be happy to consider additional measures to provide support. People can write in through their MSP as normal or can contact our Programme Team directly as [BuildingAssessments@gov.scot](mailto:BuildingAssessments@gov.scot)

### **How long will the programme take?**

- With our new approach to surveys, these should take 3-4 months on average each.
- Necessary works to buildings are dependent agreements that must be tailored to each building's circumstances – we are mobilising a team to ensure this work can be done efficiently.
- I will bring more details back to the chamber once we have gathered more data particularly around our mid-rise buildings – but my expectation is this programme could last at least five to ten years.

### **Expanding the SBA Programme**

#### **Why are you able to do this now with the pilot not complete?**

- The pilot has provided us with sufficient evidence to be confident that now is the time to change the method of commissioning surveys and increase the offer to more blocks.

### **Providing Assurance to Lenders, Insurers and homeowners**

#### **How does any of this get buildings back on the mortgage market?**

- The Single Building Assessment was created with input from the key UK financial associations, so this is an accepted form of assessment for lending and valuing Scottish properties.
- Where we can reach an agreed costed remediation approach that will get houses back on the marketplace after the building has been assessed rather than having to wait until works have physically commenced as is common in England.

### **UK Relations / Developer Fund**

#### **Why did you not sign up to any of the UK proposals?**

- Despite letters, conference calls and promises that this would be a four nations approach, it has failed to materialise. At every turn the UK solution was an England first solution.

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- I am clear that we cannot wait any longer to bring forward proposals for Scottish Homeowners and that is why I have committed to the measures in today's statement.

### **Funding**

#### **What will you pay for?**

- This is a government intervention on a huge scale, fixing a problem created in a private marketplace, but, until we assess the problems in buildings we cannot fix them.
- With the Accord in place we will agree what needs to be fixed and who pays on a building by building basis - but only once the building has been assessed.
- These assessments are free to homeowners and the SBA will provide the necessary paperwork that allows properties to go back on the housing market.

#### **Who is paying to fix public buildings and hospitals?**

- This is a matter for local authorities and health boards.

#### **What happens to homeowners when the money runs out?**

- We will focus public funds on buildings where there is no known developer to step in and take the lead in fixing those buildings.
- We will ensure the correct approaches are used for each building to maximise value for money.

#### **Will homeowners have to pay?**

- Homeowners should not have to pay for works that can be attributed to a developer – and we will support homeowners to ensure they are not left out of pocket.
- This is however a complex puzzle and there are already examples where surveys identify non-cladding structural and fire safety issues that cannot be left – and this is where we will provide support to broker an agreement with any developer and homeowners to ensure a fair, affordable and transparent agreement.

### **Scottish Safer Buildings Accord**

#### **What is it?**

- I have a plan agreed in-principle after speaking with a number developers this week.
- This will be co-produced with developers not foisted upon them.
- We will build this together with developers in the coming weeks, to form the strongest possible base of cooperation.
- A month ago, it was announced that the 'developer pledge' was not for the four nations but for England only, in four weeks I have this solution ready to go and developers coming to the table.

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### **Sanctions**

#### **Why have you not just forced developers to do this like the UK has?**

- Unlike the UK Government, sanctions are not my starting point in negotiations
- We will start by building our accord with developers, mutual agreement is the way to fix this crisis proportionately

#### **Will you legislate?**

- I want to make the accord work, then I will use the legislation that we already have. But I will legislate if developers don't act to make unsafe building safe
- We are not helped by the UK government who use punitive measures first on matters of reserved policy that also have an effect here.

### **Speed of Programme and future timings**

#### **Why not deal with the high rise buildings as set out in your own High Rise Inventory?**

- HRI is a starting point but not a definitive list of high rise buildings. We have chosen to deal with some of the highest risk buildings first which may not be captured on the inventory.
- The pilot has allowed us to begin to build our own data which also includes all the buildings in the mid-rise sector.
- This will lead to a register of safe buildings as we begin to build up reliable data that doesn't currently exist.

### **Register of safe buildings**

#### **Will the new collected data be made public?**

- We will consider this as the programme progresses
- Safe buildings will go on to the 'Register of Safe Buildings' and that register will be available to the homeowners and organisations who need access
- There will be restrictions built into any system in relation to data protection

### **EWS1**

#### **When will EWS1s end as that has what has stalled the market?**

- These are a form created by the mortgage and lending market and we have no control over the end date.
- The SBA includes an EWS1 form and we see this as a positive element in signalling to non-expert stakeholders across the finance and insurance industries that a whole building is market ready.

#### **Will you pay for EWS1s that have already been paid for?**

- We must prioritise limited public funding and have no plans to refund existing EWS1.

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### **New guidance on external wall cladding systems**

#### **What are the key changes made by this legislation with regard to fire?**

- From the 1st of June, the legislation introduces a ban the use of combustible cladding in residential and other high risk buildings above 11m and the use of the highest risk metal composite cladding materials in any situation
- We have also limited like-for-like cladding replacement to minor repair work, reflecting the expectation that such work should meet current standards and subject to scrutiny by local authorities

#### **Why has it taken so long to make these regulatory changes?**

The Building and Fire Safety Ministerial Working Group was set up immediately after the Grenfell Tower Fire and have introduced a range of measures including:

- In October 2019, we strengthened our guidance in relation to combustible cladding, means of escape and measures to assist the fire service.
- In March 2021, we introduced legislation to install automatic fire suppression systems in all new build flats, social housing and student accommodation.
- Since 2005, the guidance in support of building regulations required cladding on high rise domestic buildings above 18m to be non-combustible or the cladding system must pass a large scale fire test.
- Grenfell style cladding failed this large scale test fire test and would not comply with post-2005 building regulations in Scotland.

#### **Do the regulations apply to existing buildings?**

- Building regulations do not apply retrospectively to existing buildings.
- The regulations apply to new buildings, conversions and to existing buildings where building work is proposed
- From 1 June 2022, if remediation is required following a Single Building Assessment, a building warrant will be required for replacement cladding systems (other than minor repairs) and require to meet the amended regulations