In the 2020 Budget, the Chancellor announced the creation of a £1 billion Building Safety Fund to address the issue of unsafe external cladding on high-rise buildings across England only.

This is a significant development: previously, government funds (totalling £600 million) had been made available only for buildings containing aluminium composite material (ACM) cladding – ie. The type of cladding in place on Grenfell Tower.

By contrast, the new Building Safety Fund applies exclusively to non-ACM buildings, provided they:

- Are over 18 metres in height (regardless of whether they are in the private or social housing sectors); and
- Have an unsafe external cladding system. Broadly speaking, this will include those systems with cladding holding a European Class C or D rating. In practical terms, this could include high-pressure laminate (also known as HPL) cladding, and wood.

The government has indicated that any building owner who has already committed to remove and replace non-ACM cladding is expected to honour their commitment without applying to the Fund, in order to prioritise access for those who may not otherwise be able to bear the cost of works.

Moreover, building owners will be required, as a condition of accessing the Fund, to pursue warranty claims and “appropriate action against those responsible for putting unsafe cladding on these buildings”. Any sums recovered will then need to be repaid to the government. This is the same condition imposed upon the ACM-specific funds implemented previously.

The announcement of the Fund is a positive development, but questions remain. It is not yet clear how quickly the funding will be made available, or how building owners are to apply. It is also unclear what level of evidence will be accepted by the government as proof that cladding is “unsafe” – for example, depending on the composition of an external cladding system as a whole, it is possible certain materials might be deemed to be unsafe on one building (and therefore receive funding), but not on another. This has the potential to create inconsistencies on buildings.

For further information please contact:

Ian Masser
Partner
+44 (0) 20 7469 0439
i.masser@beale-law.com

Charlotte Gooch
Trainee Solicitor
+44 (0) 20 7469 0403
c.gooch@beale-law.com