

The Habitat – Q&A from leaseholders regarding the cladding and other fire and safety works

- Q1. How do we obtain impartial corroboration of the report submitted by FRC. In other words we need to establish that only necessary work is carried out.
- A1. FRC are a professional organisation and is accredited in the UK. We do not see any reason to question their findings as we are not compelled to use them further if we do not wish to. The report has been carried out at a substantial cost to the leaseholders and we do not see any merit in spending a similar amount on obtaining another report. But, are looking into some items which may not be important in gaining an EWS1 certificate, will let you know.
- Q2. How did Clermont choose FRC. What experience do they have and what examples can they cite
- A2. FRC were chosen as they are accredited and certified to carry out the necessary tests. A local building where they have done this sort of work is Loxley Court. Recommended also by WPG local maintenance contractors who works all over the UK.
- Q3. Once completed what guarantees do we have that the remedial work will be accepted by the mortgage companies. What certification do the contractors provide?
- A3. An EWS1 would be issued once these fire safety works are done. This would sufficient for mortgage companies to lend against the apartments
- Q4. I'm aware of massive hikes in buildings insurance. Have Clermont spoken with the current insurers? Particularly in relation to any possible claims we have and specifically looking at Latent Defect Insurance as a possible claim. Also what certification do they require to cover the building going forward and how do we protect ourselves from any future retrospective punitive action.
- A4. We have raised this point with our insurers and are still awaiting their response.
- Q5. Are we not VAT rated.
- A5. No and this is not an option either. We would pay any VAT due to a VAT registered entity. Also if the management company was VAT registered then VAT would be charged on all management fees and this VAT would not be recoverable by the leaseholders.
- Q6. The proposed works are an estimate. What mechanism protects us from excessive overspend?
- A6. We would expect the contract for works to be prepared by the relevant professionals who are instructed to oversee the works and would expect the contractor to abide by their pricing. That said, if matters came to light that were not known or available at the time then those would need to be looked at as they arose.
- Q7. What if lessees cannot or will not pay.
- A7. Whilst we would do what we could to enable leaseholders to pay in instalments, at the end of the day the works need to be paid for. Leaseholders should investigate the availability of any grants or funds that they can access to assist to meet their costs. The Government has spoken of making loans available to leaseholders for such works. Ultimately, the leaseholders are responsible to pay their share of the cost of works and any managing agent would be obliged to pursue legal action to recover what is due.

- Q8. How is the payment collection mechanism structured? Both in terms of money collected from the lessees and then money paid to the approved contractors. All monies need to be ring fenced to protect the lessees. I would suggest that any monies collected would sit in an escrow account and could only be used for the specific purpose of paying the contractor, once the work has been signed off. Also the payments should be staged, based on completed and signed off work
- A8. Leaseholder monies collected for these works will be ring-fenced and not used for other works on the building. We would expect a staged payment system to be incorporated into the contract for works where monies are released as works are completed and signed off.
- Q9. Is the Habitat over 18m high as buildings under 18m high are not subject to these strict regulations?
- A9. The Habitat is over 18m high
- Q10. We see no guidance forcing a correction in works ordered by the management company and approved by freeholders
- A10. The heart of the issue relates to safety – your safety as leaseholders. These are effectively safety works so must be carried out. The reports and surveys that have been carried out point to these issues and they need to be resolved.
- Q11. We would like the Government to cover our costs
- A11. Whilst the Government will meet certain costs (towards cladding), they will not cover the other works that need to be done re. the balconies and the dry risers.
- Q12. I hope that you will make flexible payment terms a factor in deciding which contractor to use
- A12. Whilst we shall look at this, we would also need to look at overall costs too. We would be looking for a staged payment system to be in place but whichever contractor does the work they will be expected to be paid in full when the works are completed.
- Q13. Please note that I have contacted Nottingham City Council to ask if they can obtain an FCA license in order to offer leaseholders loans for cladding costs. I await a substantive response from them. I would ask that you select a contractor who will accept that there may be funding available to leaseholders from an avenue such as this, recognize that this may take some time to arrange, and agree to offer flexibility in the timing of payment.
- A13. Whilst we will aim to appoint a contractor who can be as flexible as possible, we are not holding out any hope that Nottingham City Council would be able to provide any assistance in light of their current financial difficulties.
- Q14. Can Clermont arrange finance over a longer period and recoup the costs through the service charge
- A14. Any finance would have to be in the name of the Habitat RTM Company but as this is a property management company which does not derive a profit, it would not have open to it any avenue to obtain finance at low rates. We would ask leaseholders to consider whether they could obtain additional funds via their mortgage company or to seek assistance via the Government who are looking to provide financial assistance to leaseholders affected by the cladding crisis. We understand that the Government are looking at making long term low interest finance available to leaseholders.

Q15. Should I contact my MP about this?

A15. We would encourage leaseholders to explain their plight to their MP and to ask them how and when they are planning to assist leaseholders.

Q16. Could the work be done in stages over a longer period to reduce the financial impact on leaseholders?

A16. Whilst this could be considered, there is the issue of scaffolding costs. The longer the building is covered in scaffold the more it will cost. It therefore makes sense to get all works requiring scaffolding done at the same time. The sooner the work is completed the sooner the building would once again be safer and leaseholders can then buy / sell / remortgage as necessary. Also, the various professionals that would need to be instructed on these works would invariably charge more if the works took longer to complete.

Q17. Can any existing cash reserves that be used towards the remedial works.

A17. The current reserve fund is about £50,000. This would not make any impact on these works since we have earmarked these funds for the renewal of the remaining lift in the Habitat later in August.

Q18. The building was seemingly built and approved knowing that it was deficient to the standards of that time. Therefore the constructor, developer, competent authority and approving authority allowed the building to be handed over knowing this situation. If there is now a liability for paying for remedial repairs as a direct consequence of these decisions then surely there is a case for claiming against these bodies for their liabilities?

A18. We have raised this point with our insurers – see Q4 above. We have considered the possibility of taking legal advice to ascertain the merits of pursuing the parties involved in the construction or their insurers and whether any such action would be time limited. This would require appointing a solicitor for this. Initial indications are that this could cost somewhere in the region of £15 - £20,000. If this is something that the leaseholders wish us to undertake then we would need to obtain funds on account from leaseholders to pay for this.

Q19. What is Clermont's part in this?

A19. Clermont is the building's managing agent and is therefore responsible for managing the building.

Q20. What aspects of the proposed remedial works qualify for the current Government funding?

A20. Just the cladding element

Q21. When is a decision on the availability of Government funding expected?

A21. We are hoping it will be expected soon but we have no timetable on this.

Q22. How many competitive tenders are being invited for the work?

A22. At least 2

Q23. The estimate suggests the application of a standard fee of 8.5% for contract management. This would seem excessive for such a substantial project and we would request that a fixed price be sought for such services.

A23. We are seeking the best price for the works but understand that the fee range charged by contractors in this industry is similar amongst them.

Q24. Will an EWS1 form be provided as part of the work, and will the certificate be passed on to leaseholders.

A24. When the works are completed we are expecting an EWS1. A copy will be made available to all leaseholders who require it.

Q25. Does our buildings insurance policy contain "Latent Defect Insurance"?

A25. We have asked for clarification from the insurers. See Q4 above

Q26. I feel we need clarity as to what work detailed within the costs are necessary and what works are advisable

A26. The cladding works, the balcony works and the risers are all regarded as necessary as they are fire hazards

Q27. Please would you explain any and all fees that will be charged by Clermont Management in relation to "The Works" from the beginning to the completion, including any work that might be considered ancillary.

A27. At present, no additional fees are planned. Refer Q19 above.

Q28. I note it is anticipated that most expenditure will be incurred in the first three months of 2022. Will you update the website if this changes?

A28. It is our intention to get the works completed as soon as possible, preferably this year.

Q 29 The report cites three areas recommended for remedial action. Is it necessary for all three to be fully completed to obtain a certificate or is the risk acceptable to gain certification if only the external cladding remediation is undertaken? Note it was acceptable for the competent authority to approve the building previously when the internal wall construction was known to be below standard; why has the risk increased now, requiring action, when nothing has changed in this area?

A 29 We are revaluating with the British Safety Fund (BSF) and a Fire Engineer what is needed for a EWS1. Hopefully, we will know more end of May.

Q 30 What aspects of the proposed remedial works qualify for the current government funding?

A 30 Still unclear what the BSF what will eventually cover. But, it will only cover some of the work.

Q 31 How will the work be contracted? Will there be a fixed price contract for all the works and associated management with a fixed contingency, or how will costs be capped in the interests of the leaseholders?

A 31 Definitely a fix priced contract which should cover all contingencies. There should not be any cost overrun.

