



Ministry of Housing,
Communities &
Local Government

Clive Betts MP
Chair of the HCLG Select Committee
House of Commons
London
SW1A 0AA

Lord Greenhalgh
Minister of State for Building Safety and Communities

**Ministry of Housing, Communities and
Local Government**

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28 August 2020

Dear Clive,

I am writing to notify you of a contingent liability of £200,000 to allow for a building with unsafe ACM to be remediated. While the amount of liability is low, it is novel for my Department to provide a liability like this, which is why I am notifying you. This will allow the Northpoint Management Company, responsible for the building, to sign an amended Basic Asset Protection Agreement (BAPA), which is required as the building is adjacent to a railway line. The building has unsafe Aluminium Composite Material (ACM) cladding, which is why remediation work is required, and MHCLG is funding the remediation of the unsafe ACM cladding through the Private Sector Cladding ACM Remediation Fund.

The contingent liability was urgent, because it was needed to ensure the remediation of an unsafe building could take place as quickly as possible. That is why the Ministry of Housing, Communities and Local Government (MHCLG) has undertaken a contingent liability during parliamentary recess.

The standard BAPA imposes an unlimited liability on the party organising the works for any costs if the works were to interfere with the railway. Northpoint Management Company, run by the building's leaseholders, were not in a position to sign an unlimited liability guarantee. MHCLG engaged with Network Rail at official and ministerial level and achieved agreement to a cap in liability. However this cap will leave a further £200,000, for 'non-damage' events, to be covered by a counter-signing party (an example of a 'non-damage event' is debris falling on the railway, not causing damage, but resulting in rail delays). In this instance, the Northpoint Management Company require surety from another party to allow them to sign the BAPA.

It is my expectation for high-rise buildings with dangerous ACM to start on site by the end of this year. Northpoint leaseholders are paying significant sums in 'Waking Watch' costs for each month the building is not remediated, while the building poses a safety risk. This building is in a unique position, as it is an unsafe ACM building, over 18m, which is adjacent to a railway and managed by a Resident Management Company who require surety for a capped amount of liability. MHCLG will, therefore, underwrite Northpoint Management Company for £200,000 of risk.

The likelihood of this liability being called upon is low. Both the ACM funding process and Network Rail's due diligence requires that planned works are suitable and are conducted by appropriately qualified professionals. Our construction experts, Faithful and Gould are working with Northpoint to add a further level of assurance.

If the liability is called, provision for any payment will be sought through the normal supply procedure.

There is further detail on this in the Departmental minute appended to this letter. If you have any further enquiries my Department will be happy to provide a response.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Lord Greenhalgh', written in a cursive style.

LORD GREENHALGH

DEPARTMENTAL MINUTE FROM THE MINISTRY OF HOUSING, COMMUNITIES AND LOCAL GOVERNMENT

NOTIFICATION OF A CONTINGENT LIABILITY FOR £200,000 FOR THE NORTHPOINT BUILDING (BROMLEY) TO SIGN AN AMENDED BASIC ASSET PROTECTION AGREEMENT WITH NETWORK RAIL TO PROGRESS THE REMEDiation OF ACM CLADDING.

The Ministry of Housing, Communities and Local Government (MHCLG) has undertaken a contingent liability during parliamentary recess. HM Treasury approved this liability before it was activated. The liability is for a guarantee that will allow the Northpoint Management Company, responsible for the building in question, to sign an amended Basic Asset Protection Agreement (BAPA) with Network Rail to progress the remediation of Aluminium Composite Material (ACM) cladding. The contingent liability was urgent, because it was needed to ensure the remediation of an unsafe building could take place as quickly as possible. Whilst the liability is capped at the amount of £200,000, it is novel for the department to provide this, which is why this minute has been drafted.

The standard BAPA imposes an unlimited liability on the party organising the works for any costs if the works were to interfere with the railway. Northpoint Management Company, run by the building's leaseholders, have said they cannot sign a BAPA which has an unlimited liability guarantee. MHCLG engaged with Network Rail at official and ministerial level and achieved agreement to a cap in liability. However this cap will leave a further £200,000, for 'non-damage' events, to be covered by a counter-signing party (an example of a 'non-damage event' is debris falling on the railway, not causing damage, but resulting in rail delays). In this instance, the Northpoint Management Company require surety from another party to allow them to sign the BAPA.

It is the Minister's expectation for high-rise buildings with unsafe ACM to start on site by the end of this year. Northpoint leaseholders are paying significant sums in 'Waking Watch' costs for each month the building is not remediated, while the building poses a safety risk. This building is in a unique position, as it is an unsafe ACM building, over 18m, which is adjacent to a railway and managed by a Resident Management Company who require surety for a capped amount of liability MHCLG have, therefore, underwritten Northpoint Management Company for £200,000 of risk.

The likelihood of this liability being called upon is low. Both the ACM funding process and Network Rail's due diligence requires that planned works are suitable and are conducted by appropriately qualified professionals. Our construction experts, Faithful and Gould, are working with Northpoint to add a further level of assurance.

If the liability is called, provision for any payment will be sought through the normal supply procedure.

If a member has any further enquiries by giving notice of a Parliamentary Question or by otherwise raising the matter in parliament, the Department will be happy to provide a response.

28 August 2020