



National Audit Office

Report

by the Comptroller
and Auditor General

Ministry of Housing, Communities & Local Government

Investigation into remediating dangerous cladding on high-rise buildings

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Ministry of Housing, Communities & Local Government

Investigation into remediating dangerous cladding on high-rise buildings

Report by the Comptroller and Auditor General

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Gareth Davies
Comptroller and Auditor General
National Audit Office

4 June 2020

This investigation sets out how the Ministry of Housing, Communities & Local Government is overseeing the remediation of dangerous cladding under its Building Safety Programme. It was prompted by concerns raised over the progress and funding of these remediation efforts.

Investigations

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

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What this investigation is about

1 On 14 June 2017 a fire in Grenfell Tower claimed the lives of 72 people. In October 2019 Phase 1 of the Grenfell Tower Inquiry reported on the role played by aluminium composite material (ACM) cladding, fitted onto the exterior of the building. Sir Martin Moore-Bick, the Chairman of the Inquiry, found that the “principal reason why the flames spread so rapidly up, down and around the building” was the presence of combustible ACM cladding, “which acted as a source of fuel”.¹

2 In the wake of the Grenfell Tower disaster, the Ministry of Housing, Communities & Local Government (the Department) established the Building Safety Programme (the Programme) “to ensure that residents of high-rise residential buildings are safe, and feel safe from the risk of fire, now and in the future”.² While remaining clear that it is building owners who are responsible for ensuring the safety of their buildings, the Department has adopted an objective to “oversee and support the remediation³ of high-rise residential buildings that have unsafe aluminium composite material cladding”.⁴ The Programme is designed to implement this objective, as well as to reform building regulations and the construction industry in the light of flaws brought to light in the wake of the Grenfell tragedy (**Figure 1** on pages 6 and 7 and **Figure 2** on page 8).

3 In addressing longer-term reform, the Department, jointly with the Home Office, launched a review of the building safety regulatory system in July 2017, led by Dame Judith Hackitt. The review found that “the current regulatory system for ensuring fire safety in high-rise and complex buildings is not fit for purpose.”⁵ It made 53 recommendations, all accepted by the government; this includes the establishment of a new Building Safety Regulator with stronger enforcement powers.

1 Grenfell Tower Inquiry, *Grenfell Tower Inquiry: Phase 1 Report*, HC 49-I, October 2019, p. 12.

2 The Department defines “high-rise” to mean above 18 metres in height. This aligns with Building Regulations’ threshold for buildings requiring enhanced fire safety given the access height of a fire service vehicle.

3 Here, and throughout this report, “remediation” means the removal of dangerous cladding and its replacement by a safe alternative.

4 The Department has treated as “unsafe” those combinations of combustible ACM cladding and insulation which it understands would be unlikely to meet Building Regulations guidance to “adequately resist the spread of fire”.

5 Dame Judith Hackitt, *Building a Safer Future: Independent Review of Building Regulations and Fire Safety: Final Report* (Hackitt report), Cm 9607, Ministry of Housing, Communities & Local Government, May 2018.

Funding schemes

4 In May 2018 the Department announced £400 million to fund remediation for high-rise residential buildings with unsafe ACM in the social housing sector. In May 2019 it announced that around a further £200 million would be made available for the remediation of equivalent buildings in the private sector. These funds do not cover all buildings that fall within the Programme.

Concerns raised in relation to the Programme

Pace of progress

5 In his Phase 1 Report, Sir Martin Moore-Bick stated it was “essential” that ACM cladding be removed from the exterior of high-rise buildings “as quickly as possible”.⁶ However, concerns have been raised – for example, by the House of Commons Housing, Communities & Local Government Committee – as to the pace of remediation works.⁷ As at 30 April 2020 the Department had identified 456 buildings within scope of the Programme (18 metres and above, with unsafe ACM cladding systems).⁸ By this date 149 buildings had been fully remediated, leaving 307 which had yet to be fully remediated, with work having not yet begun on 167 of these.

Scope of the Programme

6 Concerns have also been raised by residents and stakeholders about risks present in buildings which fall outside the Programme’s main focus on high-rise blocks with ACM cladding.⁹ For example, the Cube, an accommodation block for University of Bolton students which caught fire in November 2019, was not included within the Programme’s monthly count of buildings to be remediated. It was narrowly below the 18-metre threshold and featured a different form of combustible cladding (high pressure laminate, or HPL). In the wake of this fire the Independent Expert Advisory Panel (Expert Panel), set up by the Department following the Grenfell Tower fire, issued updated advice that some cladding systems are unsafe on buildings of any height.

⁶ See footnote 1.

⁷ HC Housing, Communities & Local Government Committee, *Building regulations and fire safety: consultation response and connected issues*, Seventeenth Report of Session 2017–2019, HC 2546, July 2019.

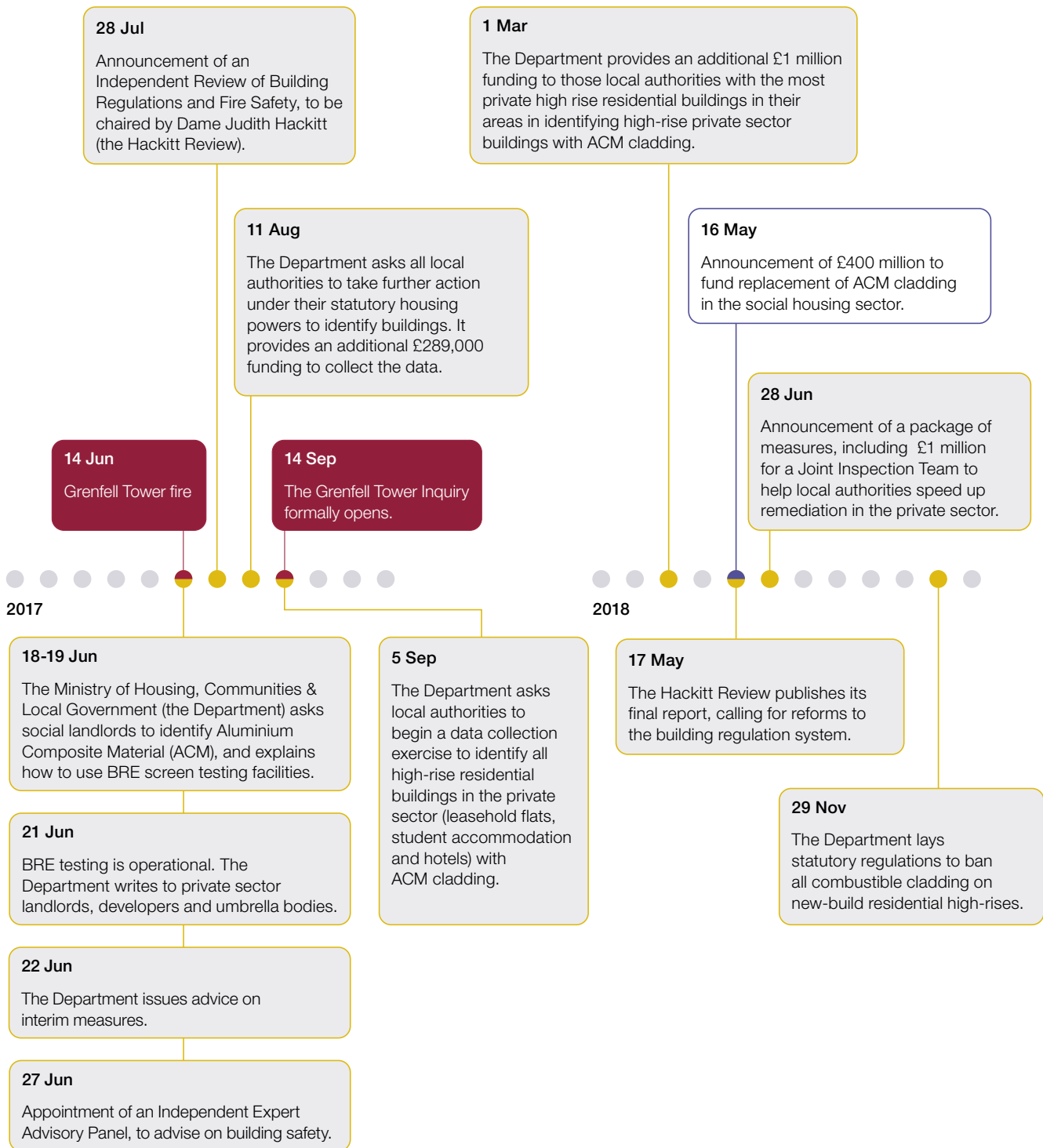
⁸ In all cases the Department’s remediation policies, and numbers of buildings identified as requiring remediation, refer to England only.

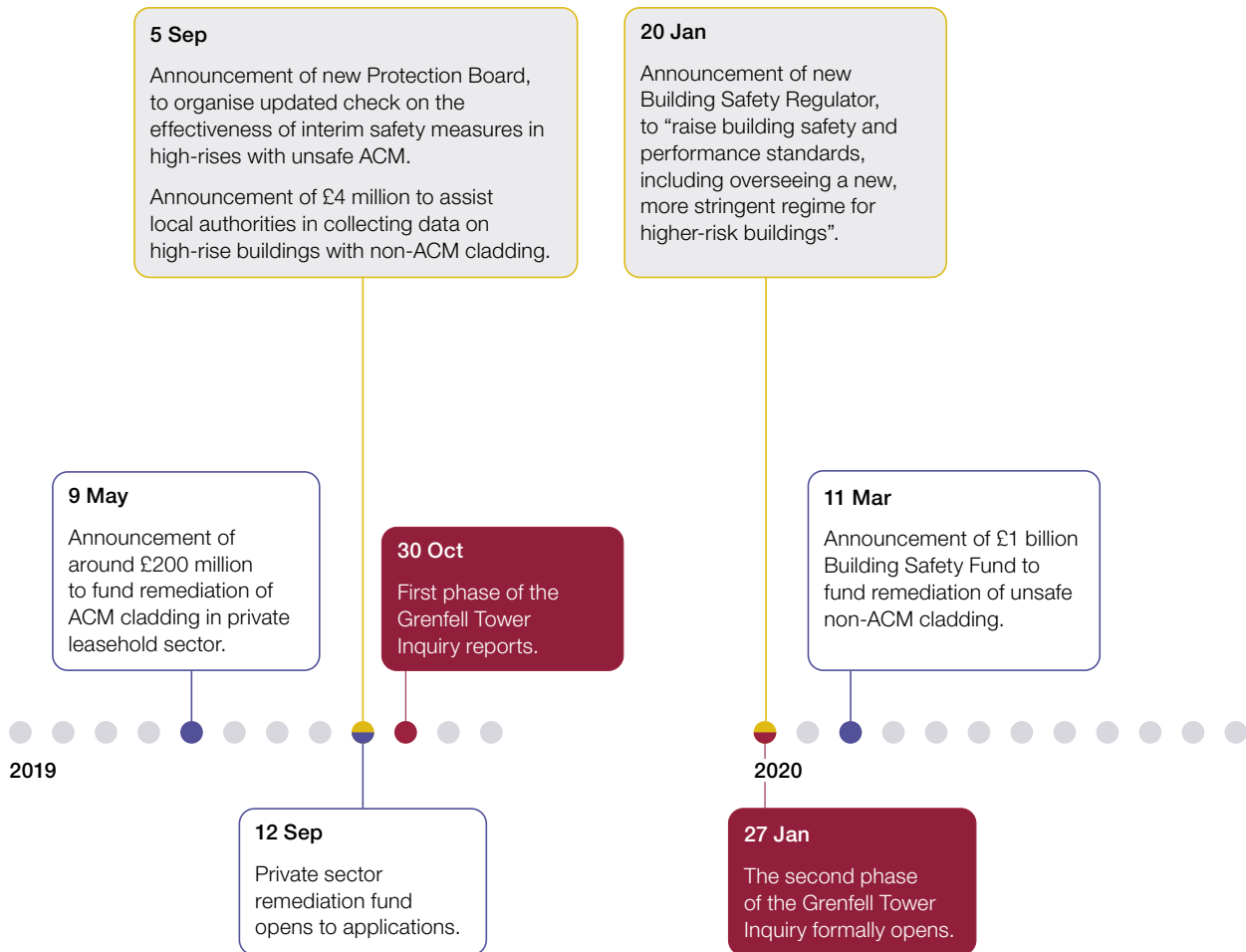
⁹ House of Commons Library, *Leasehold high-rise blocks: who pays for fire safety work*, Briefing paper 8244, February 2020, pp 19–20.

Figure 1

Timeline of key activities in the Building Safety Programme (the Programme), 2017–2020

Following the Grenfell disaster in June 2017, the Ministry of Housing, Communities & Local Government (the Department) established the Building Safety Programme





- Grenfell Tower fire and Inquiry
- Building Safety Programme
- Building Safety Programme: Funding schemes

Notes

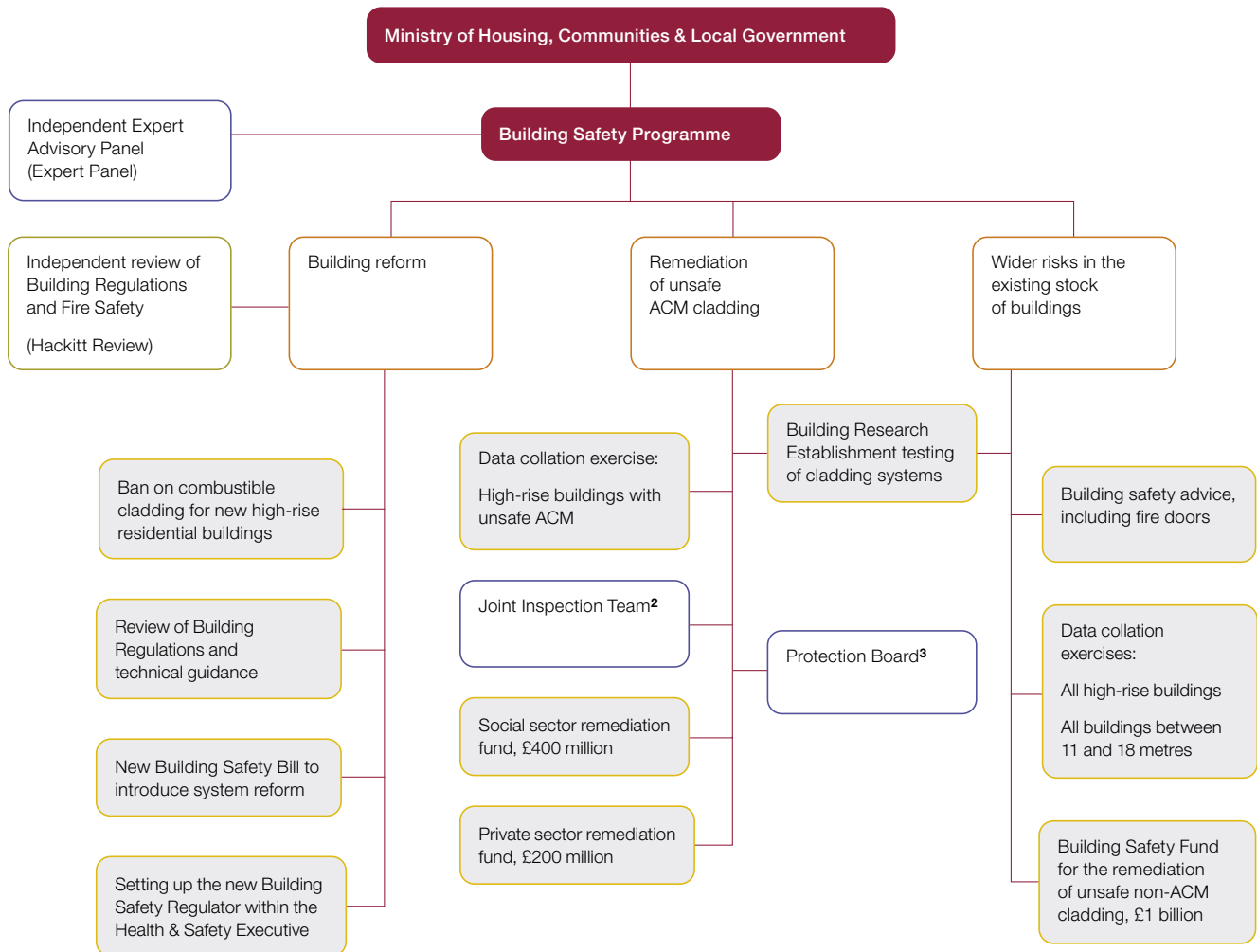
- 1 The Programme encompasses two main strands: Remediation (focusing on the replacement of unsafe ACM cladding on existing high-rise buildings) and Reform (focusing on reforms to building regulations and the construction industry, to ensure that this situation does not arise again). This report focuses on the Remediation strand, but this timeline reflects highlights of the Programme's activities as a whole.
- 2 The Department commissioned the Building Research Establishment (BRE) to test whether individual buildings were clad with unsafe ACM.

Source: National Audit Office selection of Building Safety Programme announcements. Ministry of Housing, Communities & Local Government: Building Safety Programme

Figure 2

The Building Safety Programme’s main work programmes, as at May 2020

The social and private sector funding schemes for the remediation of unsafe aluminium composite material (ACM) cladding sit within a wider Building Safety Programme (the Programme), which aims to reform the building safety system



- Work strands
- Main work programmes
- Independent Review
- Groups to support the delivery objectives of the Programme

Notes

- 1 The chart does not include amendments to the Fire Safety Bill, which sit with the Home Office. Among its measures the Fire Safety Bill, introduced in March 2020, will specify that the Fire Safety Order applies to external cladding. This seeks to give confidence to fire and rescue authorities in using their enforcement powers in relation to the external wall systems of high-rise residential buildings.
- 2 The Joint Inspection Team was set up with and is being delivered by the Local Government Association.
- 3 The Protection Board was established by the Home Office and National Fire Chiefs Council. Both the Ministry of Housing, Communities & Local Government and the Home Office provide funding to support its work.

Source: National Audit Office selection of Building Safety Programme announcements. Ministry of Housing, Communities & Local Government: Building Safety Programme

Funding for remediation

7 The Department itself has raised concerns about the public funding of remediation. In May 2019 the Department’s accounting officer requested a ministerial direction to proceed with a policy where the beneficiaries were private leaseholders. The accounting officer was concerned this policy did not meet value-for-money requirements. The Secretary of State issued a direction to proceed with the policy on the grounds that “the safety implications for residents and the need for pace” were more important than normal value-for-money considerations in this case.

Our investigation

8 Following these concerns, we conducted an investigation into how the Department:

- is assuring itself that it has correctly identified all the buildings which fall within scope of the Programme, and that they are being fully remediated (Part One);
- is managing the pace of progress of remediation (Part One); and
- has decided which buildings qualify for remediation funding, and how it has assessed risks outside the scope (Part Two).

9 This investigation makes reference to the Grenfell Tower fire in relation to the Programme. However, the investigation does not present any data nor findings on the Grenfell Tower fire itself.

Summary

Key findings

Progress of remediation

10 As at April 2020, 149 of the total 456 buildings, 18 metres and over with unsafe aluminium composite material (ACM) cladding, have been fully remediated. There are 154 social sector and 208 private sector residential buildings within scope of the Building Safety Programme (the Programme). The remaining 94 buildings within scope of the Programme comprise hotels (30 buildings), student accommodation (54 buildings) and publicly owned buildings (10 buildings). There are 307 buildings yet to be fully remediated, of which 167 buildings have not yet begun remediation works (paragraphs 1.13 and 1.14, and Figure 4).

11 The pace of remediation has been faster in the student accommodation and social housing sectors, but slower in the private residential sector. At April 2020, 66.7% of student accommodation blocks and 46.8% of social housing buildings had been fully remediated, compared with 13.5% of private sector residential buildings. As at the end of April 2020, the Ministry of Housing, Communities & Local Government (the Department) had paid out £1.42 million (0.7%) from the £200 million private sector fund for works already completed, and approved applications worth a further £24.98 million (12.5% of the total fund). At the same date the Department had paid out £133 million (33.3%) of the £400 million social sector fund. The legal entities responsible for the private sector buildings have been difficult to identify and have required more support throughout the process than initially expected. Administrative checks and controls on funding for private sector applications have also been more exacting; for instance, State Aid declarations are required from each leaseholder in private sector buildings in order to ensure the legality of the grant scheme. As at April 2020, two private sector residential buildings had still not applied for funding (paragraphs 1.15 to 1.20, and 2.14 to 2.17, and Figures 4, 6 and 7).

12 The Department currently estimates that all buildings within scope of its funding schemes will be remediated by mid-2022, with more than 95% completed by the end of 2021. For two-thirds of private sector buildings, the Department is drawing on building owners' forecasts of when their remediation works will be completed, while in one-third of cases (where building owners have not suggested a completion date) it is making assumptions based on completion times for those buildings already remediated. The forecast for full remediation of all buildings by mid-2022 goes beyond the then Secretary of State's expectation set out in July 2019, that "other than in exceptional circumstances, building owners should complete remediation [...] by June 2020". In addition to the difficulties of working with private building owners, the Department told us that remediation work on some sites has been more complex than initially anticipated. Shortages of skills and available contractors have also been observed. The Department has looked to increase the pace of remediation through supporting local authorities in undertaking enforcement action against building owners, engaging with building owners, and providing construction and project management expertise (paragraphs 1.13, 1.21, 1.22 and 1.27 to 1.31, and Figure 8).

13 Early signs are that the effects of COVID-19, and public health measures taken to limit its impact, have slowed down the recent pace of remediating unsafe buildings. As of April 2020, up to 60% of remediation projects had paused after the government announcement on 23 March 2020 of more stringent measures to enforce social distancing. On 27 March 2020 the Department issued a statement that remediation work is critical to public safety and sites should continue work if it can be done so safely. At the time of publication the Department has not assessed what impact this situation will have on its forecast dates for the completed remediation of all buildings within the Programme (paragraph 1.23).

14 More than one-quarter of buildings yet to be remediated are concentrated in four local authorities. London has a particularly high concentration of buildings within scope of the Programme, with three boroughs each containing more than 20 buildings yet to be remediated. As such, these authorities have experienced greater demands on their housing and planning departments; this comes in the context of a prolonged reduction in local authority resources (paragraphs 1.14 and 2.6, and Figure 5).

Scope and assurance

15 The Department had identified the majority of high-rise buildings with unsafe ACM cladding by summer 2018, although more buildings continue to be identified.

At the time of the Grenfell Tower disaster, no national database of high-rise residential buildings existed, regardless of cladding type. By September 2017 the Department had identified 173 high-rise social sector buildings with ACM cladding. The identification of private sector buildings has taken longer. By June 2018 the Department had identified 297 private sector high-rise buildings, including non-residential, with ACM cladding. The Department has continued to rule buildings in and out the scope of its funding schemes as it confirms the eligibility of each building or discovers new ones. Between December 2019 and April 2020 an additional 11 buildings were identified, confirmed and brought within scope of the private sector funding scheme (paragraphs 1.1 to 1.3, 1.7 to 1.9 and 1.12, and Figure 3).

16 The Department is aware of seven build-to-let properties above 18 metres with unsafe ACM cladding which are not eligible for private sector funding.

To be eligible for private sector funding a residential building must be 18 metres or over, have unsafe ACM cladding and contain at least one leaseholder resident. These seven build-to-let properties do not contain a leaseholder and therefore fall outside of the private sector funding scheme; the Department is clear that in these cases the building owner has a legal and financial obligation to pay for remediation themselves. The scheme's eligibility criteria have also ruled out funding the remediation of unsafe cladding which is not ACM. In an initial rough estimate for use in working assumptions, the Department considered there might be around 1,700 buildings above 18 metres with potentially unsafe non-ACM cladding. It has also estimated that applying a 30-centimetre tolerance to its 18-metre threshold would increase the number of buildings with unsafe cladding by approximately 45 (paragraphs 1.26, 2.5 and 2.23).

17 The Department estimates there to be around 85,000 buildings between 11 and 18 metres, but does not yet know how many of these have cladding systems, or what proportion of these might be unsafe ACM cladding.

The Department's Independent Expert Advisory Panel (Expert Panel) has advised that the most dangerous forms of ACM cladding and insulation are unsafe on buildings of any height. It also advises that where buildings have elderly and vulnerable residents this exacerbates the risks presented by unsafe cladding. The Department currently has no data on the number of care homes under 18 metres with such cladding, or other buildings with a high concentration of elderly or vulnerable residents. It will begin a data collection exercise for buildings between 11 and 18 metres in summer 2020. This builds on the first exercise, which looked at buildings 18 metres and over, and will expand the Department's evidence base (paragraphs 2.2 to 2.4, 2.7 and 2.8).

Funding schemes

18 The Department assessed its fund to remediate private sector buildings as not being value for money, but was clear it provided other benefits.

The Department modelled a counterfactual 'do nothing' approach in which, in the absence of funding, private building owners would remediate their buildings themselves by March 2030 as part of general maintenance. Up to 2030, the Department assumed that up to one-half of these buildings would continue to have 'waking watches' (overnight patrols to evacuate residents in case of fire); this was calculated as costing less than the £200 million in public funding for private sector remediation, which therefore did not appear to be value for money. The Department was, however, clear that by accelerating remediation in this sector, the fund would deliver significant non-monetisable benefits, including reduction in fire risks, improvements to residents' mental health and increases in affected property values (paragraph 2.13).

19 The Department has acknowledged that only in a minority of cases would it be financially justifiable for building owners to bring legal action to recover money.

To access the funding schemes, building owners must demonstrate they have made reasonable efforts to recover costs through insurance or warranty claims (or claims against those who may be liable). This is likely to involve owners taking advice on taking legal action against those responsible for installing the unsafe cladding. The Department expects the legal costs of taking action are likely to outweigh the costs for remediation works in a significant number of cases. It has estimated that some claims could also be time-barred for legal action to recover costs and in some cases potential defendants no longer exist or are insolvent. The Department anticipated that enforcing cost recovery from the outset could impact the pace of remediation. As at February 2020, the Department had recouped £0.8 million in the private sector, and a further £6.4 million in the social sector (paragraphs 2.18 and 2.19).

20 As at April 2020, the Department expects to pay for 94 projects (out of 208) in the private sector, where the developer or building owner has not agreed to fund remediation works themselves.

The owners of 84 (out of 208) private sector residential buildings have committed to funding the remediation works themselves, with a further 23 self-funded through accepted warranty claims. Seven buildings have not agreed a funding route as yet. In the social sector, the Department has committed to funding 139 (out of 154) residential buildings. As at February 2020, the Department projected a total cost of £194 million for private sector remediation works for 95 buildings (94 buildings as at April 2020) and £270 million for social sector remediation works for 139 buildings (paragraphs 2.9, 2.12 and 2.17).

21 The Department announced a further £1 billion funding in March 2020 for the remediation of unsafe non-ACM cladding in the social and private residential sectors.

The Department intends to commit the £1 billion in full by the end of March 2021. The new Building Safety Fund will cover high-rise buildings with unsafe non-ACM cladding, such as some types of high-pressure laminate. The data collection exercise that will inform this scope is ongoing. On 26 May 2020 the Department's Permanent Secretary requested a ministerial direction to proceed with funding, as it "does not meet the normal tests for value for money". The Department's fund prospectus was launched on the same day, and the registration for eligible building owners opened in early June. The Building Safety Fund allows for a 30-centimetre tolerance on applications for buildings under 18 metres. The Department plans to reflect this tolerance in the existing ACM funding schemes, where there is currently a threshold of 18 metres for applications. Administration of this new scheme may present significant challenges, given the resource-intensive demands of managing the existing social sector and private sector schemes, which are just over half as big (paragraphs 2.5, 2.21 to 2.23).

Part One

Ensuring buildings have been identified and made safe

Building Safety Programme

1.1 Following the Grenfell Tower disaster in June 2017, the Ministry of Housing, Communities & Local Government (the Department) established the Building Safety Programme (the Programme), with the aim “to ensure that residents of high-rise residential buildings are safe, and feel safe from the risk of fire, now and in the future”.¹⁰ To this end it has adopted an objective to “oversee and support the remediation of high-rise residential buildings that have unsafe aluminium composite material (ACM) cladding”.¹¹ ACM cladding has been identified as a significant cause of the Grenfell Tower tragedy. The Programme also encompasses wider building safety reform (see **Figure 2** on page 8). One of the Programme’s primary tasks has been identifying other high-rise buildings with Grenfell-style cladding. This has posed logistical challenges for the Department, which at the start of the Programme did not have a central dataset of high-rise buildings, or knowledge of how prevalent ACM cladding systems were.

¹⁰ Ministry of Housing, Communities & Local Government, *Building Safety Programme: Monthly Data Release*, 14 May 2020, p. 4.

¹¹ Ministry of Housing, Communities & Local Government, *Single Departmental Plan*, 27 June 2019.

Identifying buildings in scope of the Programme

Social housing sector

1.2 Immediately after the fire at Grenfell Tower, on 14 June 2017, the Department began contacting social landlords (local authorities and housing associations) to identify other high-rise buildings with similar cladding. Following the advice of a group of fire safety experts (which later became the Independent Expert Advisory Panel, or Expert Panel) convened by the Department on 17 June 2017, the Department commissioned the Building Research Establishment (BRE) to test whether individual buildings were clad with unsafe ACM.¹² On 18 June the Department wrote to social landlords, asking them to submit samples of ACM taken from their buildings for testing. Expert Panel members initially anticipated there would be few high-rise blocks with Grenfell-style cladding. By 26 June 2017 it had become clear similar buildings were significantly more prevalent, with 100% of the first 75 samples tested being found to be unsafe ACM. By September 2017, the Department had identified 173 high-rise social sector buildings with ACM cladding. As at 30 April 2020, a total of 154 social housing blocks had been identified as being within scope of the Programme.

Private housing and student accommodation

1.3 While encouraging the owners of private residential buildings and privately owned student halls to submit samples of cladding for testing in June 2017, the Department has not relied on self-reporting alone. In September 2017 it asked local authorities to carry out a data collection exercise on private sector residential high-rises in their area.¹³ The Department provided local authorities with lists of buildings to investigate (which it had compiled through desk-based research); local authorities supplemented this with local knowledge. This exercise identified more than 6,000 buildings for further investigation.¹⁴ While local authorities have legal powers to request information from building owners, obtaining information on these buildings remains challenging. Challenges include difficulties tracing owners, incomplete building records and cases where the construction materials differ from those referred to on building plans. In 2017-18 the Department provided local authorities with £0.29 million funding for this work,¹⁵ with an additional £1 million granted in March 2018 for those local authorities with 11 or more buildings to investigate.¹⁶ As at 30 April 2020, 208 private residential buildings and 54 student halls had been identified as requiring remediation under the Programme.

¹² In July 2017 the Department further commissioned BRE to carry out large-scale cladding systems testing, focused on differing types and combinations of ACM cladding and insulation. The results of this work have provided information on the risks or safety of different cladding systems (see paragraph 2.1).

¹³ Ministry of Housing, Communities & Local Government, *Identifying all residential tower blocks with Aluminium Composite Material (ACM) cladding: Follow up guidance*, Letter to local authority chief executives, 5 September 2017.

¹⁴ Hansard HC, 28 June 2018, HCWS811.

¹⁵ Ministry of Housing, Communities & Local Government, *Letter about identifying all residential tower blocks with ACM cladding – new burdens assessment update*, Building Safety Programme Letter 17, 18 October 2017.

¹⁶ Ministry of Housing, Communities & Local Government, *Letter to the Local Government Association on government support for identification of private sector buildings over 18 metres with potentially unsafe ACM cladding*, Building Safety Programme Letter 18, 1 March 2018.

Publicly owned buildings

1.4 The Department for Education (DfE) has identified buildings under its remit and within the scope of the Programme (schools, further education (FE) colleges, and student halls owned by universities). The DfE surveyed more than 6,000 school bodies, asking them to provide details of buildings above four storeys alongside all residential student accommodation; it followed up with further contacts and site visits to identify which had ACM cladding. It undertook similar exercises in the FE sector, and in respect of student accommodation owned by universities. As at 30 April 2020, one school building had been identified as within scope, as well as seven university-owned student halls and a FE residential building.¹⁷ The DfE paid for the remediation of the school and FE building, and asked higher education institutions to fund remediation of the student accommodation they owned. In addition, the DfE has funded remediation of one school which is slightly below the 18-metre limit for inclusion in the Programme.

1.5 The Department of Health & Social Care (DHSC) has identified NHS buildings within scope of the Programme. As at 29 February 2020, nine hospitals had been identified as within scope, with two of them having already been fully remediated.¹⁸ In January 2020 we reported on the Royal Liverpool University Hospital as part of our investigation into the rescue of Carillion's PFI hospital contracts. In 2018 this new-build hospital, which has not yet opened, was revealed to have been constructed with cladding that did not conform to the relevant fire regulations. We reported that the cost of fixing the cladding had been estimated to be in the region of £50 million, which will be met by public funding, additional to the social and private funding schemes.¹⁹ (See paragraphs 2.9 and 2.12.)²⁰

17 In our analysis, one school building is counted as part of the 10 publicly owned buildings. The seven university-owned student halls and one FE residential building are counted as part of the 54 student accommodation buildings (see Figure 4).

18 Due to the prioritisation of activities within DHSC as a result of COVID-19, the monthly data returns for health buildings in March and April 2020 have not been updated.

19 Comptroller and Auditor General, *Investigation into the rescue of Carillion's PFI hospital contracts*, Session 2019-20, HC 23, January 2020, para 1.19.

20 The Department also ensured that other government departments checked their estates for the presence of ACM cladding on high-rise buildings where people slept overnight. No other buildings matching this scope were identified through that exercise.

Hotels

1.6 Hotels are subject to more rigorous fire safety regulations, and more comprehensively regulated by fire and rescue services, than residential buildings. The Department has engaged with large hotel chains, as well as independent hotels and small chains, and asked them to self-report high-rise hotels with unsafe ACM cladding. It also asked local authorities to include hotels within their data collection exercise, although local authorities were limited by their lack of legal powers to obtain such information. The Department has gained additional information on hotels from liaison with the Home Office and National Fire Chiefs Council. As at 30 April 2020, 30 hotels had been identified as in scope, of which 10 had been fully remediated. The Department is having ongoing conversations about five buildings, where the owners maintain the ACM cladding does not need to be replaced.

Changes to the number of buildings in scope

1.7 Since December 2017 the Department has been publishing monthly figures on the number of high-rises with unsafe ACM. Initially it hoped to have largely identified all these buildings by summer 2018. Although it will be difficult to fully know when all buildings are identified, the Department has identified a significant number, with identified buildings climbing from 284 at end November 2017 to 470 in June 2018 (**Figure 3** on pages 20 and 21). Subsequently, some buildings have been taken out of scope again. This might happen, for instance, if testing reveals that a building's ACM cladding would pass fire safety criteria (for example, if it has fire-retardant filler and has been fitted with non-combustible insulation such that it would pass fire safety tests). In at least seven cases buildings have been taken out of scope after they were remeasured and found to be just below the 18-metre threshold. In some cases, local authorities have independently measured the height of buildings to verify whether they are in scope.

1.8 More recently there have been increases to the number of private buildings identified as a result of factors including:

- private building owners self-reporting their buildings, including some which had previously self-reported that their buildings did not feature unsafe ACM cladding (the Department believes its 2019 announcement of funding for such remediation has encouraged this);
- additional buildings (16 to date) being suggested by local fire and rescue services through recent reinspection work under the Protection Board, with one confirmed as at end March 2020 (see paragraph 1.12); and
- additional buildings being identified by local authorities in a second data collection exercise in 2019-20 (see paragraph 2.5).

1.9 While such recent additions are relatively small, they are not insignificant (for example, 11 additional buildings have been identified and brought within scope of the Programme between December 2019 and April 2020). This illustrates both the difficulties the Department has experienced in obtaining information about buildings in the private sector, and the extent to which its engagement with fire and rescue authorities and local authorities has helped to discover new information. The Department has not closed this exercise of searching for more buildings and will continue to add and track remediation where any new buildings are identified.

Assurance on safety pending and following remediation

1.10 The Department relies on local authorities to confirm that a building in scope of the Programme has been signed off (either by the local authority's own building control or by approved inspectors) as having been fully remediated. In some cases this sign-off may be given by the same building control or approved inspectors that signed off the original construction, featuring the unsafe ACM cladding.²¹ Even where this may be the case the Department has confidence in the robustness of local building control and approved inspectors. It believes there is a greatly improved understanding throughout the sector of dangerous cladding systems as a result of BRE testing, reinforced by the Department's 2018 ban on combustible cladding in new-build high-rises, specific guidance it has issued to building control and approved inspectors, and advice published by the Expert Panel.²² Fire and rescue services also have a role to play in reinspecting buildings that have been remediated, and which thus withdraw interim safety measures such as 'waking watches'.

²¹ In other cases the original sign-off may have been given by a private building inspector.

²² Ministry of Housing, Communities & Local Government, *Government bans combustible materials on high-rise homes*, Press release, 29 November 2018; *Circular letter on recladding of tall buildings*, 13 July 2017; *Advice for Building Owners of Multi-storey, Multi-occupied Residential Buildings*, January 2020.

Figure 3 Number of buildings identified with aluminium composite material (ACM) cladding systems unlikely to meet Building Regulations in England, December 2017 to April 2020

The Ministry of Housing, Communities & Local Government (the Department) has taken longer to identify private sector residential high-rise buildings with unsafe ACM cladding compared with the social sector

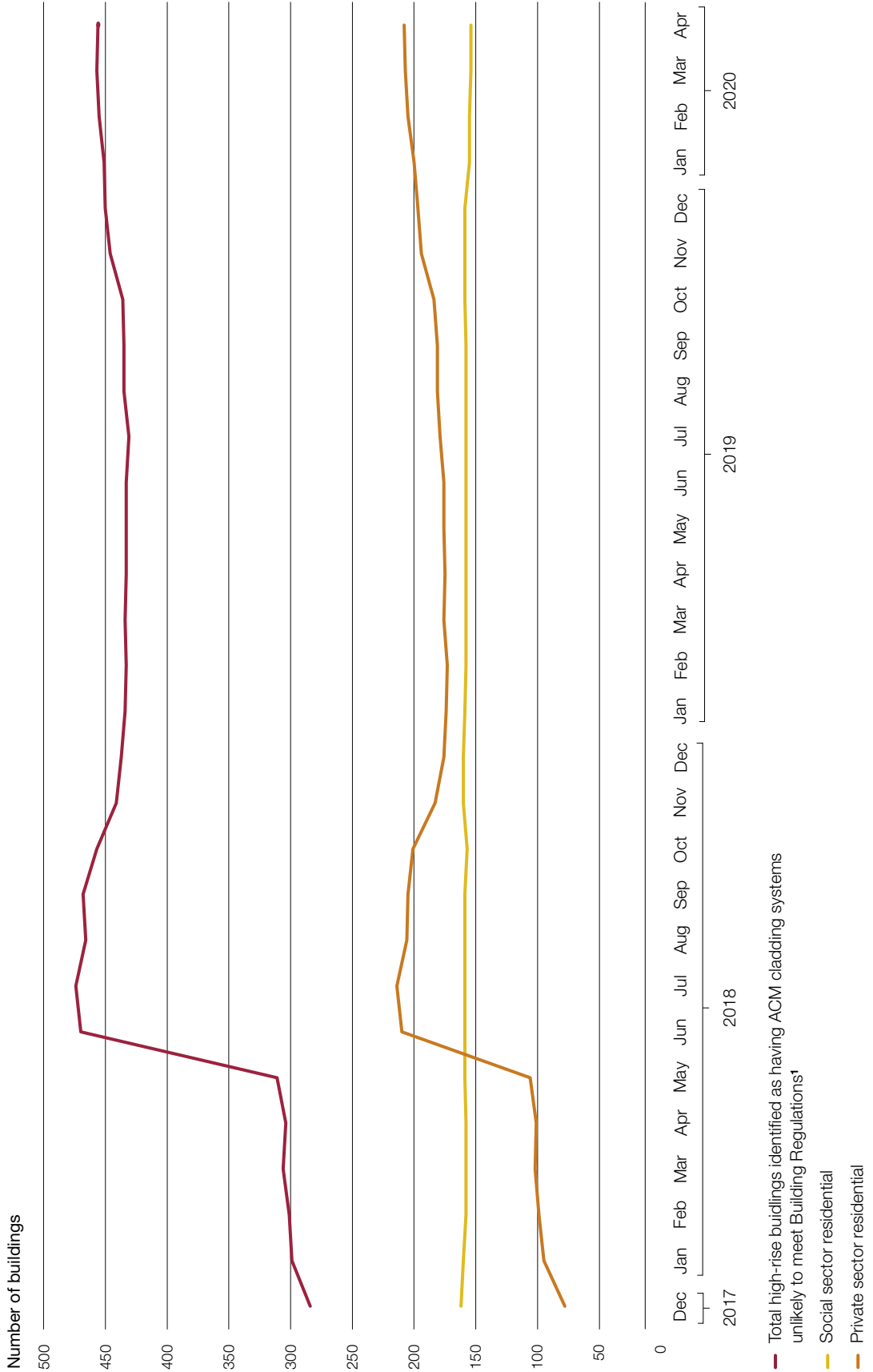


Figure 3 continued
 Number of buildings identified with aluminium composite material (ACM) cladding systems unlikely to meet Building Regulations in England, December 2017 to April 2020

	Dec 2017	Jan 2018	Feb 2018	Mar 2018	Apr 2018	May 2018	Jun 2018	Jul 2018	Aug 2018	Sep 2018	Oct 2018	Nov 2018	Dec 2018	Jan 2019	Feb 2019	Mar 2019	Apr 2019	May 2019	Jun 2019	Jul 2019	Aug 2019	Sep 2019	Oct 2019	Nov 2019	Dec 2019	Jan 2020	Feb 2020	Mar 2020	Apr 2020	
— Total high rise buildings identified as having ACM cladding systems unlikely to meet Building Regulations ^{1,2,3}	284	299	301	306	304	311	470	474	466	468	457	441	437	434	433	434	433	433	433	431	435	435	436	446	450	451	455	457	456	
— Social sector residential	162	160	158	158	158	159	159	159	159	159	157	160	160	159	158	158	158	158	158	158	158	158	158	159	159	155	155	154	154	154
— Private sector residential	78	95	99	102	101	106	210	214	206	205	201	183	176	174	173	176	175	176	176	179	181	181	184	194	197	200	205	207	208	

Notes

- 1 Data before December 2017 are excluded as they are not directly comparable with following months. December 2017 reflects the position as at the end of November 2017.
- 2 Buildings are classed as being 'unlikely to meet the Building Regulations' if they have been identified as having ACM cladding, but have not yet been tested as to whether this cladding meets the regulations.
- 3 Total high-rise buildings include both residential and other buildings, including student accommodation, hotels and public buildings. As a result, social sector and public sector residential do not sum to total high-rise buildings.
- 4 Private sector data by sector tenure type are not available for June and July 2018. The number of private non-residential buildings for August 2018 are subtracted from each of these months to create a residential estimate for June and July 2018.
- 5 The steep increase in June 2018 was as a result of the inclusion of private sector buildings as confirmed by local authorities (297 buildings, including non-residential).
- 6 The total number of buildings may fall between months as buildings fall out of scope. This could be as buildings are found to be less than 18 metres, or the cladding on the building is not found to be unsafe ACM.
- 7 Due to the prioritisation of activities within the Department of Health & Social Care as a result of COVID-19, the monthly data returns for health buildings in March and April 2020 have not been updated, and reflect the position at the end of February 2020.

Source: National Audit Office analysis of Ministry of Housing, Communities & Local Government data on the Building Safety Programme

1.11 Where the Department is funding remediation in the private sector (see paragraph 2.12) it seeks additional assurance that the building has been fully remediated and costs are appropriate. This includes:

- each building that applies for funding must submit a specification, detailing the works to be done and materials to be used, for scrutiny and approval by the Department's delivery partners (Homes England and the Greater London Authority), drawing on advice from external technical consultants;
- the Department pays in arrears based on submitted receipts for works and materials; and
- the delivery partners will send technical experts on site visits while work is ongoing. These visits do not have the status of building control and will not seek to duplicate its role but will check that works have been carried out as claimed for.

Together, the Department is confident these controls should provide additional assurance that replacement cladding systems comply with building regulations, and that costs have been kept to a minimum.

1.12 For buildings pending remediation, local fire and rescue services have assessed whether fire safety risks can be sufficiently mitigated to enable residents to stay. In the initial stages of the Programme, when the Department became aware that a building may have unsafe ACM cladding it shared this information with the National Fire Chiefs Council, which oversaw and informed the response by local fire and rescue services. This resulted in inspections which required a range of interim measures to be in place until the buildings had been remediated: often these included 'waking watches', designed to monitor buildings overnight and raise the alarm in case of fire. In September 2019 the Home Office, supported by the Department, established the Protection Board. Run by the National Fire Chiefs Council, this has organised an updated check on the effectiveness of interim measures by local fire and rescue services.²³ The Department has set a deadline for the Protection Board to have inspected or assured all high-rises by no later than 2021.²⁴ This process has led to the identification of at least one further building that falls within the Programme remit.

²³ Hansard HC, 5 September 2019, vol 664, col 372.

²⁴ See footnote 23.

Progress in remediation

Progress to date

1.13 On 18 July 2019 the then Secretary of State stated his expectation that remediation plans should be in place by the end of December 2019, and that “other than in exceptional circumstances, building owners should complete remediation within six months of agreeing a plan, by June 2020”.²⁵ As at April 2020, of the 456 high-rise buildings identified with unsafe ACM cladding, 149 buildings had been fully remediated (**Figure 4** overleaf). This falls below the Department’s expectations of progress by this point. It aimed for works on all social sector residential buildings to have started by April 2019 (21 buildings had not started), for works on 50% of these buildings to have been completed by August 2019 (38% had completed), and to have received applications for all private sector residential buildings eligible for funding by December 2019 (two outstanding as at April 2020). The Department believes the reference to June 2020 imparted a valuable sense of urgency to the Programme. It says it intended for this to work as a ‘stretch target’ to drive greater pace, and that it always expected this target to be challenging to achieve.

1.14 There are 307 buildings yet to be remediated; the majority of these are private residential (180 buildings). More than half of all buildings not remediated are still to begin works. The buildings to be remediated are across 56 local authorities, with more than one-quarter of these concentrated in four authorities (**Figure 5** on page 25).

²⁵ Hansard HC, 19 July 2019, vol 663, col 56WS.

Figure 4

Progress in remediating unsafe aluminium composite material (ACM) cladding under the Building Safety Programme, as at April 2020

The progress in remediating buildings with unsafe ACM cladding has varied across sectors, with the private residential sector seeing the slowest pace

Sector	High-rise buildings identified with unsafe ACM cladding	Remediation completed (% of total)	Remediation begun ⁵ (% of total)	Remediation not yet begun (% of total)
Social sector residential	154	72 (47)	73 (47)	9 (6)
Private sector residential	208	28 (13)	49 (24)	131 (63)
Student Accommodation	54	36 (67)	12 (22)	6 (11)
Hotels	30	10 (33)	4 (13)	16 (53)
Publicly-owned buildings	10	3 (30)	2 (20)	5 (50)
Total	456	149 (33)	140 (31)	167 (37)

Notes

- 1 The Ministry of Housing, Communities & Local Government (the Department) established the Building Safety Programme in June 2017. In July 2019, the then Secretary of State stated his expectation that "other than in exceptional circumstances, building owners should complete remediation within six months of agreeing a plan, by June 2020".
- 2 Percentages represent the proportion of each remediation stage for each tenure.
- 3 Percentages may not sum to 100% due to rounding.
- 4 Due to the prioritisation of activities within the Department of Health & Social Care as a result of COVID-19, the monthly data return for health buildings in March and April 2020 have not been updated, and reflect the position at the end of February 2020.
- 5 Buildings that are counted as 'remediation begun' may have had unsafe cladding removed and awaiting further works, or completed all works and awaiting sign-off from building control. The Department started to report this breakdown from April 2020. Of the 140 buildings that had begun remediation in April 2020, 14 had finished works and were awaiting sign-off from building control, 42 had unsafe cladding removed, and the remaining 84 still had unsafe cladding fitted.

Source: National Audit Office analysis of Ministry of Housing, Communities & Local Government data on the Building Safety Programme

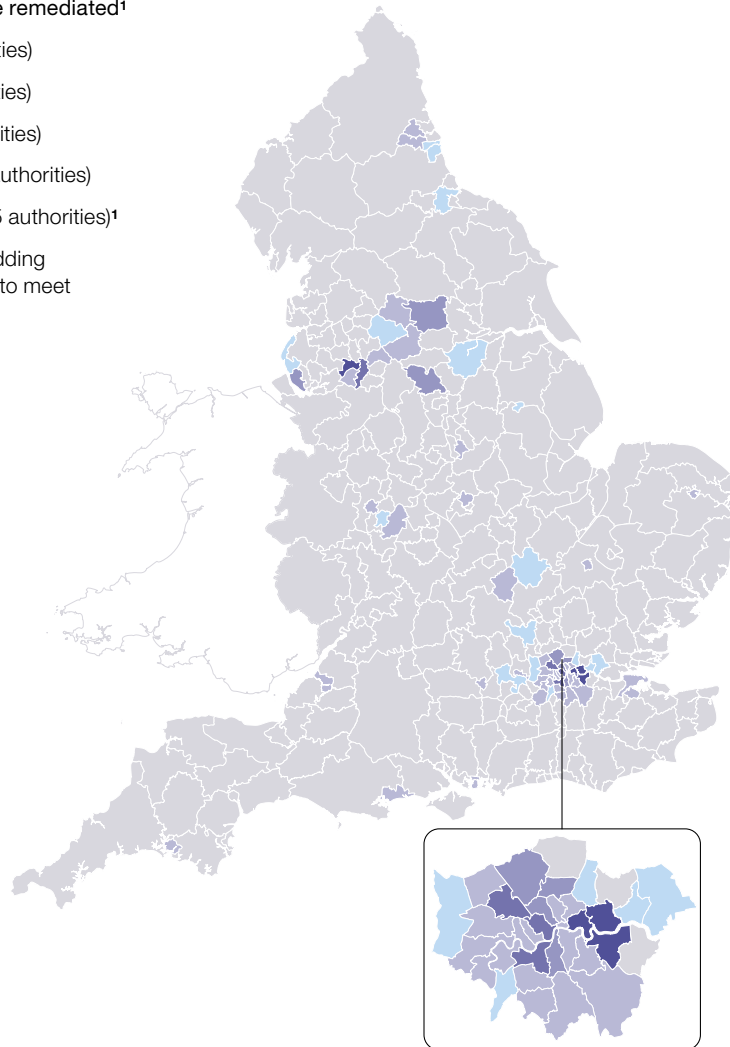
Figure 5

Number of buildings yet to be remediated with aluminium composite material (ACM) cladding systems are unlikely to meet Building Regulations, by local authority in England as at April 2020

There are 56 local authorities with buildings 18 metres and over with ACM cladding systems which are unlikely to meet Building Regulations and are yet to be remediated, with at least 15 of these authorities containing more than five buildings each

Number of buildings yet to be remediated¹

- 1 to 5 buildings (36 authorities)
- 6 to 10 buildings (7 authorities)
- 11 to 20 buildings (4 authorities)
- More than 20 buildings (4 authorities)
- All buildings remediated (15 authorities)¹
- No buildings with ACM cladding systems which are unlikely to meet Building Regulations¹

**Notes**

- 1 As at April 2020, a total of 75 local authorities were identified as containing at least one building with ACM cladding which is unlikely to meet Building Regulations. Of these 75 local authorities, 56 authorities contain at least one building yet to be remediated and 19 authorities have had all buildings fully remediated. Map data may not sum to these totals, as data exclude authorities where there are fewer than 10 high-rise buildings in the area. This is to ensure that buildings with unsafe ACM cladding cannot be identified.
- 2 As at April 2020, across all local authorities in England, 307 buildings are yet to be remediated.
- 3 The local authorities with more than 20 buildings yet to be remediated, as at April 2020, are: Greenwich, Newham, Salford and Tower Hamlets.
- 4 Data report on the range and not the exact numbers of buildings within a local authority.
- 5 Data include all high-rise buildings with unsafe ACM cladding; including social and private sector residential, student accommodation, hotels and publicly-owned buildings.

Source: National Audit Office analysis of Ministry of Housing, Communities & Local Government data on the Building Safety Programme

Pace of remediation

Social sector and private sector residential

1.15 The pace of remediation has been quicker with residential buildings in the social sector (46.8% fully remediated), compared with the private sector (13.5% fully remediated) (**Figure 6** and **Figure 7** on page 28). Since the announcement of private sector funding in May 2019, 15 private residential buildings have been remediated; this compares with 40 social sector residential buildings remediated over an equivalent 11-month period since the announcement of social sector funding in May 2018.

Private sector pace

1.16 A number of private sector building owners have reportedly struggled or been unprepared to fund remediation works themselves. The Department believes that its announcement of funding in May 2019 encouraged private building owners to engage with the Programme. Between May 2019 and April 2020 there was an increase of 63 private sector residential buildings with at least plans for remediation.

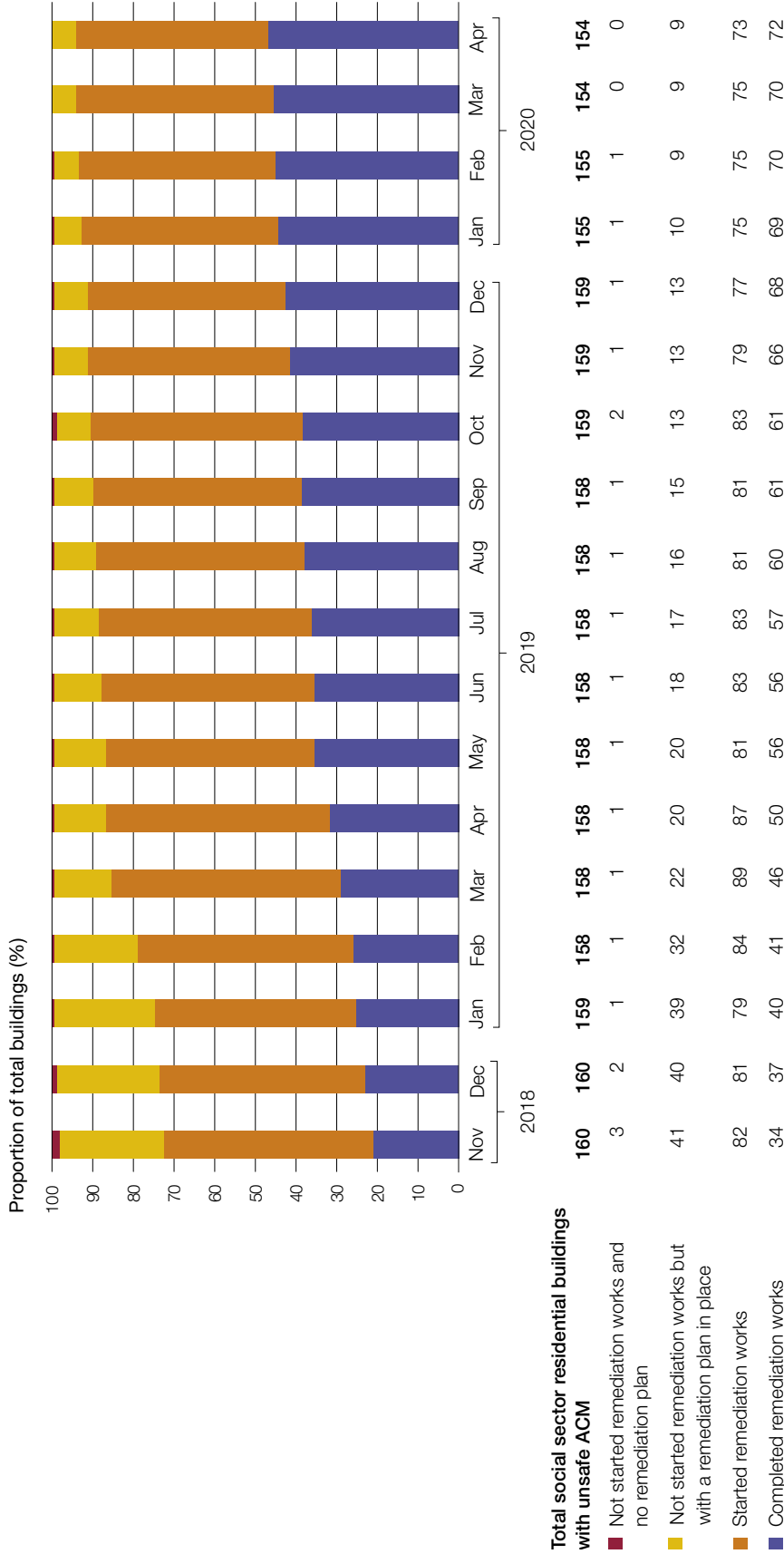
1.17 The Department and its delivery partners have had difficulty in identifying building owners responsible for cladding remediation works, which has impacted on the pace of some applications for funding. Some buildings have been found to have complex ownership arrangements, for example involving offshore investors, and many buildings are mixed-use and involve multiple layers of ownership and responsibilities. For example, a single building may have a freeholder, an intermediary leaseholder/head leaseholder represented by a managing agent, a registered provider of social housing responsible for flats designated as affordable housing, plus residential leaseholders and commercial leaseholders. In each case a single legally responsible entity for the entire building has to be identified as a precondition for progressing with an application for funding. This is unlike the social sector, where ownership has been more straightforward to identify.

1.18 Ten buildings within scope of the Programme had not applied for the private sector funding scheme by the deadline in December 2019. As at April 2020, of the 94 private sector buildings eligible for the fund, two are still to apply. The Department will consider any more applications beyond the original deadline on a case-by-case basis.

1.19 The Department's delivery partners, Homes England and the Greater London Authority, have found many private sector applicants to have required more support throughout the application process than the Department initially expected.

Figure 6 Progress of remediation of social sector residential high-rise buildings with unsafe aluminium composite material (ACM) cladding in England, as at April 2020

As at April 2020, 46.8% of social sector residential high-rise buildings had completed remediation of unsafe ACM cladding, with 5.8% having not started works

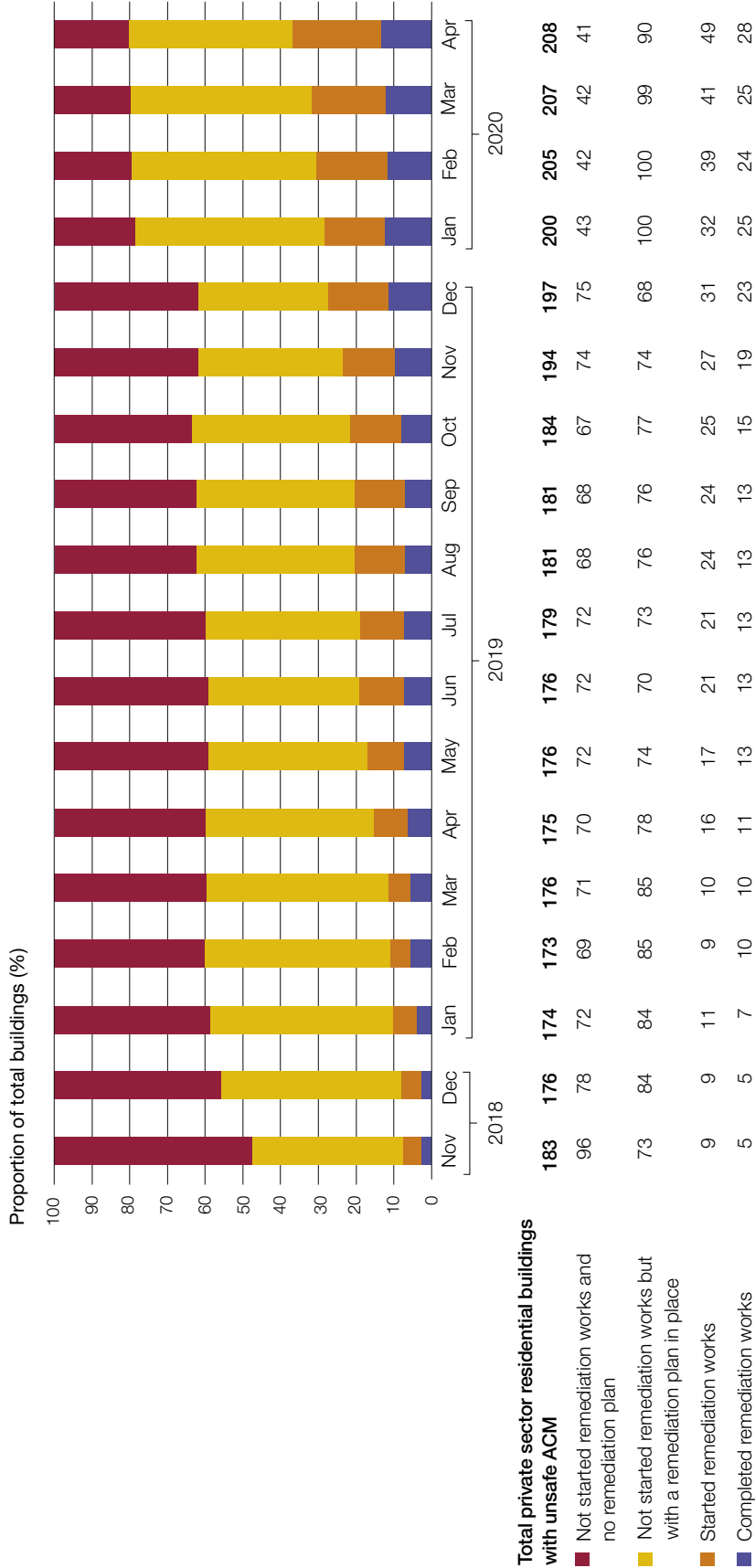


Notes

- 1 In May 2018, the government committed £400 million to a national social sector cladding remediation fund. Data cover all social sector residential high-rise buildings that fall within scope of this fund. Applications were accepted from September 2018.
- 2 Data only cover residential buildings, and not wider publicly owned high-rise buildings requiring remediation works, such as schools and hospitals. As at April 2020, there were three publicly owned buildings that had completed remediation works, two that had started works, and five that had not started works, of which four had plans in place.
- 3 The total number of buildings may change month to month as high-rise buildings are ruled in and out of scope of the funding scheme.
- 4 Data reporting began in December 2017, but a consistent format began from November 2018.

Figure 7 Progress of remediation of private sector residential high-rise buildings with unsafe aluminium composite material (ACM) cladding in England, as at April 2020

As at April 2020, 13.5% of private sector residential high-rise buildings had completed remediation of ACM cladding, with 63.0% having not started works



Notes

- 1 In May 2019, the government committed £200 million to a national private sector cladding remediation fund. Data cover all private sector residential high-rise buildings that fall within scope of this fund. Applications were accepted from September 2019.
- 2 Data only include private sector residential high-rise buildings, and not wider privately-owned high-rise buildings, which include hotels and student accommodation. As at April 2020, there were 84 privately owned high-rise buildings identified with ACM cladding systems (54 student accommodation buildings and 30 hotels). Of these, 46 had completed remediation works, 16 had started works, and 22 had not started works, of which 15 had remediation plans in place.
- 3 The total number of buildings may change month to month as high-rise buildings are ruled in and out of scope of the funding scheme. A building was removed from the 'remediation complete' classification in February as the building owner decided to carry out further works to install replacement cladding; the unsafe ACM cladding had been removed.
- 4 Data reporting began in December 2017, but a consistent format began from November 2018.

Source: National Audit Office analysis of Ministry of Housing, Communities & Local Government data on the Building Safety Programme

1.20 Once the application has been received, due diligence involved in the private sector programme has been more thorough compared with the social sector. Whereas building owners in the social sector have been allowed to self-certify aspects of the application, the private sector has not. This has also included State Aid declarations as part of the private sector fund, which must be filled out by all leaseholders in each building (see paragraphs 2.14 and 2.15).²⁶ The Department believes that these additional checks have been essential to safeguard public money and the legality of the private sector funding scheme.

Overall pace

1.21 The Department is aware of complicating factors which have impeded progress. Where unsafe cladding is present in new-builds, as opposed to having been retrofitted to the exterior of an existing building, it may form an integral part of the external walls; this may complicate and delay the remediation project. In some cases, the siting of a building may pose particular difficulties, for instance if backing onto railway lines. In many cases inspection of cladding has revealed other significant flaws in construction and fire safety. The Department is not funding these wider safety flaws.

1.22 We were also told of the shortage of skills or personnel needed to complete remediation work. There are examples of building projects that have struggled to procure a contractor for works; this has been a particular issue with fire engineers. Announcement of further funding and a wider scope of buildings (see paragraph 2.21), could increase this as a risk.

1.23 On 23 March 2020 the government announced measures to prevent the spread of COVID-19, including the immediate closure of some businesses.²⁷ On 27 March 2020, the Department issued a statement that remediation work is critical to public safety, and sites should continue work if it can be done safely.²⁸ While this is a developing picture, and the impact on remediation works is difficult to assess currently, at the end of April 2020 remediation work had paused on up to 60% of sites.²⁹ The Secretary of State, together with city and regional mayors and council leaders, has issued a joint pledge to ensure vital safety work can continue, where necessary social distancing rules are being followed.³⁰

²⁶ State Aid declarations are not required as part of the social sector fund due to a Services of General Economic Interest exemption.

²⁷ Cabinet Office and Ministry of Housing, Communities & Local Government, *Closing certain businesses and premises*, 23 March 2020.

²⁸ Ministry of Housing, Communities & Local Government, *Remediation and COVID-19: Building Safety update*, 27 March 2020.

²⁹ Hansard HC, 28 April 2020, vol 675, col 203.

³⁰ Ministry of Housing, Communities & Local Government, *Joint pledge to continue vital building safety work during pandemic*, Press release, 16 April 2020.

Other high-rise buildings

1.24 As at April 2020, 45 non-residential high-rise buildings within the Programme were yet to be remediated. This comprised 18 student accommodation buildings, 20 hotels and seven hospitals. Of these buildings, five hotels and two hospitals were without a remediation plan. Owners of the five hotels said they had received professional advice that the buildings do not require remediation. The Department is currently reviewing these buildings.

1.25 Of the two hospitals that do not have a remediation plan in place, one has now reported an intent to remediate, which will be funded by its PFI (private finance initiative) provider. The building owner of the second hospital believes that the fire risk mitigations in place are sufficient. The Department of Health & Social Care is currently reviewing this.

1.26 The Department is not funding the remediation of build-to-let buildings. The Department is aware of seven build-to-let buildings (one of which has now been fully decanted, meaning no residents currently live there) which would be eligible for its private sector funding scheme if they contained at least one leasehold unit. However, because only tenants in the private rented sector live in them they do not qualify; the Department is clear that in these cases the building owner has a legal and financial obligation to pay for remediation themselves. Of these seven buildings, one has begun remediation and is expected to complete by May 2021; five intend to start works in June 2020 and are expected to complete in six months; and the final building is due to begin remediation in January 2021. The Department says that it will continue to monitor progress, relying on enforcement by local authorities and fire and rescue services to ensure this remediation takes place.

Steps taken to quicken pace

Engagement

1.27 In December 2019 the Secretary of State wrote to all owners of high-rise buildings from all sectors with unsafe ACM cladding that had not completed remediation to encourage pace and remind them of the possibility of enforcement. In February 2020 the Department 'named and shamed' owners of private sector residential buildings that had not put remediation plans in place (where this did not identify individual buildings).³¹ As at May 2020, the Department had named five entities.³² In addition, the Department's engagement activities have included the following:

³¹ Ministry of Housing, Communities & Local Government, *Aluminium composite material cladding: Corporate entities without a plan for remediating unsafe ACM cladding*, 24 February 2020.

³² List of entities as at May 2020: Adriatic Land 3 Limited, Chaplair Limited, Grangewalk Developments Limited, RMB 102 Limited, STG Management (London) Limited. Ministry of Housing, Communities & Local Government, *Corporate entities without a plan for remediating unsafe ACM cladding*, www.gov.uk/guidance/aluminium-composite-material-cladding, February 2020.

- All identified high-rise ACM residential buildings have a named UK contact with whom the Department and/or its delivery partners engage on a regular basis to seek remediation progress.
- Where the Department feels progress is unacceptably slow it has directly communicated with the chief executives and chairs of relevant housing developers or building owners, to reinforce the need for pace.
- Contact has been made with all university vice chancellors where students may be staying in privately owned accommodation with ACM cladding, asking them to engage with the building owners to increase progress.
- The Department's Permanent Secretary has hosted a roundtable meeting with local authorities which are vital to supporting remediation, to reiterate the need for pace, share concerns and highlight good practice.

Expertise

1.28 In February 2020 the Department appointed an expert from the Infrastructure and Projects Authority with the aim of increasing the pace of remediation construction works, particularly relating to more complex projects. It has also procured project management expertise to support building owners or their agents in organising the tendering and management of remediation projects, and to support the Department in overseeing remediation.

Enforcement

1.29 Local authorities have enforcement powers under the Housing Act 2004 to enforce remediation of unsafe cladding.³³ To support local authorities to use their legal powers the Department announced the formation of a Joint Inspection Team (JIT) in December 2018, with the Local Government Association (LGA) as delivery partner.³⁴ The JIT uses environmental health, building control and fire safety expertise to inspect buildings and provide advice to local authorities. The JIT did not inspect its first building until July 2019 due to difficulties in obtaining indemnity insurance. Between July 2019 and March 2020 it visited seven buildings, averaging around one building per month, and has supported local authorities to take enforcement action against the owners of three buildings. In two cases the building owners have challenged these findings, resulting in ongoing mediation processes. Some local authorities have used their enforcement powers without using JIT support.

³³ Ministry of Housing, Communities & Local Government, *Local Authority Enforcement Powers under the Housing Act 2004*, 21 February 2019.

³⁴ Hansard HC, 18 December 2018, HCWS1201

Legislation

1.30 The Department aims for upcoming legislation to help enforce the remediation of unsafe cladding. Among its measures the Fire Safety Bill, introduced in March 2020, will specify that the Fire Safety Order applies to external cladding. This seeks to give confidence to fire and rescue authorities in using their enforcement powers in relation to the external wall systems of high-rise residential buildings.

Estimates of completion

1.31 The Department currently estimates full remediation of social sector high-rise buildings with unsafe ACM cladding by mid-2022, with more than 95% of buildings fully remediated by the end of 2021. It estimates a similar position for the full remediation of private sector residential buildings (**Figure 8**). In two-thirds of cases the Department is basing its estimates on projected completion dates suggested by building owners themselves; in the remaining one-third the Department has made assumptions as to completion dates based on completion timescales for buildings which have already completed remediation work.

Accountability for progress

1.32 The Department updates its Single Departmental Plan with the latest figures for buildings within the Programme that have been fully remediated.³⁵ While this includes links to the Department's published monthly data reports, it still falls short of a cross-government recommendation we made in 2016. In our report on single departmental plans we recommended that departments should publish "clear and appropriate metrics to assess progress against each objective, and enough information to judge performance".³⁶ Here it is difficult to judge performance because there are no time-related targets against which to evaluate the pace of progress.

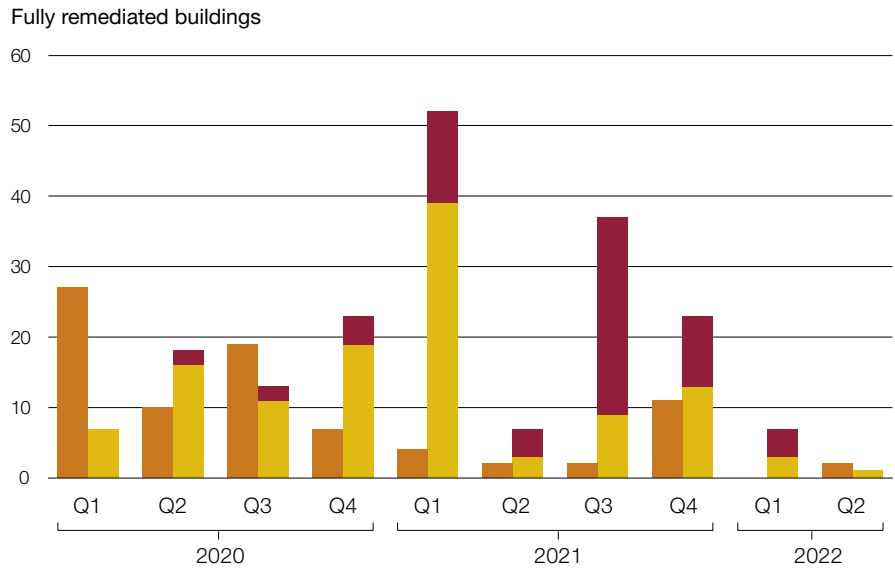
³⁵ Ministry of Housing, Communities & Local Government, *Single Departmental Plan*, 27 June 2019.

³⁶ Comptroller and Auditor General, *Government's management of its performance: progress with single departmental plans*, Session 2016-17, HC 872, National Audit Office, July 2016, paragraph 27.

Figure 8

Estimated completions of remediation works for social and private sector residential buildings, in England as at March 2020

The Ministry of Housing, Communities & Local Government (the Department) is estimating to have fully remediated all social and private residential buildings 18 metres and over with unsafe aluminium composite material (ACM) cladding by mid-2022



	2020				2021				2022	
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2
Private sector estimated completion date as estimated by the Department	0	2	2	4	13	4	28	10	4	0
Private sector estimated completion date as reported by building owner	7	16	11	19	39	3	9	13	3	1
Social sector estimated completion date as reported by building owner	27	10	19	7	4	2	2	11	0	2

Notes

- 1 Data are based on information supplied by building owners to Ministry of Housing, Communities & Local Government as at March 2020.
- 2 Private sector residential buildings total 188. As at April 2020, 180 private sector residential buildings are yet to be remediated.
- 3 Social sector residential buildings total 84. As at April 2020, 82 social sector residential buildings are yet to be remediated.
- 4 Quarters cover calendar years.

Source: Ministry of Housing, Communities & Local Government data

Part Two

Scope of the Building Safety Programme

2.1 In establishing the Building Safety Programme's (the Programme's) scope in 2017, the Ministry of Housing, Communities & Local Government (the Department) took into account advice from the Independent Expert Advisory Panel (Expert Panel). Advice from the Expert Panel initially focused on residential buildings of 18 metres or higher, as this is the threshold at which Building Regulations specify additional fire safety provisions are required. It also focused on the risks posed by aluminium composite material (ACM) cladding, as it was clear from early reports this was a significant contributory factor in the Grenfell Tower fire.³⁷ In July 2017 the Department commissioned the Building Research Establishment (BRE) to test ACM cladding systems. The Expert Panel's initial advice following these tests was that:

- ACM cladding with unmodified (combustible) filler presents a significant fire hazard on residential buildings 18 metres or higher with any form of insulation; and
- ACM cladding with fire-retardant filler presents a notable fire hazard on residential buildings 18 metres or higher when used with combustible insulation.³⁸

³⁷ Ministry of Housing, Communities & Local Government, *Position Statement On Actions Taken To Address Public Safety Following the Grenfell Tower Fire*, submission to the Grenfell Tower Inquiry, 26 October 2018.

³⁸ It found that ACM cladding with fire-retardant filler could be safe if fitted correctly and using stone wool insulation. Ministry of Housing, Communities & Local Government, *Advice for Building Owners of Multi-storey, Multi-occupied Residential Buildings*, January 2020.

Risks outside the Programme's scope

2.2 In July 2019 the Expert Panel revisited the risks posed by ACM cladding with unmodified filler. It told the Department that such cladding should not be used on any residential buildings, irrespective of height. However, the Expert Panel did not wish this to deflect from the immediate priority of remediating high-rise buildings in particular. In January 2020 the Department published the Expert Panel's consolidated advice, specifying that ACM cladding (and other metal composite panels) with unmodified filler is unsafe on residential buildings at any height.³⁹ It also launched a consultation on proposals to extend the regulatory ban on combustible materials in the exterior wall of high-rise buildings down to buildings 11 metres or higher, and proposals to ban ACM and other combustible metal composite cladding from residential buildings of any height.

2.3 The Expert Panel has also taken an interest in different cladding materials, notably high-pressure laminate (HPL) panels. From an early stage the Expert Panel had advised on the need to test the safety of non-ACM materials. This included the Expert Panel's advice for building owners on checking the safety of non-ACM cladding systems, which the Department first published in 2017 (and now included in its consolidated advice). Following a test commissioned by the Department in 2019 the Expert Panel has advised that non-fire-retardant HPL panels present a notable fire hazard on high-rise residential buildings, and should be immediately remediated.⁴⁰ The Expert Panel's view, based on evidence from BRE testing, is that the level of risk from unsafe HPL systems is not as high as from unsafe ACM. Its view is that the immediate removal of unsafe systems using ACM panels with unmodified filler should be an absolute priority, followed by immediate action to remediate unsafe HPL.

2.4 The Expert Panel has advised that buildings with residents who need significant assistance to evacuate exacerbate the risks presented by cladding systems. In these cases, the level of the Expert Panel's advice with regard to ACM panels with fire-retardant filler, and non-fire-retardant HPL, is raised so that such cladding is unsafe on buildings of any height.

³⁹ It also clarified that this applied to other forms of metal composite material. Ministry of Housing, Communities & Local Government, *Advice for Building Owners of Multi-storey, Multi-occupied Residential Buildings*, January 2020.

⁴⁰ It advised that it had received no evidence of a public safety risk from fire-retardant HPL systems, so long as these were correctly fitted and used stone wool insulation. Ministry of Housing, Communities & Local Government, *Advice for Building Owners of Multi-storey, Multi-occupied Residential Buildings*, January 2020.

2019-20 survey of external wall materials

2.5 To understand the prevalence of wider risks, in July 2019 the Department asked local authorities to carry out a second data collection exercise on high-rise residential buildings.⁴¹ In September 2019 it announced £4 million in funding to support this work.⁴² The first data collection had been designed to establish which buildings had unsafe ACM cladding, the second was to identify what other external wall materials were present on each high-rise block. This is a major exercise: the Department estimates the total number of high-rise residential buildings in England to be around 11,300. Of these, its initial rough estimate for use in working assumptions was that there might be around 1,700 with potentially unsafe cladding; this is in addition to the 456 identified with unsafe ACM cladding as at April 2020.

2.6 Local authorities have complained of difficulties in carrying out this work due to resource constraints. This comes in the context of a prolonged reduction in local authority resources: in 2018 we reported that between 2010-11 and 2016-17 local authorities reduced spending on planning policy by 14% and building control by 48%.⁴³ The Department originally set a deadline of end March 2020 for this exercise to be completed, but, by early March 2020, only around one-third of submissions had been received. The Department has asked local authorities and housing authorities to work towards completing this exercise as soon as possible.

2.7 This process has identified further buildings within scope of funding, and buildings just below 18 metres. The Department is piloting an extension of this data collection exercise to all buildings between 11 and 18 metres. This exercise will widen its evidence base. It estimates there are around 85,000 buildings in this category but does not know how many of these have cladding systems, or what proportion of these might be unsafe ACM.

2.8 The Department acknowledges that elderly and vulnerable residents exacerbate the risks associated with unsafe cladding. It is aware that care homes are required to meet rigorous fire safety standards, due to the vulnerable nature of their residents. Currently, however, it has no specific data on the number of care homes under 18 metres with unsafe cladding, or other buildings with a high concentration of elderly or vulnerable residents.

41 Ministry of Housing, Communities & Local Government, *Building safety*, Letter to local authority chief executives, 18 July 2019.

42 Hansard HC, 5 September 2019, vol 664, col 372.

43 Comptroller and Auditor General, *Financial sustainability of local authorities 2018*, Session 2017-2019, HC 834, National Audit Office, March 2018, Figure 10.

Funding schemes

Social sector residential funding scheme

2.9 In May 2018 the Department announced £400 million to fund remediation work for high-rise buildings with unsafe ACM cladding which were not compliant with building regulations guidance. The total fund was calculated based on an independent estimate of the information supplied by owners of the 159 buildings identified as eligible for funding. The Department has committed to funding the remediation of 139 of these buildings, with the remainder funded through a combination of existing funds and litigation action, and one late application yet to be approved. This fund was only made available to social sector residential buildings. Other public sector buildings, including schools and hospitals, are not covered by this funding, but have been funded by their relevant departments.

2.10 The Department made this funding available as the cost would otherwise fall on social landlords, diverting their resources away from contributing to house-building targets. These organisations are also subject to financing restrictions, such as borrowing limits, which would be impacted by the cost of remediation.

2.11 The funding criteria are restricted to high-rise buildings with unsafe ACM cladding. In at least one case a local authority has used its own funds to pay for the removal of other forms of cladding.

Private sector residential

2.12 In May 2019 the Department announced it would provide around a further £200 million for the remediation of equivalent buildings in the private leasehold sector. The Department intends this funding to accelerate remediation in the private sector. It also supports the position of ministers, that leaseholders should not have to meet the large and unexpected costs of remediating unsafe cladding. When this funding was announced, building owners had agreed to fund remediation of 33 buildings themselves. Since then, a further 51 building owners have committed to self-funding remediation works, and a further 23 have had funding confirmed through an accepted warranty claim.⁴⁴ As at April 2020, this leaves 94 buildings eligible for the public funding scheme.⁴⁵

⁴⁴ Ministry of Housing, Communities & Local Government, *Building Safety Programme: Monthly Data Release*, 14 May 2020.

⁴⁵ Seven buildings have not agreed a funding route.

Ministerial direction

2.13 In May 2019 the Department’s accounting officer requested a ministerial direction to proceed with this funding for the private leasehold sector. The Department was clear that by accelerating remediation in this sector, the fund would deliver significant benefits, including reduction in fire risks, improvements in residents’ mental health and increases in affected property values. However, the Department assessed that this fund would not represent value for money. This assessment was based on an assumption that, in the absence of funding, all private building owners would remediate their buildings themselves by March 2030, as part of an 11-year maintenance cycle. During the time it took to remediate these buildings, the Department assumed that interim safety measures would be put in place, such as ‘waking watches’ in up to half of the buildings. The Department estimated the costs of waking watches as ranging between £12,000 and £45,000 per building, per week, depending on the number of individuals required to maintain the watch and the hours they cover. The Department estimated that the total cost of maintaining waking watches until remediation would amount to less than the £200 million in public funding budgeted for the mooted private sector remediation scheme. The accounting officer was therefore concerned this policy did not meet requirements for safeguarding public money, given that:

- it would represent a transfer of funds to private leaseholders who, on average, have higher incomes than the general population; and
- because of the risk of creating a precedent whereby the government would be expected to stand behind building failures in the future.⁴⁶

The Secretary of State issued a direction to proceed with the policy on the grounds that “the safety implications for residents and the need for pace” were more important than normal value-for-money considerations in this case.⁴⁷

State Aid

2.14 The Department has obtained legal advice that EU State Aid rules should be applied to its private sector funding scheme, where the beneficiaries of this funding are commercial undertakings (examples could include buy-to-let landlords, or supermarket retail units within a residential building). In these cases State Aid rules limit commercial undertakings to receiving no more than €200,000 in public funding over a three-year period.⁴⁸ To ensure these rules are satisfied, the Department is requiring every leaseholder within each building that applies for funding to submit a State Aid form (declaring whether they are a commercial undertaking, and if so how much public funding in total they are in receipt of).

⁴⁶ The accounting officer cited principles set out in HM Treasury, *Managing Public Money*, March 2018.

⁴⁷ Ministry of Housing, Communities & Local Government, *Ministerial direction from the Secretary of State the Rt Hon James Brokenshire MP to Permanent Secretary Melanie Dawes (8 May 2019)*, 9 May 2019.

⁴⁸ State Aid can occur whenever government resources are used to provide assistance that gives organisations an advantage over others. For example, a business within a residential block may benefit financially through the funding of remediation of cladding on the building. See also footnote 26 (on page 29).

2.15 Where a leaseholder is adjudged to have breached State Aid limits, either in one building or across buildings cumulatively, the Department will reduce the funds it is granting to successive buildings featuring the same leaseholder. In these cases the Department expects the building owner to charge the leaseholder concerned to make up the shortfall or for the building owner to make up the shortfall themselves.

2.16 Homes England and the Greater London Authority (GLA) told us that in some cases it has been difficult for applicants to collect State Aid declarations from all leaseholders in a building, particularly with leaseholders who live abroad, investment companies and buy-to-let landlords. The Department does not believe that the requirement to obtain State Aid declarations has held up the progress of remediation. To date, there has not been a case where a leaseholder has breached State Aid rules. The announcement of further funding for a wider scope of buildings (see paragraph 2.21) could increase the likelihood of leaseholders breaching State Aid limits. The Department is currently considering these implications, as well as the potential implications for State Aid policy of Britain's exit from the European Union.

Costs to date

2.17 In its social sector funding scheme, the Department has projected a total cost of £270 million for the remediation of 139 buildings, with remaining buildings funded through a combination of existing funds and litigation action. This reflects a projected £130 million underspend against the £400 million available, which it attributes to a £100 million contingency for potential technical and resourcing difficulties. This contingency represents the Department's estimate of the risk of cost overruns in complex building projects. The underspend is also attributed in part to there being fewer buildings eligible for funding since the initial announcement (five buildings at April 2020). As at the end of April 2020, the Department had paid out £133 million from its social sector fund, representing 33.3% of the total £400 million available (or 49.3% of the £270 million projected total cost). In its £200 million private sector fund, meanwhile, the Department had by the end of April 2020 paid out £1.42 million (0.7% of the total fund) for completed works, and approved applications worth a further £24.98 million (12.5% of the total fund). The Department has projected a total cost of £194 million (of the £200 million made available) for the remediation of 95 buildings in this private sector scheme.⁴⁹

⁴⁹ This projection is as at February 2020. As at April 2020, there are 94 buildings eligible for funding.

Recovering costs

2.18 As part of accessing the funding schemes, building owners must demonstrate that they have made reasonable efforts to recover costs. Recovery of money is expected to be through insurance or warranty claims, or claims against those who may be liable. The Department expects that legal proceedings will take time, so this could continue for several years after they have allocated the final funding.

2.19 The Department expects that only in a minority of applications would it be financially justifiable to bring action, as the legal costs are likely to outweigh the costs of remediation in a significant number of cases. It also estimates that some claims could be time-barred such that legal action to recover costs cannot be brought, and that in some cases potential defendants no longer exist or are insolvent. However, the Department anticipated that enforcing cost recovery from the outset could impact the pace of remediation. As at February 2020, the Department has recouped £0.8 million in the private sector (this does not include the sums which building owners have already claimed through insurance or warranty claims – estimated at £29.5 million in March 2020), and a further £6.4 million in the social sector. Where building owners have already succeeded in recovering costs, the Department has ruled them out from claiming from the private sector remediation fund.

Help to Buy

2.20 Homes England estimates 274 homes are affected by ACM cladding, based on a comparison of Departmental building safety data and the Homes England Help to Buy loan accounts. Of these, 170 homes across 28 buildings have live loan accounts, with the remaining 104 homes having redeemed their loans. Of the 104 homes that have redeemed, Homes England received less than the equity loan originally lent on 27 homes.

Additional funding

Building Safety Fund

2.21 On 11 March 2020 the Department announced a £1 billion Building Safety Fund for the remediation of high-rise buildings with unsafe non-ACM cladding. The fund will cover the removal and replacement of other forms of unsafe cladding systems, such as some types of HPL and non-ACM metal composites (such as copper composite) which have a combustible core, and follows Expert Panel advice. This funding is available from 2020 to 2021. The government intends for this fund to be entirely committed by the end of March 2021. This new fund equates to a near doubling in scale compared with the current social and private sector ACM funds, which have proven to be resource-intensive to administer (see paragraphs 1.17, 1.19 and 1.20). Administration of the new fund therefore poses potentially significant challenges for the Department to address. We have previously reported on the risks to value for money in committing funding to tight timescales.⁵⁰

2.22 On 26 May 2020 the Department's Permanent Secretary requested a ministerial direction to proceed with the Building Safety Fund. The Permanent Secretary was concerned this policy "does not meet the normal tests for value for money". The Secretary of State acknowledged that "the taxpayer will pick up a significant proportion of remedial costs", but issued a direction to proceed with the policy as he considered "the safety implications for residents and the need for pace, and the benefits that will derive from these" to be more important. The Department expects the fund predominantly to target supporting leaseholders in the private sector facing significant bills; the Secretary of State considers that "removing the constraint created by the need to pass on costs to leaseholders will be the most effective way to increase pace".⁵¹

2.23 The Department's Building Safety Fund prospectus was also launched on 26 May 2020. Applications for the fund opened in early June 2020. The Building Safety Fund allows for a 30-centimetre tolerance on applications for buildings under 18 metres, which the Department now plans to reflect in the existing ACM funds; the threshold for applications to the ACM funding schemes is currently 18 metres. The Department has estimated that a 30-centimetre tolerance would increase the number of buildings by approximately 250, regardless of external wall system. Of these, the Department estimates up to 45 buildings could fall within the scope of the Building Safety Fund.

50 Comptroller and Auditor General, *Local Enterprise Partnerships*, Session 2015-16, HC 887, National Audit Office, March 2016, paragraph 2.21; Comptroller and Auditor General, *Progress report on the Regional Growth Fund*, Session 2013-14, HC 1097, National Audit Office, February 2014, paragraph 18.

51 Ministry of Housing, Communities & Local Government, *Ministerial direction from the Secretary of State the Rt Hon Robert Jenrick MP to Permanent Secretary Jeremy Pocklington (26 May 2020)*, 26 May 2020.

Appendix One

Our investigative approach

Scope

- 1 We conducted an investigation into the Building Safety Programme (the Programme). The report covers:
 - the assurance that Ministry of Housing, Communities & Local Government (the Department) has correctly identified all buildings within scope of the Programme, and that the buildings are being fully remediated;
 - how the Department is managing pace of progress of remediation; and
 - how the Department has decided which buildings qualify for remediation funding, and how it has assessed risks outside the scope.
- 2 The investigation is non-evaluative. We have not assessed the value for money of the two funding schemes.

Methods

- 3 Our fieldwork took place between January 2020 and April 2020. Data in this report are up to date as at 14 May 2020. Data reflect the position as at the end of April 2020, unless otherwise stated.
- 4 We define 'high-rise' buildings in this report as buildings that are 18 metres and over.
- 5 We interviewed:
 - Department officials as the lead department for the remediation of unsafe cladding;
 - Home Office officials as the lead department for Fire and Rescue Services;
 - Department for Education officials to understand their responsibility of public buildings not under the Department, and the progress of remediation with these buildings;

- Homes England and Greater London Authority officials as the delivery partners of the remediation funds;
- Local Government Association to understand the work of the Joint Inspection Team, and the actions taken by local authorities and the challenges they face;
- Sir Ken Knight, Chair of the Independent Expert Advisory Panel, to understand the advice given to the Department on fire safety issues in relation to aluminium composite material (ACM) cladding systems, and other fire safety implications for social and private sector buildings;
- Roy Wilsher, Chair of the National Fire Chiefs Council, to understand the work undertaken by the fire and rescue services and the challenges they face, and the role of the Protection Board in relation to the remediation of unsafe cladding; and
- Professor Susan Bright, Professor of Land Law at Oxford University, to understand the problems that leaseholders face.

6 We engaged with:

- Department of Health & Social Care (DHSC) and NHS officials to understand their responsibility of public buildings not under the Department, and the progress of remediation with these buildings. We could not interview these officials, as they were required on urgent COVID-19 work. We shared the relevant aspects of the investigation with DHSC.

7 We reviewed:

- key documents held by the Department, including meeting minutes for the boards involved in the Programme; and
- relevant statements and announcements by the government and the Department.

8 We analysed published and unpublished data related to the Programme, including the social and private sector funding schemes. We did not independently verify these data.

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