

ISLINGTON GATES' CLADDING UPDATE - April 2020

Questions & Answers - prepared by the IG Board

Given the substantial sums Leaseholders have been asked to contribute to the removal of unsafe cladding and other fire safety works, the Leaseholder Board has prepared the following response to clarify common questions asked. We will shortly apply to the Government Cladding Fund for grant-aid, but in the interim, need to raise the sums requested as a condition of maintaining our buildings insurance. If in doubt about your personal position as an IG leaseholder, you should seek independent advice.

1. What if I simply cannot afford the payments?
If you have a mortgage please speak to your provider about the position. Alternatively, borrowing to fund cladding removal should help restore value to your flat long-term. Please take independent advice.

2. Its unfair for leaseholders to pay -why can we not claim from insurance or landlords/freeholders as surely it is their responsibility?
Leasehold law in a England is scandalously biased in favour of freeholders. We have asked our Freeholder for support, but, a legal opinion we commissioned suggests they have no liability. The Grenfell fire revealed widespread unsafe building practices which had been poorly regulated. There was no insurance available covering this unprecedented situation.

3. We have had a huge invoice – will the same amount be invoiced in July?
Yes. If the Leaseholder Management Company is to raise the £3 million required this year to let contracts for cladding removal by November (as required by our insurance cover), a further bill must be issued.

4. Are these huge costs only for 2020 – will service charge go back to “normal” in 2021 i.e. is the £3million payable over 12 months or 24 months?
The Board will keep payments and payment arrangements under review, but the estimated costs of complete cladding/fire safety works is c.£6-£8 million. If we can meet the insurers' November deadline this year and successfully claim against the Government Fund, we may be able to ease the payment arrangements and start reimbursements. Longer term we aim to return to 'pre-cladding' levels of Service Charge.

ISLINGTON GATES' CLADDING UPDATE - April 2020

5. Have we applied to Home England – mortgage companies are asking?
If Home England manage the Government Cladding Remediation Fund we will certainly be applying once the newly extended qualifying rules are published by Government (expected in June 2020). We tried to claim under the earlier scheme but were told we did not have the then narrowly-defined qualifying type of cladding. The rules have now changed in our favour.
6. Can we pay the “reserve” monies on a payment plan?
The Board may look at individual cases, but we need lump sum payments to meet our November target. This is set by our insurers. We risk loss of buildings insurance - automatically placing leaseholder mortgages in default - if we cannot start work on cladding removal by November.
7. If the majority pay and some do not – what happens?
We are required to seek the money from any defaulting leaseholder via legal action. Non-payment could mean the lease defaults to the freeholder while the debt remains with the leaseholder.
8. What happens if we are successful in legal action or lobbying – do we get a refund?
See Q4. If we successfully claim from the Government Fund and/or obtain compensation by legal action, some repayments should be possible.
9. What work has already been commenced?
Following enhanced internal fire safety measures - upgraded lighting, installation of klaxons and introduction of 24/7 'waking watch' - work has begun to create fire-breaks in the timber cladding. Major works - the subject of the most recent leaseholder bills - cannot begin until we raise the £3 million to fund the first tranche of cladding removal.
10. Is the £3million a guess or based on quotes? How do we know it may not be more?
It will be more (see Q. 4). Costs are estimated by our experience building consultants, who have experience of similar works elsewhere.

ISLINGTON GATES' CLADDING UPDATE - April 2020

11. What happens if not enough money has been collected when insurance is due for renewal and works have not begun?
We shall seek an extension of cover based on the circumstances at the time. We will also be raising the impact of the Covid-19 pandemic. The group of insurers providing our cover could withdraw, our increase our premium again. Via UKCladding Action we are lobbying Government to provide an insurance guarantee to all sites such as ours, so financial risk is limited and premiums can become more reasonable.
12. What happens if we cannot get insurance renewed in November?
Leaseholders with mortgages would be automatically in default and lack of cover could prevent works to remove cladding.
13. Why can we not collect monies over longer period of time and then carry out the works (giving people extra time to save)?
The current financial demands are driven by our insurers and the lack of alternative options to secure cashflow. The Leaseholder Board would prefer a longer timetable to fund the cladding removal and deal with internal fire-stopping, but remains committed to flammable cladding removal as our a safety priority.
14. Can we have copies of minutes of meeting on 6th February.
These have been sent out to leaseholders. For a copy contact Deborah.Murphy@wolfsproperty.co.uk
15. Can we not get a loan from the freeholder and then pay them back over a longer period of time?
This would be preferred, but MB2005 No.1 Ltd, our freeholder, has declined to help, other than with a possible contribution to legal costs. You may like to write to them at Building 4, Imperial Place, Elstree Way, Borehamwood WD6 1JN

ISLINGTON GATES' CLADDING UPDATE - April 2020

16. The Government state that a freeholder is responsible so why is our Freeholder not taking responsibility?

The Government has been fudging its response to the crisis. It must be aware that in England leasehold law places the vast majority of building liabilities upon individual leaseholders. We are supporting the Leasehold Knowledge Partnership, a group calling for reforms such as in Commonhold, the Scottish system. The Government's extension of the Cladding Remediation Fund represents, however, a welcome practical extension of help.

17. When did the Board realise the cladding needed to be replaced – how long ago and by what means?

Following the Grenfell fire in late 2017 the Leaseholder Board began investigating fire safety in detail at Islington Gates. In June 2018 we received the results of an initial review indicating potential flammability in our metal cladding plus missing fire stops and other fire safety construction failures. Subsequently we introduced various fire safety enhancement measures (see Q.9) and engaged building consultants Easton Bevins to advise on appropriate remedial works. We also sought to make a claim to the Government's Cladding Fund (when restricted to sites with Grenfell- type Aluminium Composite Material, ACM, cladding), as it was unclear what defined ACM. This was rejected.

18. After Grenfell Savills sent a letter confirming the cladding was safe and there was nothing to worry about. What changed?

This is incorrect. Savills, our then managing agents, were simply asked to state whether our site had ACM (Grenfell type) cladding. They replied that we did not, as we had no evidence of ACM.

19. Are we not supposed to issue a section 20 before issuing service charge invoices for such a large sum of money?

Sec. 20 process would normally apply, but given the timetable set by our insurers we have had to act now. We will be seeking appropriate derogations via the First Tier Tribunal.

20. In light of COVID-19 – can a holiday period be requested?

We will ask our insurers to take the pandemic's impact into consideration and extend their deadline.

ISLINGTON GATES' CLADDING UPDATE - April 2020

21. Why were invoices not sent out until 25th March – some 3 months late and then only given 6 days to pay?

Savills gave inadequate notice that they were quitting residential management in the West Midlands. Their service to Islington Gates was inadequate for some months prior to their withdrawal. The invoice failures were part of these problems. The IG Board is seeking compensation from Savills. The Board appointed Wolfs Residential Management as our new agents effective April 5th

22. With COVID-19 can works continue in any event?

The Board, with our building consultant, is keeping matters under close review. We plan to restart the timber fire-breaks work by mid-May.

23. Leaseholders have been mis-sold their lease – surely there is come back on the developer?

This is not a question we can answer. The developer company, MCD Fleet Ltd., no longer exists, though MCD group still appears to be trading. Leaseholders may wish to write to the extant MCD Group.

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Please note: this document is a simplified summary of the current position. While every attempt has been made to present accurate information, it should not be relied upon for legal or other technical purposes. Leaseholders should take independent advice relevant to their individual circumstances.

Islington Gates Leaseholder Board
April 21st 2020