

THE WAKING WATCH REPLACEMENT FUND

MEMORANDUM OF UNDERSTANDING

between

DEPARTMENT FOR LEVELLING UP, HOUSING AND COMMUNITIES

and

Leeds City Council

Agreed:

Signatories

SIGNED for and on behalf of

The Secretary of State for the Department for
Levelling Up, Housing & Communities

SIGNED for and on behalf of

Leeds City Council

Name **Louise Barr**

Position Deputy Director, Building
Remediation Division, DLUHC

Signature _____

Date _____

Name **James Rogers**

Position Director of Communities,
Housing and Environment

Signature _____

Date _____

1. Purpose of the Memorandum of Understanding

- 1.1 This Memorandum of Understanding (MoU) has been drafted to set out the agreed principles and practices that will apply to the working relationship between the Department for Levelling Up, Housing & Communities (DLUHC) and Local authority!!!! regarding delivery of the Waking Watch Replacement Fund.
- 1.2 The Waking Watch Replacement Fund is a £27 million fund to pay for the costs of installing a Common Fire Alarm System in eligible residential buildings with Waking Watch in place. Common Fire Alarm Systems will enable costly Waking Watch measures to be reduced or removed in the buildings. The fund will be for the benefit of leaseholders in buildings over or under 18m with Waking Watch by reducing the ongoing costs for Waking Watch services and avoiding the need for them to meet the upfront capital costs of the installation of fire alarms. The full eligibility and evidential criteria are set out in the fund https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1050362/Waking_Watch_Replacement_Fund_Guidance_January_2022.pdf
- 1.3 The fund is predicated on alarms being installed at pace to alleviate the financial burdens on leaseholders. The eligibility and evidential criteria have been designed to enable quick assessments and decision making in order to provide funding as quickly as possible. There is, however, the need to balance the requirement for speedy decision making and release of funds with our collective responsibility to ensure that public funding is being used appropriately.
- 1.4 While this is not a legal or binding agreement, all parties are committed to honouring it. The MoU sets out the agreed monitoring arrangements and responsibilities, accountability, governance structures and financial arrangements of the project. The agreement may need to be updated to take account of any possible future changes in the wider relationship between the parties involved.

Legal Powers

- 1.5 DLUHC has the powers to provide this funding using powers under s1 Infrastructure (Financial Assistance) Act 2012. Leeds City Council can use its powers under s.1 Localism Act 2011 to administer the fund and pay out money.

Roles and Responsibilities

- 1.6 DLUHC is responsible for the total funding envelope that has been provided for the fund which totals £27m and the design of the fund. DLUHC is also responsible for the initial funding allocation to each local authority area. DLUHC have published guidance and an application form for applicants to use, which provides the eligibility, evidence, and other key criteria for the fund. DLUHC has also drafted funding agreements for use between LAs/Regions and the eligible applicants and will provide a point of contact for fund queries and financial transactions. DLUHC is responsible for providing funding to the Local Authority to cover the up-front capital costs of the installation of alarms in eligible buildings up to the agreed amount that has been allocated and for providing new burdens funding to cover the administration of the fund by the Leeds City Council. The Local Authority will be able to draw down funds directly from the Department to cover the costs of installing alarms up to their allocated amount.

1.7 Leeds City Council has been allocated an initial sum of funding as you are a metropolitan area with a large cluster of residential buildings where Waking Watch is likely to be most prevalent. Leeds City Council has been allocated **£934,000**. The new burdens funding that has been allocated to your Local Authority is **£49,346**.

1.8 Applications should be made by the Responsible Person/Building using the application form provided by DLUHC and published on gov.uk. The Local Authority are able to access the applicant information via a shared portal. DLUHC are responsible for ensuring that the shared portal works and is accessible to the Local Authority. DLUHC commits to providing appropriate technical advice as necessary to ensure that the Local Authority can access applications to fulfil its administrative role. Leeds City Council will be responsible for processing applications and will be the point of contact for applicants in their area. The role will include:

- checking applications meet the eligibility criteria;
- checking the evidence provided;
- making funding decisions;
- making payments; and
- ensuring that works have been completed satisfactorily.

Leeds City Council will also be responsible for checking that costs are reasonable.

Where installation costs exceed a threshold of £1500 per dwelling further scrutiny and reference to DLUHC will be required to ensure that costs are reasonable. Where costs are not deemed reasonable, the full costs may not be provided.

1.9 The responsibility for the fire safety of a building always remains with the Responsible Person under the duties conferred on them by the Regulatory Reform (Fire Safety) Order 2005. The provision of funding does not mean that DLUHC or any other party assumes the responsibility for the fire safety of any building where an alarm is fitted. The Local Authority has no responsibility or involvement in procuring the works, in the alarm installation or in the maintenance of the alarm system or any issues or defects post installation. Full responsibility sits with the applicant unless the Local Authority decides to take on some or all of this responsibility.

1.10 DLUHC expectation is that Leeds City Council will be responsible for delivering the fund and carrying out the following activities:

- a) Ensuring resource is in place to administer the application and funding process and responding to applicant queries including operating an email in box accessible to applicants (more general queries about the principles and practice of the fund should be referred to DLUHC).
- b) Making funding decisions and payments based on the criteria and evidence set out in the fund guidance.
- c) Ensuring there is evidence that alarms due to be installed and then installed meet the specification set out in the guidance.
- d) Providing funding on the basis of a funding agreement with eligible applicants.
- e) To assess applications within 15 working days once all evidence has been provided from the applicant. To also provide funding to eligible applicants in a timely manner to support swift installation.
- f) Ensuring there is evidence that alarms due to be installed and then installed meet the specification set out in the guidance.
- g) Ensuring costs represent value for money. Local Authorities will be able to agree funding for costs that do not exceed a maximum threshold of £1500 per dwelling. Funding over and above that level should be assessed for reasonableness by the Local Authority in the first instance. The Local Authority assessment and any supporting

evidence should then be referred to DLUHC for a final decision before proceeding with agreement to provide funding. DLUHC will respond to enquires of this kind in 2 days to facilitate swift decision making.

- h) Responsibility for keeping agreement to fund and expenditure within your funding envelope.
- i) Reviewing anticipated take up of the fund in your area and anticipated spend and alerting DLUHC if you are unlikely to require all of your initial allocation so this can be reallocated.
- j) Providing key data to DLUHC to ensure that the funding is being spent as envisaged (i.e., as per evidence and eligibility) and to ensure that DLUHC's KPIs are met.
- k) Drawing down funds directly from DLUHC to cover costs up to notional amounts of funding used.

1.11 Following the completion of the Waking Watch Replacement Fund DLUHC will work with partners, including Leeds City Council, to undertake a review of the fund and its impact.

1.12 This MoU guides future relationships and is subject to review where appropriate to ensure that it continues to reflect activity on the ground. Communication between the Local Authority and DLUHC will be vital. This is especially so consideration can be given to flexing the funding arrangements where there may be benefit in reallocating funding across areas so that we can maximise the number of buildings that will benefit from the funding.

1.13 The document outlines the actions which are necessary to provide Government and local partners with assurance that decisions over funding are proper, transparent, and that they deliver value for money. In performing their respective roles, the parties will continue to ensure that they act in a manner that is lawful, transparent, evidence based, consistent and proportionate. For DLUHC to satisfy itself that the fund is meeting KPIs and delivering Ministerial expectations DLUHC will require regular management information from the Leeds City Council. This information reflects the eligibility and evidential criteria and has been reduced to only the information that is required to help administer the fund nationally – including flexing the fund as appropriate - and to enable us to assess whether the fund is meeting KPIs or, in the case that the fund is not meeting expectations, whether DLUHC intervention is required. The management information requirements set out below:

- a) Number of applications received.
- b) Number and name of buildings where a decision has been made to fund an alarm installation.
- c) Cost of alarm installation per building.
- d) Amount of funding approved.
- e) Number of buildings where installation of alarms removed the need for Waking Watch/Evacuation Management personnel.
- f) Number of buildings where Evacuation Management personnel are still required post alarm installation (and reasons).
- g) Evidence that alarms fitted are to the required specification as set out in the guidance.
- h) Proposed (or actual) start and completion dates for approved installations
- i) Value of payments made to applicants (the spend).

1.14 This information should be available via the shared information portal. However, Local Authorities may be asked for further information as necessary. The funding allocated as part of the Waking Watch Replacement Fund should in no way be used to fund or support activities or provisions that would be deemed unlawful.

Fraud and risk (including risk of LA going over their delegated funding allocation)

- 1.15 There is a risk that funding is provided to the wrong entity or funds are sought by those that are not eligible and it is incumbent on DLUHC and the Local Authority to limit exposure as much as possible. The application process, guidance and application form clearly set out the eligibility requirements and should assist in mitigating the risk. Prior to the provision of any funding a funding agreement should be signed by the relevant parties. DLUHC has provided a template funding agreement that should be used. The context of Waking Watch is itself a mitigating factor as a body of documentation should already be in place and available to support the move from Stay Put to a Simultaneous Evacuation strategy. This information should be available from applicants to support their application. Where there is any doubt, support and information from your local Fire and Rescue Service should be sought.
- 1.16 The Secretary of State is clear that funding should only be provided where costs are reasonable. We have also inserted some cost controls into the process to guard against cost inflation as set out above (sub para e of para 1.10). The Secretary of State has asked that DLUHC agree payments above the threshold. DLUHC commits to making decisions on any referral from a Local Authority in a timely manner that will not interfere with swift decision making.
- 1.17 It is unlikely, given the leasehold tenure and our experience with cladding remediation that progress will be made without some up-front funding in advance of completion of the work. The guidance and funding agreement sets out how funding should be arranged to minimize any fraud risks. The Local Authority should satisfy itself, as much as it is reasonable and proportionate to do so and on the basis of the information provided by an applicant, that an installer is reputable and has the appropriate qualifications and expertise to undertake the installation of an alarm. The Local Authority should also satisfy itself, as much as it is reasonable and proportionate to do so, that the risk of an installer failing to complete an installation where work has started, and an initial payment has been made, is minimised. DLUHC expect that the information provided by applicants in support of an application supported by the funding agreement will help to provide this assurance. Final payments should only be made when the Local Authority is satisfied work has been done to the required specification.
- 1.18 The Local Authority is required to keep spending within their allocated limit. No funding agreements should be made that would take an Authority above their spending limit without prior agreement from DLUHC. If spending is authorised and/or paid above the funding allocation without prior agreement, DLUHC cannot guarantee that the funding will be reimbursed by the Department. However, there may be occasions where additional spending is required by a Local Authority over and above the allocated amount. Where this is the case the Local Authority should notify DLUHC as to whether additional funds are available. Where such funds are available and where agreement is provided by DLUHC in writing (via email) this should be taken as authorisation to spend up to the newly authorised agreed amount without recourse to a further MoU. DLUHC agrees to pay the authorised funds in these circumstances.
- 1.19 If there are any concerns about suspected fraud or any other risk, please alert DLUHC.

2. Funding Composition and Payment Mechanism

- 2.1. Funding for this project will be provided by DLUHC directly to Leeds City Council via a Section 31 Grant Determination (funding drawn down as a s31 grant for reimbursement)

which will require agreement from the Local Authority s151 officer. A grant form for this purpose is attached to the MoU.

- 2.2. The expectation is that the Local Authority will pay up front capital costs for the installation of alarms up to their allocated budget or until demand is exhausted in their area. DLUHC will reimburse these costs in a single tranche once the Local Authority has met its spending limit or has provided funding for all the eligible buildings in its area. The payment will be confirmed as soon as possible upon receiving a final report with full performance indicators and information as described in para 1.13. The process for paying New Burdens funding will proceed once the MoU has been agreed.
- 2.3. This funding is for the sole purpose of delivering the Waking Watch Replacement Fund.
- 2.4. It is the Local Authority's responsibility to provide assurance to their DLUHC account manager that funding is accounted for and is only applied to activity agreed in the delivery plan.

3. Governance, Monitoring and Reporting

Governance

- 3.1 DLUHC's Principal Accounting Officer is accountable to Ministers and Parliament and the Department will therefore require Leeds City Council to provide performance reporting of projects funded through the programme.
- 3.2 In DLUHC the funding set out in this MoU will be managed at a strategic level by Joe Murphy.
- 3.3 For Leeds City Council we expect a single point of contact with whom we can discuss the fund.
- 3.4 Where Leeds City Council identifies significant risks or issues of financial or delivery under-performance those must be escalated to DLUHC for resolution.
- 3.5 Leeds City Council and DLUHC may hold monitoring meetings to discuss progress and performance across the programme in this MoU.

Monitoring and Reporting

- 3.6 Leeds City Council will appoint a contact who will be responsible for providing monitoring and performance reports which will include:
 - a) A summary of progress on alarm installations
 - b) Financial information.
 - c) Key performance information.
- 3.7. DLUHC will supply an email address for Local Authorities to use if they require approval for costs above the threshold and for general enquiries.

4. Data Protection

- 4.1 DLUHC and Leeds City Council will co-operate with one another to enable each party to fulfil its statutory obligations under the UK General Data Protection Regulation and the Data Protection Act 2018 as amended, superseded or replaced from time to time. DLUHC

may share building data with the National Fire Chiefs Council and individual Fire and Rescue Services where appropriate and lawful.

- 4.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party as the agent of the other party, nor authorise either of the parties to make or enter into any commitments for or on behalf of the other party.