

<p style="text-align: center;">Housing Scrutiny Sub Committee</p> <p style="text-align: center;">20 November 2018</p>	
<p>Report of: Mark Baigent – Interim Director of Housing and Regeneration John McGeary – Head of Building Control</p>	<p>Classification: Unrestricted</p>
<p>Fire Safety and Building Regulations</p>	

Executive Summary:

This report submits an action plan (adopted by Cabinet on 30 October 18) in response to the recommendations of the Housing Scrutiny Sub-Committee’s scrutiny review of Fire Safety in high rises in Tower Hamlets. The Council has worked proactively identify residential blocks with Aluminum Composite Material (ACM) cladding, working with partners to remove and put mitigating actions in place to ensure resident safety. Local RPs have now submitted their bids for MHCLG funding (from a total £400m nationally to cover the cost of cladding remediation in the social housing sector). The borough has around 40 private blocks over 18m with confirmed unsafe ACM and where owners are failing to take the action required by MHCLG. The Council has commenced the next stage to take remedial action through enforcement and serving improvement notices, this includes carrying out works in default for non-compliance and recharging owners for the remedial works.

The Council is working on formulating responses on how best to progress implementation of recommendations of the Independent Review of Building Regulations (Hackitt Review). However detailed legal, finance and resource implications can only be established once the Government has revealed the next steps.

Recommendations:

The Housing Scrutiny Sub Committee is recommended to:

- To note the action plan in Appendix 2 which sets out the Council’s response to the recommendations of the Scrutiny Review
- To note the fire safety update of residential stock in the borough (Council, Registered Provider and Private)
- Building regulations - To note the Council’s responses in implementing recommendations from Hackitt Review of Building Regulations and the Governments proposals to amend Approved Document Part B.

1. REASONS FOR THE DECISIONS

- 1.1 The Housing Scrutiny Sub Committee through its work planning process has agreed to receive an update on fire safety. This includes:
- a) the action plan agreed by Cabinet to support implementations of recommendations from the fire safety scrutiny review
 - b) a progress update on the Councils approach to implementing recommendations from the Hackitt review of building regulations

3. DETAILS OF REPORT

3.1 Fire Safety Scrutiny Review

- 3.1.1 As part of its work programme for 2017/18, the Housing Scrutiny Sub-committee carried out a scrutiny review on fire safety in residential high rises (above 18 metres) in Tower Hamlets (Scrutiny Review). The Scrutiny Review was prompted by the Grenfell Tower fire on 14 June 2017 in the London Borough of Kensington and Chelsea, which caused devastating loss of lives and homes. The Grenfell Tower fire was a tragic reminder of the importance of fire safety in residential high rise buildings and deemed particularly relevant for the London Borough of Tower Hamlets (Tower Hamlets), which has a significant number of tall buildings in London and some of the tallest residential buildings planned to be developed.
- 3.1.3 The Scrutiny Review aimed to drive improvement in fire safety policies, practices and compliance in existing and new developments; clarify roles and responsibilities across publicly and privately owned high rise buildings and amplify the voice and concerns of residents. The four main areas of focus for the Scrutiny Review were:
- Roles, Responsibilities and compliance throughout the lifecycle of the building.
 - Fire Safety Prevention
 - Emergency Responses
 - Resident Engagement
- 3.1.4 The Scrutiny Review was carried out in the context of a number of ongoing national inquiries and reviews into fire safety. The scrutiny report is available [here](#).
- 3.1.5 Appendix 1 sets out an action plan to implement the recommendations arising from the review. Ten recommendations (1 to 3; 5 to 6; 9 and 10 to 13) have been accepted in full. One recommendation (7) has not been accepted on the basis that it is not the Council's responsibility to hold emergency contact details. Three recommendations (4, 8 and 14) have been accepted in part. Recommendation 4, relating to Fire Risk Assessment dashboards, has been limited to apply to Tower Hamlets Homes only. Recommendation 8 to engage private providers by developing a forum to share best practice has been limited to prioritise large private rented sector providers. Recommendation 14, relating to a feasibility study of automatic fire suppression systems in high rises and prioritising vulnerable residents and high risk buildings, has been limited to the Council's housing stock.

3.1.6 The action plan was adopted by Cabinet on 31st October 2018. The Housing Scrutiny Sub Committee will receive a progress update in the next financial year.

3.2 Residential Fire Safety update – November 2018

3.2.1 Since the Grenfell Tower fire, there has been a growing range of additional tasks for the Council and its partners in relation to fire safety in high rise residential blocks (over 18 metres or six storeys high).

3.2.2 Council Housing

Only one block owned by the Council, Randall House (Poplar Baths), had ACM cladding. This cladding has now been removed and replaced. Two other Council blocks, Maltings and Brewster (Barley Mow), have non-Alluminum Composite Material (ACM) cladding that has also been removed following safety checks. These blocks are now being assessed for structural strengthening prior to recladding.

In total over £31m of fire safety works are programmed or underway. THH have now completed the bulk of £6m fire safety work in the substantial risk blocks, providing fire breaks on Avebury Estate and removing the cladding at Maltings and Brewster. Another £25.6m of work that is essential in order to achieve a good level of fire safety in the stock is programmed. This figure excludes potential future costs such as sprinklers, protective work to maisonettes, and other non-ACM external wall panels. We will be setting aside future HRA borrowing headroom to cover these potential extra costs.

THH Fire Risk Management Strategy

The latest THH Fire Risk Management Strategy 2018 comprises of a framework to manage fire risk and deliver fire safety works. The primary objective is to achieve the “tolerable” rating of risk levels. The risk ratings in lowest risk to highest risk in order are ‘Trivial’, ‘Tolerable’, ‘Moderate’, ‘Substantial’ and ‘Intolerable’. The main elements of the strategy included:

- a) The completion of in-depth Fire Risk assessment (Publically Available Specification 79) by an external accredited fire safety company and supported by a new IT package to better manage fire safety actions. Current FRAs rate nine blocks as having a ‘Substantial’ risk rating and 902 as having a ‘Moderate’ risk rating. Publishing FRAs, adoption of fire standards for all housing stock and enforcement actions against residents who fail to install a fire safe front door and frame set.
- b) Fire safety works comprising of: Emergency lighting provision or upgrade; Communal fire doors; Flat entrance fire doors; Communal fire and smoke detection alarm upgrades; Domestic fire and smoke detection alarm upgrades; Protection of communal areas by fire safety screening; Sprinklers in bin areas; Re-glazing upgrades; Automatic opening vents; Compartmentalisation works and fire stopping between floors and flats; Upgrades to service cupboard doors; Window and other panels; servicing of fire safety equipment; Concierge services for high risk blocks and on one particular estate, an overnight fire warden and patrol service has been

introduced until the risks identified in the Fire Risk Assessment have been resolved.

- c) The Fire Safety Risk Management Group continues to meet and leads on the response to Hackitt recommendations and other fire risk measures reporting to the Executive. The THH Fire Safety Team continue to do their visits to tenants and leaseholders with good impact and is something that the London Fire Brigade value. THH have been recognised as having a good approach on fire safety having been visited by the fire pilot organisations and have received interest from the National Federation of ALMOs who propose to use THH's approach to fire safety as good practice examples for the response to the Governments Social Housing Green Paper.

Resident Voice and influence & Communication and engagement

To give residents an opportunity to influence and challenge the THH approach. Activities have included joint work on fire safety, formulating the approach to education, communications and works programmes, sharing of knowledge and implementation of recommendations from the Hackitt Review. Outcomes of which have included a change of contractor providing Fire Warden duties at higher risk blocks due to concerns over performance, Identification, prevention and removal of hazards, and residents influencing the design and priority of work packages on blocks.

THH has prioritised sharing information with residents, stakeholders and partners and listening to them. It has developed bespoke fire safety communications and fire safety engagement plans for tenants and residents, delivered an awareness raising campaign comprising of a 'what safe looks like' webpage, publications including FAQs, advice on seasonal risks, fire safety videos and use of social media. It has introduced fire safety at the resident sign up stage and a specialised fire safety team to discuss fire safety concerns with residents and lifestyle factors that could be a fire hazard. The team has completed 2,668 (2,408 access gained) visits across 67 blocks, identifying vulnerable households (277) hazards, removing combustible materials on balconies (236) and delivered additional outcomes which includes identifying illegal subletting (11), referrals for the checking of HMO licenses (93) and more.

3.2.3 Registered Providers

Liaison with RPs through THHF is keeping the Council informed of fire safety compliance in this tenure. All RP blocks locally have up to date FRAs and testing of ACM cladding has been rigorous, in line with Government guidance. Out of 420 RP-owned blocks over 18m in Tower Hamlets there are 12 blocks with ACM cladding that failed BRE tests. Of these, 3 blocks have already had the cladding removed. The Council is keeping in touch with RPs locally to monitor progress with removal of cladding and completion of other fire safety works. Local RPs have now submitted their bids for MHCLG funding (from a total £400m nationally to cover the cost of cladding remediation in the social housing sector).

The Fire Safety Scrutiny Review action plan has been discussed at the THHF Asset Management Sub Group, each RP will respond on the implementation of actions at its next meeting by December 2018. This will also include a discussion on taking forward the Hackitt review recommendations.

Private Sector

Tower Hamlets has over 600 private blocks over 18m, of which around 300 have some form of cladding. Nine months of investigations by the Council using enforcement powers under the Housing Act to require this cladding information and to remove samples for testing have now completed. The borough has around 40 private blocks over 18m with confirmed unsafe ACM. We have now commenced the next stage in which the Council is taking enforcement action to ensure remediation is completed where private owners are failing to take the action required by MHCLG. Initially this means carrying out hazard risk assessments and serving improvement notices. If these are not complied with, the Council has the power to step in and carry out works in default and recharge the owners. There remains an ongoing concern about some private freehold owners passing cladding remediation costs onto leasehold owners, we continue to lobby MHCLG on this issue.

3.3 Independent Review of Building Regulations (Hackitt Review)

3.3.1 The Independent Review of Building Regulations and Fire Safety: Final Report was issued in May 2018. However while it was considered 6 months (November) would be a reasonable time period whereby action would have been undertaken to put some of the recommendations into action in reality this has not been the case. It has been advised that the Ministry of Homes Communities and Local Government is considering amending/replacing the Building Act 1984 and this requires Parliamentary approval. However, Brexit negotiations have taken precedence and regulatory changes through parliament have been postponed to 2019.

3.3.1 The Council is working on formulating responses on how best to progress implementation of recommendations; however detailed legal, finance and resource implications can only be established once the Government has revealed the next steps.

3.3.2 The Council agrees with all the recommendations in the Final Report, as summarised in appendix 2.

3.3.3 Joint Competence Authority (JCA) and Challenges

Whilst the Council has made contact with the London Fire Brigade (LFB) and Health and Safety Executive to discuss the formation and operation of the Joint Competence Authority including considering case studies on how the JCA would operate, the London Fire Brigade are waiting for primary legislation to change before they introduce changes to working arrangements to show compliance. The Council awaits additional feedback from the senior official of the LFB whom is discussing matters at a national wide level and also from the Health and Safety Executive.

3.3.4 Commons Report - July 2018

The All party commons recommendation report based on the Final Report confirms governments backing for the setting up of the Joint Competency Authority, although concerns were raised regarding the independence of the Local Authority Building Control (LABC) department when working on Local Authority building works. The concern being that the Local Authority Building Control Body cannot take its own Authority to court. However there are no examples where this has compromised fire safety. An alternative proposal is being considered whereby the Building Control department of a neighbouring Local Authority is employed on such projects, subject to legal considerations.

3.3.5 Westminster Briefing

The Westminster Briefing on 25 September entitled the next steps for Building Regulations and Fire Safety was very disappointing, as it only reinforced the message that limited progress had been made since the Hackitt final report (May 2018) was published. The competence criterion is the only recommendation where tangible outcomes were visible:

- **Nationwide body of Building Control Authorities** (NBCA) has been involved in the Round Table discussions since the Final Report. This body has requested confirmation of competency levels within LABC departments dealing with High Rise residential buildings and other complex buildings. Responses have confirmed that in total, LABC's have 3600 experienced surveyors dealing with High Rise Residential Buildings which is far in excess of any other Approved Inspector.
- The NBCA has set up a competence test which either validates the competence of Building Control Staff or refers them for further reading. This 3 hour test confirms whether LABC surveyors have maintained standards and knowledge since achieving their professional status. Once passed a license is issued for 4 years with a view to the test being taken every 4 years.
- The competency criteria relates to all designers/workers/maintenance staff from design concept to maintaining an existing occupied building. While a fundamental part of this procedure is the experience of the Building Control Staff, there seems to appear a lack of awareness of competency testing including by cladding contractors. However, the Council agrees with this level of competency testing to ensure residents safety in the future.

3.3.6 Part B consultation

The technical requirements in Building Regulations are supported by statutory guidance set out in "Approved Documents" which provide advice on approaches to compliance. Guidance on fire safety is set out in Approved Document B (ADB). There are currently two volumes; volume 1 covers dwelling houses and volume 2 covers buildings other than dwelling houses.

In response to the publication of Dame Judith Hackitt's Independent Review of Building Regulations and Fire Safety, the Secretary of State reaffirmed the Government's intention "to clarify building regulations fire safety guidance". In July 2018, the Government launched consultation on proposed clarification of Approved Document B and its plans for further work on a wider technical review of Approved Document B.

Whilst the Council has responded to the consultation regarding amending Part B, it was disappointed with the rushed approach to the consultation, evident by minimal and unclear questions, it is envisaged that the process will provide limited benefit.

3.3.7 Fire Safety Guidance for Developers

Whilst the new London Plan will not be ratified until June 2019, work has commenced between the Building Control and Development Control Teams to ensure robust assessment of submitted fire strategy documents including for tall buildings. The Council's website will be updated to provide guidance for developers/contractors/builders in light of future changes to legislation.

The Council's Head of Building Control is a member of the London District Surveyors Association which is the London Branch of the Local Authority Building Control (national body), and in this capacity identifies and disseminates both national and international good practices.

3.3.8 Council Housing Stock

- Whilst we await recommendations from the working groups set up by the Government, THH has started to look at the recommendations of the Hackitt Review. There are a number of areas that THH are developing where this adds value to the safety of residents, including:
 - Making arrangements to satisfy Resident's Voice recommendations
 - Consideration of a duty holder for each building and reviewing their competency levels.
 - Review of competency levels of staff and contractors involved in fire safety, poor procurement issues, the principles and scope of building management, and agree comprehensive safety standards and building management plans (to also inform works).
 - Establish a joint competent group comprising LFB, building control and THH officers formalise building control sign off of fire safety related works, and develop technical standards, guidance and specifications for fire safety related works.

4. EQUALITIES IMPLICATIONS

4.1 The Public Sector Equality Duty (as set out in the Equality Act 2010) aims to embed equality considerations into the day to day work of public bodies, so that they tackle discrimination and inequality and contribute to making society fairer.

4.2 The actions set out in this review seek to implement recommendations on key equality considerations, including reflecting the diversity of the borough by developing communication materials in key languages spoken in the borough; improving transparency and clarity of fire risk assessments through exploring introducing a clear user-friendly dashboard; considering best practice models to engage disabled residents; promoting the need for Landlords to assist vulnerable residents (including residents with hoarding issues or who require assistance in evacuating), reviewing existing services for personalised emergency evacuation plans and prioritising remedial works or adaptations to facilitate safe evacuation.

5. OTHER STATUTORY IMPLICATIONS

- 5.1 This section of the report is used to highlight further specific statutory implications that are either not covered in the main body of the report or are required to be highlighted to ensure decision makers give them proper consideration. Examples of other implications may be:
- Best Value Implications,
 - Consultations,
 - Environmental (including air quality),
 - Risk Management,
 - Crime Reduction,
 - Safeguarding.
- 5.2 The recommendations in scrutiny review are made as part of the Housing Scrutiny Sub-Committee's role in helping to secure continuous improvement for the Council, as required under its Best Value duty.
- 5.3 There are no direct environmental implications arising from the report or recommendations.
- 5.4 The recommendations of the Scrutiny Review are based on areas of risk and for improvement for the Council and its partners and the actions seek to address these.
- 5.5 There are no direct crime and disorder reduction implications arising from the report or recommendations.

6. COMMENTS OF THE CHIEF FINANCE OFFICER

- 6.1 This report provides an update for the Mayor in Cabinet on the review of Fire Safety that has been undertaken by the Housing Scrutiny Sub-Committee and seeks approval for the adoption of the action plan that has been prepared to meet the recommendations arising from the review. The financial implications of the action plan, will need to be assessed and considered as part of the Council's Medium Term Financial Strategy. Efforts to secure central government funding will also need to continue to minimise the impact on local taxpayers and tenants.
- 6.2 The Scrutiny Report proposes fourteen recommendations providing a range of actions across the Council. The review covers all stock within the borough, both private and public sector.

Registered Providers of Social Housing and Private Sector

- 6.3 Although it is the responsibility of the owners of blocks to undertake fire risk assessments and to carry out any necessary works, it is the regulatory duty of local authorities to ensure that these statutory requirements are being met.
- 6.4 The Council has set aside an initial revenue budgetary provision of £100,000 to finance the appointment of temporary staffing resources within the environmental health and housing teams, and to fund the associated legal and administration costs. In addition, the Council has received an allocation of

£113,000 from the MHCLG to support the financing of costs associated with the identification of all residential tower blocks within the borough with Aluminium Composite Material (ACM) cladding. These resources are funding activities being undertaken by the Council's Building Control and Environmental Health sections.

- 6.5 The Council is providing guidance and support for RPs, particularly in its lead role on the Tower Hamlets Housing Forum (THHF). As an activity relating to non-Council owned housing stock any costs are a charge to the General Fund and are currently being met from within approved budgets.

Council Stock (held within the Housing Revenue Account)

- 6.6 The Council's 2018-19 Budget Report and Medium Term Financial Strategy 2018-21 includes capital provision totalling £26.84 million for fire safety works to its Housing Revenue Account stock. Increases to the Tower Hamlets Homes management fee have also been approved to meet the revenue costs associated with the enhanced fire safety programme.
- 6.7 The scrutiny report highlights other measures that might become necessary in future e.g. the retro fitting of sprinkler systems to blocks. These will need to be considered as part of the Council's Medium Term Financial Strategy and form the basis of future reports to Cabinet. A review of the HRA capital programme and a significant reprioritisation of proposed future schemes will need to be completed, if the works are agreed and undertaken.
- 6.8 It is anticipated that the Government will shortly publish its response to the Independent Review of Building Regulations, in particular in relation to addressing fire safety. Once published, an assessment of the resource implications for the Council will be undertaken and reported to Cabinet. Although it is likely that Government funding is likely to be sought, this cannot be guaranteed and it is therefore likely that costs will fall upon various Council services. These financial implications will need to be considered as part of the Council's Medium Term Financial Strategy, before any funds are committed.

7. COMMENTS OF LEGAL SERVICES

- 7.1 The Council is required by Section 9F of the Local Government Act 2000 to have an Overview and Scrutiny Committee and to have executive arrangements which ensure the committee has specified powers. Consistent with that obligation Article 6 of the Council's Constitution provides that the Overview and Scrutiny Committee may consider any matter affecting the area or its inhabitants and may make reports and recommendations to the Full Council or the Executive, as appropriate, in connection with the discharge of any functions. It is consistent with the Constitution and the statutory framework for the Committee to be asked to comment on the matters set out in the report. Other Scrutiny Panels may be established by the Overview and Scrutiny Panel which include the Housing Scrutiny Sub Committee. The report seeks the approval of the action plan which sets out the Council's response to the recommendations of the Scrutiny Review.

- 7.2 The recommendations in the plan appear to be capable of being carried out within the Council's powers. With regards to the recommendations and proposed actions, much of the relevant legislation is included in the body of the Fire Safety Review Report. Where it is not, comments are made below:
- 7.3 S.3 of the Housing Act 2004 (the Act) places a duty on local housing authorities to keep the housing conditions in their area under review with a view to identifying any action that may need to be taken by them. This includes undertaking inspections to identify hazards and taking appropriate enforcement action where serious hazards are identified. Hazards that can be addressed using these powers include the risk of harm associated with exposure to uncontrolled fire and associated smoke.
- 7.4 S.10 of the Act imposes a duty on local authorities to consult with the fire and rescue authority where enforcement action is to be taken under 1 in relation to a prescribed fire hazard.
- 7.5 The Council is required when exercising its functions to comply with the duty set out in section 149 of the Equality Act 2010, namely to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity between those who share a protected characteristic and those who do not, and foster good relations between those who share a protected characteristic and those who do not. Paragraph 4.2 of the report refers to various actions in the review that address equality considerations.
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Linked Reports, Appendices and Background Documents

Linked Report

- Fire Safety Scrutiny Review Report (hyperlink)

Appendices

- Appendix 1 – Fire Safety Scrutiny Review Action Plan
- Appendix 2 – Summary of Hackitt Review recommendations

Local Government Act, 1972 Section 100D (As amended)

List of “Background Papers” used in the preparation of this report

- NONE