

Non-Executive Report of the: <b>Housing &amp; Regeneration Scrutiny Sub-Committee</b> 9 <sup>th</sup> September 2021	 <b>TOWER HAMLETS</b>
<b>Report of</b> Councillor Ehtasham Haque Chair, Housing & Regeneration Scrutiny Sub Committee	<b>Classification:</b> Unrestricted
<b>Fire Safety Review</b>	

<b>Originating Officer(s)</b>	Mark Slowikowski, Strategy and Policy Manager (Place)
<b>Wards affected</b>	All Wards

## Executive Summary

The chair of the H&RSSC requested a review of fire safety across the borough, following the fire at New Providence Wharf (NPW) in May 2021 and invited residents to scope out the key areas of concern at the sub-committee meeting in June 2021.

This report sets out the outcome of the review and proposes a number of actions in response to the residents' concerns. The sub-committee is requested to approve the submission of the outcome document (scoping review) and the proposals to the Mayor for approval.

## Recommendations:

The H&RSSC is recommended to:

1. Approve the outcome of the fire safety review and recommend to the Mayor the proposals set out in appendix 2 to this report.

## 1. REASONS FOR THE DECISIONS

- 1.1 The Housing and Regenerations Scrutiny Sub-Committee (H&RSSC) has previously explored a range of issues concerning fire and building safety. A scrutiny review undertaken in 2017, following the Grenfell fire, led to a Fire safety Action Plan that was recommended to Cabinet for closure in April this year as all the actions had been completed.
- 1.2 The review of fire safety following the fire at NPW and the associated proposals will guide the council's ongoing fire and building safety work in collaboration with its PRP partners and builders/developers operating in the borough.

1.3 Operationally, officers will continue to focus on managing private sector ACM remediation, collecting EWS data on behalf of the MHCLG and responding to residents' concerns on building and fire safety issues.

## **2. ALTERNATIVE OPTIONS**

2.1 The alternative option is not to recommend that the Mayor adopts the proposals or that only some of them are adopted. This is not recommended as the review that led to these proposals was predicated on clearly stated concerns that residents expressed at the fire safety scoping session at the June sub-committee meeting.

## **3. DETAILS OF THE REPORT**

### **The National Picture**

3.1 Four years on since 72 people died in the fire at Grenfell Tower, the National picture on building safety remains centred around removal of ACM cladding from all blocks of flats, comprehensive data collection on external wall systems in blocks over 18 metres and legislative reform/changes in the form of the Fire Safety Act 2021 and the Building Safety Act.

3.2 At the same time, a range of fire or building safety issues have been uncovered in tower blocks across the country that have left thousands of residents living in unsafe, unsellable homes. These include flammable non-ACM cladding such as PVC and issues with fire breaks, fire doors, insulation, balconies, and compartmentation breaches.

3.3 According to MPs on the House of Commons housing, communities and local government select committee, the government needs to:

- establish a comprehensive building safety fund that means no leaseholders are required to pay for the removal of dangerous cladding
- give social landlords more access to government funding for cladding removal and other fire safety measures
- require industry, including possibly manufacturers and suppliers, to pay towards fire safety
- scrap a proposed loan scheme for leaseholders in buildings less than 18 metres high
- pay more attention to the physical and mental toll fire safety is having on residents
- assess the impact the cladding scandal is having on the housing market

3.4 The HofC committee held its latest inquiry into fire safety earlier this year. In conclusion, it says that extra government funding for cladding removal is being 'swamped' by the scale of fire safety issues that have emerged in multi-occupancy buildings since the fire at Grenfell in 2017.

- 3.5 In 2020, the government announced a building safety fund, worth £1bn, for the removal of non-ACM cladding. This was in addition to £400m offered to councils and housing associations in 2018 for removing ACM cladding.
- 3.6 During the past year, most attention has been focused on leaseholders, some of whom are being asked to pay substantial bills by building owners. The select committee's view is that leaseholders should bear no cost whatsoever for the remediation of building safety defects that were not of their making.
- 3.7 The Government has so far resisted pressure to ensure no leaseholders face bills for fire safety measures but is promising further money for cladding remediation on high-rise residential buildings that are above 18 metres or six storeys high.
- 3.8 Despite an estimated 11 million people living in homes that require cladding to be removed or suffering from other fire safety issues, many are not eligible for Government funds. During the past 12 months, the UK Cladding Action Group has lobbied MPs and media organisations as part of the *End Our Cladding Scandal* campaign.
- 3.9 In response, in February 2021, the Government committed to:
- An extra £3.5bn towards cladding remediation for high-rise residential buildings above 18 metres (six storeys), on top of £1.6bn already committed.
  - A long-term loan scheme towards the costs of cladding remediation for buildings between 11 metres (four storeys) and 18 metres, with a maximum monthly payment of £50 per leaseholder.
  - A developer levy payable when seeking to build certain high-rise buildings in England.
  - A new tax for the UK residential property development sector predicted to raise £2bn over ten years towards cladding remediation.
- 3.10 More recently, in April 2021, the Fire Safety Bill received royal assent, but without a clause to protect leaseholders against large bills for removal of cladding and other safety defects.
- 3.11 The HofC Committee also highlighted the toll that the cladding crisis is having on residents after a year when people have been required to spend more time than ever at home. Last year, the UK Cladding Action Group published a report showing the effect this is having on people's mental health.
- 3.12 In its 2020 report, the HofC committee asked the government to offer NHS support for the physical and mental health needs of residents in affected buildings and to provide signposting to services for residents worried about their safety or financial situation.
- 3.13 Last year, the government launched a £30m fund for 24-hour waking watch patrols. The money can be used towards alarm systems in buildings more than 17.7 metres high that have unsafe cladding and where the costs of

waking watches are being passed on to leaseholders.

- 3.14 Buildings owned by social landlords are only eligible where it can be shown that the cost of a waking watch have been passed to leaseholders and that the costs of installing an alarm would also fall on leaseholders.
- 3.15 The fund will support between 300 and 460 buildings, but in London alone, there are 590 buildings with a waking watch. MPs want the fund to be expanded to include all interim fire safety costs, including buildings less than 17.7 metres high.
- 3.16 Uncertainty over building safety is having a significant effect on the wider housing market. This is partly due to a need to complete an EWS1 form on selling or re-mortgaging. The form was introduced in 2019 for valuation purposes and is not a statutory requirement, even though many lenders demand them.
- 3.17 New guidance on EWS1 forms in the Government's announcement on the 21<sup>st</sup> July 2021, stated that EWS1' forms should no longer be requested by lenders when leaseholders are trying to sell flats in blocks below 18 metres.
- 3.18 A group of major high street lenders has committed to review their practices following the new advice; HSBC UK, Barclays, Lloyds Banking Group and others have said that the expert report and Government statement paves the way for EWS1 forms to no longer be required for buildings below 18 metres and will help further unlock the housing market.
- 3.19 In summary, as chair of this sub-committee, the National picture in terms of improvements to fire safety in tower blocks is that they are taking far too long and the government has become embroiled in an argument with residents, building owners and even its own MPs over what is fair. Leaseholders are deemed worthy of help if they live in a tall tower block but must take out a loan if they live in a low-rise building.

### **The Policy Framework**

- 3.20 There are three new government policy/legislative changes which have led to the need for the council and THH to develop a Shadow Building Safety Framework, to ensure the preparedness of delivering necessary building safety requirements responsibilities:
  - Building Safety Bill/Act
  - Fire Safety Act 2021
  - Building Safety Regulator
- 3.21 **The Building Safety Bill** - which sits alongside the recent Fire Safety Act was introduced on 5 July 2021. The Bill will improve the fire and structural safety of new and existing residential buildings and focuses on accountability and responsibility at each stage of a building's lifecycle. This includes duty holders during the planning, design, and construction stage of a building. The Bill

establishes two new roles for buildings in occupation; the Accountable Person and Building Safety Manager.

- 3.22 As of 21<sup>st</sup> July 2021, the Bill had passed the second reading stage in the house of commons. The Bill is anticipated to receive Royal Assent between April to July 2022 and be fully implemented 12 months later in 2023.
- 3.23 **The Fire Safety Act 2021** - received Royal Assent on 29 April 2021 and includes a requirement to consider the spread of fire across external surfaces of buildings. For the council, this means that we will have to prioritise our existing programme of external wall system (EWS) surveys. It is proposed that THH's new Fire Safety Manager will take a leading role in this respect and manage the programme of inspections
- 3.24 the act also contains a requirement to ensure that front entrance doors and balconies are included within the scope of fire risk assessments and that they are in good condition and fit for purpose. This applies equally to tenanted and leasehold properties and it is envisaged that the "Building Safety Officers" will play a key role in enforcing this.
- 3.25 **Building Safety Regulator** - as announced in the Queen's speech of 11 May 2021, a new Building Safety Regulator will be established, which will sit under the Health and Safety Executive (HSE). The new regulator will provide oversight of building safety in the housing industry and will have the power to prosecute property developers and landlords that do not meet safety standards as set out in the Building Safety Bill. The Government anticipates the Regulator to be fully established between July 2022 to January 2023.
- 3.26 The council working collaboratively with THH, has begun planning for the introduction of Bill. An internal Building Safety Bill Group has been established and meets monthly to progress matters.

### **The Local Context – Fire at NPW**

- 3.27 The borough is home to the largest number of tower blocks in the country, with many blocks needing work to remove combustible cladding as a direct result of the Grenfell tragedy four years ago. A total of 293 bids from building owners in Tower Hamlets have been made to the Government's building safety fund to help finance the works, followed by Manchester (144), Newham (138) and Westminster (125).
- 3.28 Landor Residential - a subsidiary of Ireland-based international property developer Ballymore - owns the freehold at NPW, the 19 storey, 559-apartment complex that houses over 1,000 residents. The block that caught fire has some ACM cladding and the issue of who pays for the removal of this cladding has been a long-running issue with leaseholders living in the block.
- 3.29 In 2019, NPW residents were given two weeks to accept an offer where Ballymore would pay for 20% of the works and provide a no-interest bridging loan to leaseholders, or risk having to foot the entire bill themselves. This was

issued before the government set up its £200m ACM removal fund for private developments.

- 3.30 Speaking in parliament earlier this year Apsana Begum, MP for Poplar and Limehouse, commented on the remedial works, saying that residents had been told work would start in the spring. She also said that the full costs of remediation of fire safety issues at the development could be between £12.5m and £25m.
- 3.31 This estimate has been revised and recently now stands at below £12.5m. Ballymore has committed to paying £1.5m towards the costs of remediating all facade remediation projects at the development and has submitted applications to the ACM Cladding Fund and the Building Safety Fund and has had £8m of grant funding approved by the government to go towards the work. It is understood that this is the full amount of money applied for.
- 3.32 Ballymore have said that “The safety of our residents is paramount. We see our developments as communities and neighbourhoods of people, not just physical buildings. We are committed to delivering a safe and comfortable environment for all our residents, which is why we maintain management of our estates even after all the homes are sold.”
- 3.33 They have further said that the work needed to replace the ACM cladding on this building is extremely complicated, much more so than the installation of a new build façade, because the building is horseshoe-shaped and opens directly onto the River Thames. Ballymore have said that to replace elements of a building facade, under this set of circumstances, is an extensive process.

### **Scrutiny Review (deep dive)**

- 3.34 Following the fire at NPW last May, when 20 fire engines were called to the 8<sup>th</sup> floor blaze, I invited two residents to attend the sub-committee meeting held on the 22<sup>nd</sup> June 2021. My specific request was that the residents help scope out a review of fire safety focussing on what lessons could be learned from the fire and what could be done to mitigate fire risks.
- 3.35 Residents from two key action groups attended the meeting and provided information that led to the fire safety review scoping document being prepared.
- 3.36 Ruth Bravery, lead volunteer of the Friends in High Places leaseholder group – a self-help group for resident leaseholders from 40 sites around the Isle of Dogs and local neighbourhoods in LBTH – representing approx. 9,000 flats, and Yasmin Naqushbandi, chair of the New Providence Wharf Leaseholder & Resident Association.
- 3.37 Following the scoping session at the 22<sup>nd</sup> June sub-committee meeting, I requested that officers produce a scoping document that set out the 17 key questions that were put forward by residents on fire and building safety.

- 3.38 The review was undertaken, on my behalf by officers from the Strategy and Policy (Place) Housing team who focus on housing and regeneration issues. They worked with the council's core operational team who are involved in dealing with operational fire safety issues. This team manages ACM remediation in the private sector and obtains external wall system (EWS) data as part of the MHCLG's data collection requirement.
- 3.39 The review process examined the 17 key areas that residents had said concerned them most and involved meetings with relevant officers from across the council to formulate the council's response.
- 3.40 Further discussions were held with the two residents invited to give evidence at the scoping session to obtain supplementary feedback on the issues raised and meetings were held with external agencies including the LFB and PRP partners, developers and builders operating in the borough.
- 3.41 Progress on the review work was reported to the weekly Fire Safety Meeting, chaired by the Divisional Director for Housing and Regeneration, and attended by key officers working on fire and building safety from across the council
- 3.42 The aim of the review was to ensure the outcomes focussed on practical improvements that would resonate with residents and would inform the council's fire and building safety agenda going forward. The 17 questions were categorised into 5 core areas:
1. What powers can we use?
  2. What can be communicated better?
  3. What can we fund?
  4. Where to focus our lobbying?
  5. Which ways of working can be improved?
- 3.43 Appendix 1 – Fire Safety Review Scoping Document - contains the outcomes of the review and Appendix 2 – Fire Safety Proposals - is a distillation of these outcomes into proposals across the 5 core areas. For ease of reference, the proposals are given below:
1. Ensure Fire Statements submitted to the council by developers/builders as part of the Planning process are robust and address all known fire safety issues.
  2. Investigate the promotion of "Commonhold" with our PRP partners, builders, and developers.
  3. Explore regular Quarterly meetings between the Mayor/officers and Leaseholders.
  4. Further publicise the council's building safety pledge to residents, building owners and PRPs
  5. Set up a fire safety portal that contains clear information for homeowners, tenants, leaseholders and clarifies the role of Housing Associations, builders, and developers.

6. Ensure the council's revamped website explains how the BSF application process works to leaseholders and builders/developers submitting bids.
  7. Explore with the LFB and other London boroughs using CIL money to purchase firefighting equipment.
  8. Continue to lobby the Government with our PRP partners for increased funding for independent advisory services at every opportunity.
  9. Raise gathering of economic data/cost implications of building safety issues at the LHD FSG meeting to enlist the support and collaboration of other councils and PRPs.
  10. Review the findings of the final LFB report into the fire at NPW with our PRP partners, building owners and developers.
  11. Work with our PRP partners and building owners and developers to implement the Building Safety database.
  12. Explore the feasibility of contributing to the Building Safety Map with our PRP partners and building owners.
  13. Continue to meet with LFB and PRP partners to develop a joint Fire Safety Engagement Plan.
  14. Work with PRP partners and LFB to develop a fire safety video and other engagement/communication material to promote fire safety.
  15. Establish a *Tower Hamlets Fire Safety Forum* with LFB and THHF partners to examine evacuation procedures and to promote appropriate fire alarms and signage.
  16. Establish a Resident and Landlord Fire Safety Forum to ensure effective resident involvement and collaboration in all relevant fire safety issues.
- 3.44 I acknowledge that It has not been possible to action every one of the 17 key questions posed as the council is constrained by legal and financial practicalities in some areas.
- 3.45 Further detail on the work associated with the scrutiny review includes Appendix 3; the template for the council's revamped web pages that will form the Fire Safety Portal.

#### **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. The actions proposed in the 'The Fire Safety Action Plan 2021 to be taken by the council in respect of ensuring fire safety in the borough reflect this duty.

#### **5. OTHER STATUTORY IMPLICATIONS**

- 5.1 There are no other statutory implications identified at this stage. The council's work going forward on fire safety is considered to be commensurate with all its best value, environmental and safeguarding responsibilities.

#### **6. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 6.1 This report provides an update on the outcomes of a fire safety review across the Borough following the Grenfell Tower fire four years ago and the more recent fire at New Providence Wharf. The report and appendices detail a number of proposals and requests their approval and recommendation to the Mayor for formal approval.
- 6.2 As a result there are no financial implications directly emanating from this report. However, should the proposals be formally adopted then there are likely to be additional revenue costs in the form of staff resources as this work would fall outside of the scope of the work being undertaken by the existing Fire Safety team. Further work will be undertaken in scoping this resource should the proposals be approved. Any additional resources will need to be contained within approved budgets and as part of the Council's MTFS process for 2022/23.
- 6.3 The adoption of these proposals will have no impact on the capital programme.

## **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 and Regeneration Scrutiny Sub Committee. The report seeks the approval of the fire safety review proposals set out in Appendix 2 of the report.
- 7.2 The proposals of the review appear to be capable of being carried out within the council's powers. With regards to the recommendations and proposed actions, details of much of the relevant legislation (including further legislation such as the Building Safety Bill likely to be enacted in the next 12 months) is included in the body of the report.
- 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 in relation to a prescribed fire hazard.
- 7.5 As detailed in paragraph 4.1 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.

## **Linked Reports, Appendices and Background Documents**

### **Linked Reports**

- None.

### **Appendices**

- Appendix 1 – Fire Safety Review Scoping Review Document.
- Appendix 2 – Fire Safety Proposals.
- Appendix 3 – Fire Safety Portal – Web Template.

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

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

- None

#### **Officer contact details for documents:**

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