

CABINET

17 October 2017

Title: Fire Safety Policy Proposals	
Report of the Cabinet Member for Finance, Growth and Investment	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
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Summary	
<p>This report sets out a series of policy proposals related to fire safety. The proposals set out in this report have been developed in consultation with Council services, the London Fire Brigade and other key partners, specifically those involved in the construction industry. In addition, the proposals reflect the direction of central government and the early findings from the Grenfell Tower fire and the recommendations of the previous Lakanal fire inquiry recommendations of 2013. It is recognised that changes to regulations and legislation will take place in light of the findings from the Grenfell Tower inquiry. This report sets out three broad principles which will enable the council to adopt those changes as they take place.</p>	
<p>The proposals cover three principal headings:</p>	
<ul style="list-style-type: none">• Improving fire safety in buildings• Using regulation to improve fire safety• Protecting people for the risk of fire and reducing the impact of fire if it occurs	
<p>The aim of this paper is to set out a policy context which will enable the council to make long term decisions on the best approach to improve fire safety, specifically in residential buildings and ensure that there is an increased auditing and quality assurance role to reduce the risk of fire.</p>	
<p>The Council is already working with partner agencies and the London Fire Brigade on a number of fire safety programmes which include:</p>	
<ul style="list-style-type: none">• Fire safety in maisonettes, and• The mayoral priority for councils to work with privately owned and managed residential blocks, to ensure fire safety and construction standards are in place.	
<p>These programmes will continue and this policy paper supports these programmes.</p>	

Whilst the council is setting out a series of forward looking recommendations to protect our current and future residents, the role of regional and central government will be critical in supporting us.

Central government rhetoric on the values of retro fitting sprinklers and tightening up on building regulations is cheap. The true value of commitment to such areas of improving fire safety is delivering the legislative framework which gives councils the powers to hold owners and developers to account and provides local authorities with the financial resources needed to carry out the improvements to high rise residential blocks.

The opportunity to tighten up on building regulations related to fire safety followed the 2013 Coroners recommendations on the Lakanal fire. This opportunity was not taken. In response, the then Secretary of State for Communities and Local Government 'noted' the concerns but went on to state "*...the design of fire protection in building is a complex subject and should remain, to some extent, in the realm of professionals*".

The commitment of a formal review and the publication of a new edition of the 'Approved Document' in 2016/17, set out in the Secretary of State's written response, has not been forthcoming. It is neither practical or feasible for central Government to expect local authorities to meet the financial implications of such improvements as retro-fitting sprinklers, during a decade of austerity for local government.

Central government advisors such as Sir Ken Knight have highlighted this. In his 2013 report "Facing the Future: Finding from the review of efficiencies and operations in fire and rescue authorities in England" Sir Ken states "*there is a clear case for suppression systems, such as sprinklers in targeted areas*". Sir Ken sights the insurance industry as a clear player in helping to fund such systems, as well as owners and occupiers.

However in his letter of 31 July to Chief Executives, the Secretary of State for Communities and Local Government (DCLG) stated "*Where a Local Authority has concerns about funding essential fire safety measures, they should approach us as soon as possible to discuss the position. Where works have been advised by local fire services to be essential to ensure the fire safety of a building, we will ensure that current restrictions on the use of financial resources will not prevent them going ahead. This does not include general improvements or enhancements to buildings which go beyond this.*"

Central Government departments need to be called upon to clarify the position that if the local authority and local fire service recommend a sprinkler system as an appropriate, proportionate and feasible fire safety measure to reduce the impact of fire in a targeted area, funding will be made available via DCLG to reduce the burden on local councils.

Recommendation(s)

The Cabinet is recommended to:

- (i) Approve the policy recommendations set out in the report and Appendix 1; and
- (ii) Note the financial impact on the Housing Revenue Account of the policy recommendations, the impact of which will be developed in conjunction with the HRA Business Planning process.

Reason(s)

The report sets out a series of recommendations in relation to fire safety. These recommendations are proposed in response to the early finding following the Grenfell Tower fire. They set a policy context which the council can develop in line with legislative and best practice is developed at a local regional and national level. By setting this policy context, the council is meeting its objective of a well-run organisation, being responsive to the challenges arising from the tragic events of Grenfell Tower and demonstrating its commitment to risking the risks of fire for our residents.

1. Introduction and Background

- 1.1. In the early hours of 14 June 2017, emergency services responded to a report of a flat on fire on the 4th floor of Grenfell Tower, North Kensington.
- 1.2. The fire spread very rapidly and spread across 20 floors in 18 minutes. Up to 40 fire appliances and crews responded to the incident.
- 1.3. Grenfell Tower is a 24-storey block with 127 flats. 364 households have been placed in emergency accommodation. The current number of people who have been confirmed dead stands at 80. This figure will not be revised further until the end of the year, until a full search and recovery has been concluded.
- 1.4. There has been considerable speculation and focus on how the fire spread so quickly and claimed so many lives. The investigation into the cause and spread is ongoing and will take many months to conclude. This will also form part of the coroner's inquests into the deaths.
- 1.5. In addition, the Prime Minister has called for a public inquiry which be led by retired court of appeal judge Sir Martin Moore-Bick, this will take several years to conclude.
- 1.6. The government has also established a government fire safety expert panel, chaired by Sir Ken Knight to advise on any immediate actions that are required to ensure buildings are safe.
- 1.7. Barking and Dagenham council established a Strategic Operations Group to oversee the work across all departments in response to the fire, the early areas of investigation and the wider response to government departments at a regional and national level.
- 1.8. The Fire Risk Assessment Report was adopted by the Cabinet on 19 September 2017 (Minute 41 refers).
- 1.9. This paper sets out the policy recommendations related to fire safety, and their context.

2. Proposals and Issues

- 2.1 Following the Grenfell Tower fire in North Kensington, the council has been working in partnership with the London Fire Brigade and government departments to identify

areas which can improve fire safety and reduce the risk of fire to our residents. This paper sets out a series of policy positions related to fire safety. The changes do not contain any direct legal issues and reflect the current direction of Government in relation to fire related legislation.

2.2 However, it is recognised that changes to regulations and legislation will take place in light of the findings from the Grenfell Tower inquiry. This report sets out three broad principles which will enable the council to adopt those changes as they take place.

2.3 **Improving Fire Safety in Buildings**

2.3.1 There has been considerable national debate on the use of materials on external facades of buildings, in particular cladding and the materials that form cladding as an external façade to a building, as well as sprinkler systems, and alarms in high-rise residential blocks. The council's policy position on these is set out below. However, the council will reflect the most up to date national guidelines and changes, relating to these areas.

Use of materials

2.3.2 Currently, there are two tests under Building Regulations which are used to assess the combustibility of the materials used in the external facades of buildings.

2.3.3 The first test relates to each individual component. Under this test, all of the components in an external facade are required to meet the criteria of limited combustibility. In other words, each individual component must meet the requirement of limited combustibility (BS 476-11:1982 or classified A2 BS EN 1305-1-2007).

2.3.4 The second category relates to materials which when, combined in an external façade system, have limited combustibility. This means that whilst each individual material used in the system could be combustible, as a whole system they meet the requirements of limited combustibility. Current building regulations, BR135, set out the criteria related to this type of design.

2.3.5 It has been evident since Grenfell Tower Fire in June, and the subsequent BRE testing programme that there remain significant challenges in the use of any material in an external façade system which does not meet the standards of limited or non-combustibility. Materials which are classified being fire resistant, or of limited combustibility have failed the recent BRE testing regime. We want to be assured that any building with an external façade is as safe as possible – the only way that we can be confident of this is to ensure that each individual material meets the standard of non-combustibility.

2.3.6 Our policy will be to only use individual materials in any external façade system, that meet the standard of non-combustibility, as set out in prevailing building regulations, when building or refurbishing council-owned or maintained residential blocks or schools.

Installation of sprinkler systems in new buildings

- 2.3.7 The current building control requirement is that any new high-rise building of over 30 metres requires a sprinkler system.
- 2.3.8 Although it is not a material planning consideration, the expectation of the council will be that developers include sprinkler systems for any residential block of more than 18 metres.

Retrofitting sprinklers in council-owned residential buildings

- 2.3.9 The council is committed to ensuring that fire safety improvements in high-rise residential buildings is to the highest standard. There is evidence that sprinkler systems can play an important role in this. However, it is also recognised by the London Fire Brigade (LFB) that retro-fitted sprinklers is best achieved, as part of an appropriate package of fire safety measures and installed in a way which does not significantly affect the fire safety integrity of the block.
- 2.3.10 One of the key challenges in retro fitting sprinklers is that, to be effective, sprinklers need to be installed inside each dwelling, as well as in communal areas. As a result, the decision to retro-fit sprinklers has to be taken with the full agreement of tenants and leaseholders, alongside the design specification and fire safety integrity of the block.
- 2.3.11 Accordingly, the council's policy in relation to retro-fitting sprinklers will be based on key criteria and decisions to retro-fit will be considered in partnership with London Fire Brigade and in line with any recommendations of the public inquiry. The criteria is as follows:
- High-rise residential buildings of 8 storeys or more - Where there are council-owned or maintained buildings of 8 storeys or more, we will undertake a programme to assess if retro-fitting sprinkler systems are a viable option to improve fire safety, without detrimentally impacting on the integrity of the building.
 - High-rise residential blocks which form part of the Council's regeneration programme –Where buildings fall under this category, we will look to complete the scheme at the earliest opportunity. In the interim we will explore the use fire detection and alarm systems in partnership with the LFB, which will greatly improve the early detection, if fire were to occur.
 - The Council will continue retro-fitting sprinkler systems in sheltered accommodation, in partnership with London Fire Brigade.

Installation of Fire Detection and Alarm systems

- 2.3.12 Fire detection and alarm systems can provide a highly effective measure, when used by the LfB, in alerting residents to evacuate a property or building.
- 2.3.13 Although this is a new concept our policy will be to work with the LFB to identify buildings where the installation of fire detection and alarm systems, is deemed most

appropriate. The council will use its civil protection response when fire safety crews take the decision to evacuate a building. The council will only use fire detection and alarm safety alarms in high rise residential buildings.

2.4 Using regulation to improve fire safety

Building control

- 2.4.1 Developers of either new build or refurbishment programmes have the options of using the council's Building Control Department, or independent, Approved Inspectors, to carry out their Building Control functions. In light of the Grenfell Tower fire, it is important that there is a robust process in place to ensure that residential accommodation of more than 5 storeys (18 metres or above) are fully checked, either when they are being built, undergoing refurbishment, or where there are significant changes to the building.
- 2.4.2 Therefore, our policy will be that an auditing clause is written in to all future council contracts, explicitly requiring the Approved Inspector to co-operate with "any group or individual which LBBD assigns to audit the process." This should apply to any new build or refurbishments of council owned, or managed, buildings including residential accommodation, schools or educational establishments, residential homes and hostels.

Consideration of fire safety in planning

- 2.4.3 It is important that fire safety measures are fully considered as part of any new development or future refurbishment. Therefore, although it is not a material planning consideration, the council will request that developers set out their fire safety strategy in their design and access statement for any residential block of more than 18 metres.

Houses of Multiple Occupation in High-Rise Residential Blocks

- 2.4.4 Currently, the council has a policy which requires any property which is let to be licensed. Licenses can fall into 3 categories, a selective license relates to a property let to an individual or single family, an additional HMO which is let to 3 or more people, forming more than one household that share amenities. A statutory HMO that is three or more storeys, shared by five or more people living in two or more households.
- 2.4.5 In terms of residential tower blocks, there are increased fire safety risk of subdividing a flat into individual units. For example, a two bedroom flat with a sitting room subdivided into 3 individual properties sharing a kitchen and bathroom and potentially using the lounge as a bedroom. Such subdivision increases fire risk through use of multiple electrical devices, overcrowding and inadequate fire safety measures such as no fire doors, locks on individual doors compromising the escape. These create risks for not only the residents inside these HMO properties, but also for all residents living within that tower block.
- 2.4.6 The council policy will be to use its powers to ensure that no property in a residential tower block of more than 5 storeys, is sub-divided into an additional, or statutory HMO. In cases where there is evidence that this has taken place, the

council will use its enforcement powers to prevent the property being used for this purpose, including revocation of the lease if it is felt the case in question is serious enough.

Improving fire safety in licensing conditions

- 2.4.7 The council policy will be that for all additional and statutory Houses in Multiple Occupation, the council to require a fire risk assessment or, where appropriate a report of significant findings to be completed by a responsible person (the person who has control of the premises in connection with the business undertaking) and provided to the local authority. Where a FRA has not been provided, the local authority will conduct a Housing, Health and Safety Assessment to identify potential risk and take robust enforcement action on any deficiencies identified. No licence will be granted on an additional or statutory HMO that does not have a FRA or a report of significant findings
- 2.4.8 The council will provide advice and information to landlords on both Fire Risk Assessments and a report of significant findings including what they should cover and how they can benefit landlords and their tenants.

2.5 Protecting people from the risk of fire

- 2.5.1 The Council is committed to providing as much support as possible to those residents who have additional needs due to disabilities or frailty whenever we are aware of their needs. It is important to consider the additional needs of these residents, both when they are allocated accommodation but also at the stage when the residents require further support at a later date. Updating the plans will in future be linked to the routine care reviews that take place at regular intervals. The council currently has up to date Personal Emergency Evacuation Plans (PEEP) for each resident in residential care home, sheltered housing units and council run extra care. Whenever possible these plans are shared and discussed with residents, however this will not always be possible with those residents who lack mental capacity and cannot understand what is proposed. Working with LFB, personal protection water misting systems which detect and suppress fire have been made available to some vulnerable adults along with other assisted living technology where this is an appropriate way to reduce the risk of injury through fire.
- 2.5.2 It will be our policy to expand this so that there is a PEEP for those individuals (both adults and children) who have substantial disabilities or vulnerabilities, drawing on accepted Care Act and Children Act definitions whatever type of accommodation they live in. This approach is being developed over the next few months so that we can put in place robust systems that enable the fire service to access the necessary information in an emergency. Once in place, plans will be reviewed and updated on a regular basis.

Working with residents

- 2.5.3 Our policy in relation to Fire Safety will be to work with the LfB to provide the best, most up to date advice to residents about how they can keep themselves and their families safe, to prevent fire and protect themselves in the case of a fire.

- 2.5.4 The council recognises the rapidly changing fire safety environment as lessons are learnt from incidents such as Grenfell Tower.
- 2.5.5 The council's policy will be to continue to look for best practice in fire safety through guidance, audit tools and free e-learning, such as the fire safety in the home training provided by the TSA in partnership with LFB and Learning Curve.

2.6 Financial Impact on the HRA

- 2.6.1 The current HRA Business Plan does not include financial provision for any additional expenditure which may result from the implementation of the proposed recommendations outlined in this report. The HRA Business Plan is currently being updated and will be recommended to Cabinet for approval in early 2018.
- 2.6.2 The revised Business Plan will need to include appropriate adjustments to the existing HRA capital programme, either via delaying non-priority projects or by using additional HRA resources earlier than currently planned. The timing and use of additional resources needs to consider the financial impact on both HRA cashflow and HRA balances to ensure the continued financial viability of the HRA.

3. Options Appraisal

- 3.1 This paper sets out a series of policies in relation to Fire Safety. The policy considerations have been drawn from the work undertaken by the council in responding to the Grenfell Tower Fire, and as part of our review of the current arrangements. In light of this, the Council has the following options:

Option A – agree recommendations = strengthening approach and giving assurance on safety of LBBB buildings

Option B – Don't agree recommendations = not responding to Grenfell Tower risks that fire safety policies and measures are not suitably robust and the council will not have the policy framework to respond to the issues and challenges that will arise through the coroner's inquest, the public inquiry or reports from the Fire Safety body, chaired by Sir Ken Knight.

4. Consultation

- 4.1 The Policy Recommendations have been drawn together in consultation with London Fire Brigade, and senior officers across Council departments.
 - 4.1.1 A paper was taken to Assurance Board setting out a series of recommendations which focused on improving our Fire Risk Assessment procedures and a number of other policy considerations.

5. Financial Implications

Implication completed by: Katherine Heffernan, Group Manager for Service Finance

- 5.1 The policies set out in the paper will have a financial impact, particularly in terms of the capital programmes such as the potential increase in costs in using non-

combustible materials, retro-fitting sprinklers and the introduction of alarms in residential blocks where they are deemed appropriate.

- 5.2 Any funding for these capital programmes will form part of the council's overall capital programme as approved by cabinet. It is likely to require funding from the HRA business plan for existing housing stock while for new stock the additional costs will need to be built into the investment appraisal.
- 5.3 The increased auditing and quality assurance process for Building Control will require an increased capacity in the existing team. The financial commitment will be in the region of £60,000. This will be met through an increase in fees and charges applied to developers and contractors via Capital delivery.

6. Legal Implications

Implication completed by: Dr Paul Field, Senior Corporate Governance Lawyer

- 6.1 The law on the duty of safety requirements on landlords is well established. The key provisions are:
- **The Occupiers Liability Act 1957** this imposes a duty of care upon the landlord who controls the communal areas to ensure that visitors to the property are reasonably safe.
 - **The Landlord and Tenant Act 1985** this imposes a duty on landlords to keep the structure and exterior of a property in repair and also to ensure that the installations which supply essential services remain in proper working order.
 - **The Defective Premises Act 1972** imposes a duty of care obligation on the landlord to all persons who might reasonably be expected to be affected by defects within the premises. In addition, there will be liability for any that defects arising from or because of acts/omissions by the landlord which breach their obligation to carry out repairs where the landlord knows or ought to know of the relevant defect.
- 6.2 Furthermore at time of this report the Grenfell Tower legal proceeding both civil and criminal are at an early stage. The local authority concerned may well face criminal liability notwithstanding the Tower was managed via an arm's length not for profit company. It is entirely conceivable that fresh legislation will be introduced in the Government's legislative programme extending responsibility to local housing authorities.
- 6.3 The proposals in relation to not allowing additional and statutory Houses in Multiple Occupation in council owned tower blocks of more than 5 storeys is a decision that can be taken by the council as the landlord. This decision is supported by existing legal frameworks which the council currently adopts as follows:
- The council has adopted an Article 4 direction as part of its planning framework. This takes away permitted development rights that would otherwise allow the change of use of a family home to a House in Multiple Occupation.
 - The leasehold agreements which apply to all council owned buildings include a requirement that no internal alterations related to a dwelling can be carried out

without the permission of the council.

- The council has a policy which does not allow a council tenant to sub-let their accommodation

6.4 In reference to the changes in the role of Building Control to adopt an auditing and quality assurance programme for new build or refurbishments of council owned, or managed, buildings including high rise residential accommodation of more than 5 storeys, schools, or educational establishments, residential homes and hostels; this is a contractual matter between the council and developers or appointed contractors.

7. Other Issues

7.1 **Risk Management** – This paper outlines a suite of actions and measures which are designed to reduce the risks to the council and residents in relation to fire. Failure to adopt the recommended actions/measures may leave LBBB buildings and tenants at risk of fire.

7.2 **Staffing Issues** – There is no direct impact to staff or unions related to the proposals in this paper. Any requirement for additional staffing, for example in Building Control, will be met through existing resources or offset against additional income.

7.3 **Corporate Policy and Customer Impact** – The proposals set out in this paper link to the Cabinet report on Fire Risk Assessments adopted in September 2017. The policy proposals set out in this paper are universal. There are no specific impacts in relation to race, gender, sexuality, faith and community cohesion. It is anticipated that there will be a positive impact in relation to people with disabilities or vulnerable in terms of age through the expansion of the Personal Emergency Evacuation Plans to tenants for those individuals who have substantial disabilities or vulnerabilities.

7.4 **Safeguarding Children** – The stronger focus on providing residents good quality advice in respect of fire safety and the steps care givers can take to keep children safe together with the extensive fire safety programme proposed should reduce the risk of harm to children and young people.

7.5 **Health Issues** – There are no specific health issues related to this report. However, our policy to expand the Personal Emergency Evacuation Plan will have a positive impact on independent living for those individuals who have substantial disabilities or vulnerabilities.

7.6 **Property / Asset Issues** - This report does not commit the council to any capital expenditure. It sets the policy context for which decisions will be made in relation to fire safety in residential buildings of more than 5 storeys, or council owned buildings. Any decision to undertake capital improvements as outlined in this report will form part of the Councils Capital Programme as approved by cabinet.

Public Background Papers Used in the Preparation of the Report: None

List of appendices:

Appendix 1 – Table of recommendations