

CABINET

20 February 2023

Title: Leaseholder Charging Policy - Fire Door Programme at High Rise Blocks	
Report of the Cabinet Member for Community Leadership and Engagement	
Open Report	For Decision
Wards Affected: All	Key Decision: Yes
Report Authors: Anthony Wiggins – Head of Property Management & Capital Delivery, My Place Jane Shaw – Home Ownership Manager, My Place	Contact Details: Email: anthony.wiggins@lbbd.gov.uk Email: jane.shaw@lbbd.gov.uk
Accountable Director: Joe Joseph, Interim Director of Homes & Assets, My Place	
Accountable Strategic Leadership Director: Leona Menville, Interim Strategic Director of My Place	
Summary <p>The Council has an obligation to ensure that its housing stock is safe, secure and fit for purpose. Fire safety is particularly important, and the Council has an ongoing programme of replacing front entrance (fire) doors (FED's) within its flatted blocks, funded from the HRA Capital Stock Investment Programme. Works are identified through a combination of stock condition data held within My Place and the programme of ongoing Fire Risk Assessments currently being undertaken.</p> <p>The programme includes replacing front fire doors, communal corridor fire doors (and side panels), doors to stairwells, riser cupboards, bin chute doors and all associated work to the housing blocks, which includes both Council tenanted properties as well as leaseholders.</p> <p>Phase 1 of the works were completed in 2020/21 and resulted in the replacement of 351 front fire doors within three high-rise blocks and one medium-rise block. At that time, no leaseholders were recharged the cost of their front fire door under Section 20 of the Landlord and Tenant Act 1985 due to the timescale associated with the works. Having reviewed these arrangements for the development of Phase 2 of the programme, this report seeks Cabinet approval to continue the approach undertaken with Phase 1 with regards fire doors (front doors and all communal doors) within the high-rise blocks (i.e. those blocks 18 metres and above) as the policy of recharging leaseholders in respect of front fire doors, on all subsequent phases of the fire door (high-rise) replacement programme. This means the gifting of front entrance doors (FED's) to leasehold properties within high rise blocks and will ensure that the Council continues its proactive approach to fire safety compliance and the wellbeing of its residents and the ongoing fire compliance of the Council's stock with regards replacement FED's.</p>	

<p>This report sets out the options considered, the preferred approach and the associated cost implications.</p>
<p>Recommendation(s)</p> <p>Cabinet is recommended to:</p> <ul style="list-style-type: none">(i) Adopt Option 2 as the policy of recharging leaseholders for front entrance doors (FEDs), communal doors and associated works, replaced as part of the Council's ongoing fire door (high-rise) replacement programme at the 21 blocks listed in Appendix 1 to the report; and(ii) Note the current projected cost of £638,000 of adopting the new policy over the lifespan of a typical FED and the funding arrangements via the HRA Capital Stock Investment Programme.
<p>Reason(s):</p> <p>To assist the Council to meet its statutory responsibilities under the Fire Safety Act 2021.</p>

1. Introduction and Background

- 1.1 The Council has an obligation to ensure that its housing stock is safe, secure and fit for purpose. Fire safety is particularly important, and the Council has an ongoing programme of replacing front entrance doors (FED) within its flatted blocks. Works are identified through a combination of stock condition data held within My Place and the programme of ongoing Fire Risk Assessments currently being undertaken. FRA's are particularly important for high-rise blocks (ie- those blocks 18 metres and above).
- 1.2 The Fire Safety Act 2021 (FSA 2021) which began as the Fire Safety Bill, introduced on 19 March 2020 by the Home Office in the wake of the Grenfell Tower fire and several other related tragedies, is a significant piece of legislation that supports the work being undertaken with regards fire safety within blocks.
- 1.3 The FSA gives Landlords responsibility to carry out a 'suitable and sufficient' fire risk assessment and carry out subsequent works. Staff employed to carry out this fire risk assessment must be competent to do so (as outlined in the provisions of the Fire Safety Act 2021) having appropriate qualifications, knowledge/experience, and previous installation references. The work should be recorded and supported with installation photographs taken before during and after the installation and appropriate certification issued.
- 1.4 The Council invests in the housing stock via the HRA Capital Stock Investment Programme to ensure it meets all building regulations and fire safety standards and the safety of residents, which is the Council's ultimate priority.
- 1.5 The HRA Stock Investment Programme capital funding allocated to the replacement of fire doors has already delivered several schemes within its high-rise blocks that replaced FEDs, communal corridor fire doors (and side panels), doors to stairwells,

riser cupboards, bin chute doors and all associated work, which benefit all residents within the blocks, including both tenanted properties as well as leaseholders.

- 1.6 As with other works carried out within the Council's blocks, Section 20 of the Landlord & Tenant Act 1985, provides the basis for Landlords (the Council) to recharge leaseholders (those who have bought their flats under Right-to-Buy) a proportion of the works carried out within the block from which they benefit, via an appropriate consultation process carried out in advance of the works. The process then notifies leaseholders of the final costs at the end of the works.
- 1.7 It was agreed in 2019/20 that due to the nature of the of the work required for Phase 1 (which included the high-rise blocks at Laburnum House, Peverel House and Hawkwell House) leaseholder recharges for high rise blocks would be waived mainly due to the timescales and extent for the works.
- 1.8 Front entrance door (fire door) related works to these blocks have now been completed with Phase 2 of the programme currently in development. The ongoing proposals for the recharging of works has been reviewed and several factors considered, with regards the future recharging of front fire doors and communal related works.

2. Proposal and Issues

- 2.1 Under the terms of the current Council lease, leaseholders are responsible for their front fire doors, to ensure that it is replaced with a compliant fire door and installed by an accredited fire door installer. Therefore, when the Council carries out a programme of replacing fire doors within its high-rise blocks, the options for ensuring works are carried out to all doors and achieve compliance across the whole block are as follows:

Option 1 – Supply and install the front entrance doors (FED's) to leasehold properties as part of the high-rise programme and recharge leaseholders the cost (along with the fair proportion of the associated communal works). This option would be cost neutral for FED's fitted to leaseholders as all works would be recharged.

Option 2 – Supply and install FEDs to leasehold properties (within high-rise blocks) as part of the programme but do not recharge for their FED (but still recharge leaseholders a fair proportion of the works to the communal doors etc) and ensure that leaseholders are aware of their responsibilities going forward and ensure they comply. The cost of this option is outlined in para 3.3 and, over the life of the fire door programme, would cost in the region of £638,000.

Option 3 – Advise the leaseholder that FED's need replacing and let the leaseholder arrange the supply and installation (in accordance with their lease) and subsequently monitor the work to ensure a replacement door complies with the required standard and is installed by a competent and accredited installer. This would place the responsibility of providing a compliant FEDs on the leaseholder, with My Place ensuring compliance. This option would be cost neutral for front fire doors fitted to leaseholders as cost would be borne by the leaseholder themselves.

- 2.2 Option 1 would ensure the doors are replaced and would recharge the leaseholders the full amount of the works but does not fully comply with the terms of the Council lease, which places the responsibility of replacing fire doors with the leaseholders and therefore could present a possible challenge by leaseholders.
- 2.3 Option 2 allows the FED's to be replaced throughout the block at the same time through a competent manufacturer and accredited installer whilst, at the same time, not recharging the leaseholder (e.g. effectively 'gifting' the FED to leaseholders). This removes the need for leaseholders to replace their own front door and ensures fire compliance across the whole high-rise block. From a fire safety perspective, this is the preferred option.
- 2.4 Whilst Option 3 is in accordance with the terms of the lease agreement (e.g. the leaseholder is responsible for replacing their front entrance door (FED), this option has the potential for leaseholders within high-rise blocks, not to fulfil their obligations or fail to arrange these works via an accredited installer and for My Place to ensure any follow-up action is undertaken as a consequence. It is felt that this approach may have an adverse impact on ensuring the fire compliance of block at the earliest opportunity (i.e. at the time when other fire doors are being replaced and made compliant) and could compromise the safety of the whole block.

3. Options Analysis

- 3.1 If Option 2 is agreed by Cabinet, its implementation would cost the Council around £2,500 per leaseholder dwelling that requires a new FED (supply and installation). There are currently (at as January 2023), 255 leaseholders across the Council's high-rise blocks as outlined in Appendix 1.
- 3.2 A full FED replacement programme across the high-rise estate, based on the average life expectancy of a front fire door and the data gathered through a combination of stock condition data and the ongoing Fire Risk Assessments (FRA's) is currently being developed and will form part of the annual HRA Stock Investment Programme agreed by Cabinet.
- 3.3 The cost over the life of the programme would be in the region of £638,000, which is likely to increase, as the number of leaseholders increase, and the cost associated with the works increase. The cost would be funded via the HRA capital stock investment programme, which allocates around £20m per annum for the replacement of major components across the entire housing stock of c17,000 dwellings (houses and flats).
- 3.4 The gifting of FEDs for high-rise blocks will ensure the Council's continues its proactive approach to fire safety compliance and the wellbeing of its residents and the ongoing fire compliance of the Council's stock with regards replacement fire doors. Once FEDs are replaced, stock condition data records are updated, and copies of certificates and warranties held within My Place.
- 3.5 It is proposed that the gifting of FEDs to high-rise leaseholders would only apply once, when doors are replaced as part of a planned replacement programme and recharging would still apply should doors subsequently be replaced by the leaseholder. Leaseholders would be issued with guidance on 'do's' and 'don'ts' upon installation and should these be compromised during the defect period, the

cost to rectify would be solely the leaseholder's responsibility. Leaseholders will also be given a choice of fire door designs and colours from a predetermined list of alternatives.

- 3.6 The doors will come with a 12-month defect warranty period of which LBBB will honour any issues regarding manufacture or installation during this period, after which any issues arising will be the leaseholder's responsibility to rectify and fund.
- 3.7 Alongside the regarding proposals, a S20 leasehold compliant procurement strategy is being adopted which will ensure the fire door programme provides quality controlled and tested doors, alongside an appropriately accredited installer.

4. Equality Impact Assessment & Consultation

- 4.1 Section 20 of the Landlord & Tenant Act 1985 requires Consultation is carried out with leaseholder who are paying a variable service charge and failure to consult with our leaseholders will limit our ability to recharge the costs for any works carried out or for the provision of services under a qualifying long-term agreement.
- 4.2 Leaseholders will be written to under Schedule 4 Part 1 of the act which will allow leaseholders the ability to nominate a contractor which LBBB will have to give due consideration to. Any contractors nominated will have to produce evidence that the criteria of the contract have been fully met to be considered.
- 4.3 This will be a 3-stage process and included in the 1st Notice (Notice of Intention) detail of the work to be tendered for will be listed of which the doors will be shown as being gifted and noted that no costs for the front door will be passed on.
- 4.4 An Equality Impact Assessment screening tool was completed, which demonstrated that although a high-risk, high-profile programme, the overall impact on residents would be positive. And so, a full Equality Impact Assessment is not required.
- 4.5 The Fire Safety Act 2021 commenced on 16 May 2022. The Act amends the Regulatory Reform (Fire Safety) Order 2005. It applies to any building containing two or more domestic premises. The Fire Safety (England) Regulations 2022 will make it a legal requirement from 23 January 2023 for responsible persons for all multi-occupied residential buildings in England with storeys over 11 metres in height to:
- undertake quarterly checks of all fire doors (including self-closing devices) in the common parts.
 - undertake – on a best endeavour basis – annual checks of all flat entrance doors (including self-closing devices) that lead onto a building's common parts.
 - The regulations will also require responsible persons to provide to residents of all multi-occupied residential buildings with two or more sets of domestic premises (that have common parts) information on the importance of fire doors to a building's fire safety.
- 4.6 This report has been endorsed by the Capital and Assets Board.

5. Financial Implications

Implications completed by: Katherine Heffernan

- 5.1 The HRA capital programme is funded from surpluses generated from rental income – either as a direct revenue contribution or through borrowing funded by rents. For four of the last ten years rents were reduced by Central Government dictate and in 2023/24 are restricted to a below inflationary uplift of 7%. This has reduced the amount of funding available for capital. This means that there is a high risk that over time the funding will not be sufficient to meet Member and tenant aspirations.
- 5.2 In the light of the constrained position for capital funding, finance advice would be to seek to recover costs from leaseholders wherever possible. However, this does need to be balanced against the need to ensure that there are robust measures against fire in place – especially in High Rise blocks – as this increases the protection for all dwellings and occupants.
- 5.3 The report proposes that the fitting of good quality fire doors in high rise blocks should not be charged to leaseholders in those blocks. At the cost of around £2,500 per door this will be a cost of at least £637,500 (the final total will depend on the final cost and number of leaseholders). However, it should make the programme easier to roll out and mean that works are completed more promptly.
- 5.4 This cost will need to come from the annual stock investment programme of c£20m a year. As such it is affordable within budget but does reduce the funding available for other capital works and so has an adverse impact on tenants.
- 5.5 It should also be noted that this scheme effectively means that tenants (who will be paying for their doors through their rent) are subsidising leaseholders who on average will be wealthier/better off than them. This would be especially the case if any of the leasehold properties are not owner occupied but instead privately rented as this would be a subsidy for landlords.
- 5.6 If option two is pursued it is important that there is good communication with leaseholders about their continuing responsibilities with regard to the doors and it is made clear that this is a one-off exemption from charging. It should not be allowed to set a precedent and it should be clear that it is for a limited group of high-rise dwellings only not all leasehold stock.

6. Legal Implications

Implications completed by: Deirdre Collins (Advocate Lawyer Litigation) and Simon Scrowther (Litigation Lawyer).

- 6.1 Under the Fire Safety Act, the responsible person or organisation with fire safety duties and responsibilities has a responsibility within a building for:
 - The structure and external walls of the building, including anything attached to the exterior of those walls, such as cladding, balconies and windows, and
 - Entrance doors to individual flats that open into common parts.

6.2 The responsible person or organisation is under a legal duty to manage and reduce the risk of fire for these parts of the building. The fire risk assessment will need to consider these parts. When auditing buildings the Fire Service will need to see that these have been assessed in the fire risk assessment.

7. Other Implications

7.1 **Risk Management** – A risk-based approach has been considered throughout this report and reflected in the preferred option and the consultation process.

7.2 **Contractual Issues** – The delivery of the fire door programme will be delivered through an appropriate procurement / contractual process which will include the S20 leasehold consultation process and comply with the Councils procurement processes.

7.3 **Corporate Policy and Equality Impact** – A copy of the Equalities Impact Assessment Screening Tool is included within Appendix 2.

Public Background Papers used in the preparation of the Report: None

List of appendices:

Appendix 1 - List of high-rise blocks

Appendix 2 – Equality Impact Assessment Screening Tool