City of BRADFORD METROPOLITAN DISTRICT COUNCIL

Report of the Strategic Director of Place to the meeting of the Regeneration and Economy Overview and Scrutiny Committee to be held on 6th March 2018

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Subject:

Update on the Council's involvement in residential high rise buildings following the Grenfell Tower Disaster

Summary statement:

This report provides an update for members on the Council's involvement with high rise residential buildings following the Grenfell Tower disaster.

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Overview & Scrutiny Area:

Regeneration & Economy

1. SUMMARY

This report provides an update for members on the Council's involvement with high rise residential buildings following the Grenfell Tower disaster.

2. BACKGROUND

2.1 On the 14th June 2017 a catastrophic fire caused multiple fatalities and injuries at the Grenfell Tower in North Kensington. Grenfell tower was a 24 storey residential block. The cause and impacts of this tragedy have been well documented but in summary it has been reported that:

- Fire started in a malfunctioning refrigerator.
- Fire in flat was extinguished but had spread to the cladding.
- Fire in the cladding spread up the external faces of the building.
- The building fitted with external foamed polyisocyanate insulation boards and over that, aluminium composite material (ACM) rain screen for appearance and weathering.

2.2 In response to the tragedy, the Government has set up;

- A public enquiry, chaired by Sir Martin Moore-Bick
- A formal review of legislation relating to safety in buildings chaired by Dame Judith Hackett. (The Independent Review of Building Regulations and Fire Safety).
- The Building Safety Programme led by Tamara Finklestein.

2.3 The Building Safety Program's work has involved working with local authorities to identify any other high rise residential buildings that could have been clad in ACM cladding. The definition of a high rise building being that it is over 18 metres in height.

2.4 The Council has completed returns to government relating to the buildings within the district that are residential, over 18 metres high and faced with cladding.

2.5 The government has established a free testing service through the Building Research Establishment (BRE) to undertake tests to determine whether cladding installed on high rise buildings is constructed of ACM. This service is available to owners of all high rise residential buildings regardless of tenure.

2.6 On completion of any sample testing by the BRE, the West Yorkshire Fire and Rescue Service is notified of any sample results that are confirmed to be ACM. When notified of a test failure, the WYFRS have undertaken an inspection in conjunction with Housing Standards and Building Control of the property to determine what "interim measures" were required to ensure the reasonable safety of the occupants. The interim measures are based on a risk assessment of the building and introduce further factors, unique to the building. The measures can include an "all out" evacuation policy, modifications to the plans for tackling a fire in the building, the introduction of 24 hour watch by fire wardens and additional maintenance requirements.

2.7 The Independent Review of Building Regulations and Fire Safety published its interim findings on the 18th December 2017. The report identified areas of legislation that it considers to be in need of review and clarification. The levels of competence of the designers, specifiers and regulators involved in the safety of high rise residential buildings and is to be investigated further.

2.8 **Incommunities**

The Council transferred its Council housing stock to Bradford Community Housing Trust (now Incommunities) in 2003. This stock included a number of high rise blocks.

The high rise Incommunities' blocks have been checked by their staff and it has been reported to the Council and the government that none of the 18m plus blocks has ACM cladding. They have advised that, when refurbished, the blocks have received an external insulation layer covered by a render system. The Council has cross referenced this to the Building Regulations application for the works for validation purposes. As they are not fitted with ACM, no further action has been taken with regard to these high rise blocks.

As a responsible landlord, Incommunities has communicated regularly with its tenants and the Council in order to provide information and reassurance during this period.

2.9 **Private Sector Residential Blocks**

Subsequent to the disaster at Grenfell Tower, there has been an impetus to determine, on a national basis, the extent to which high rise residential blocks are subject to the same risks. The analysis has concentrated on the type of cladding that was used in the refurbishment of Grenfell Tower. The cladding is known as ACM which stands for aluminium composite material. The records of installed cladding, held by Building Control, have been examined to identify the buildings within the district that have been fitted with ACM.

To date, one high rise residential building in the Bradford District, Landmark House, has been found to have been clad with ACM as part of a refurbishment scheme in 2003. In line with the advice from DCLG, following joint inspection by West Yorkshire Fire & Rescue Services, Housing Standards and Building Control, mitigating measures have been put in place there to ensure the fire safety of residents until the ACM cladding can be removed and/or replaced.

A small number of other high rise residential buildings have been identified as of potential risk but the type of cladding installed is not known to the Council as the Building Control function for the work was undertaken by a third party private Building Control company. Building Control is working with DCLG, Housing Standards and the Fire Service to determine the type of cladding on these buildings. This involves requiring those responsible for each building to submit a sample of the cladding for testing to determine its composition and to put in place measures to mitigate the risk if the buildings are found to have the ACM cladding.

3. OTHER CONSIDERATIONS

3.1 The work by the Council and WYFRS to date has concentrated on those building of more than 18 metres in height and which are faced with cladding, particularly cladding formed from aluminium composite materials (ACM). As the investigation into the Grenfell Tower progresses, it is anticipated that the scope of the technical investigation will expand beyond ACM cladding and external insulation specifications onto issues relating to the safety of escape stairs, the subdivision of buildings into fire safe compartments, the management and maintenance of buildings and the policies for their safe evacuation.

3.2 The investigation into the Grenfell Tower disaster will, in time, produce recommendations to further protect the residents in tower blocks. It is likely that those recommendations will include changes to the Building Regulations and the powers of local authorities to enforce safety standards. There may well be resource implications for local authorities as the standards and the expectation of inspection and enforcement activity is escalated.

4. FINANCIAL & RESOURCE APPRAISAL

4.1 The government has been clear that no additional resource will be made available to Councils for the work involved in surveying the district's high rise buildings, other than a small amount of "new burdens" funding to facilitate the data collection required by the DCLG.

4.2 Further detailed work in this field would require specific resources to be allocated for the purpose.

4.3 The change in legal interpretation of the common parts relating to the external fabric of these buildings and the outcome of the wholesale review of the fire safety parts of the Building Regulations will necessitate specific training for both Housing enforcement and Building Control staff to be undertaken.

4.4 In line with the Private Sector Housing Enforcement Policy (formally agreed at Executive on November 7th 2017) where the Council has enforcement responsibility it will seek to ensure compliance with housing standards in these buildings through co-operation. However it must be noted that should formal enforcement be necessary, there could be significant financial implications for the Council.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

The enforcement of standards in high rise residential building is complex. Responsibility for the enforcement of those standards is divided between the Council (Building Control and Housing) and WYFRS.

Due to the complexities and potential overlaps between the legislation enforced by the Council's Housing Service and WYFRS both organisations, along with other West Yorkshire authorities had, prior to the Grenfell disaster entered into a formal agreement known as the Fire Protection Policy. Originally issued on the

01/11/2011, this policy document outlines the authority that will normally take the lead in inspection and enforcement action in different types of property, regardless of tenure. The document has been reviewed and agreed by all parties following this disaster.

The legislation enforced by both authorities relating to fire safety is risk based.

6. LEGAL APPRAISAL

6.1 The enforcement of standards in high rise residential building is complex. Responsibility for the enforcement of those standards is divided between the Council (Building Control and Housing) and WYFRS.

Three principal sets of legislation apply to the "policing" of fire safety in high rise residential buildings;

- Regulatory Reform (Fire Safety) Order 2005. This order covers the common parts of a building such as escape stairs and entrance lobbies, but not within apartments or flats themselves.

- The Housing Act 2004 and its associated Housing Health and Safety Rating System are concerned with the safety within flats and the intention is that it should "dovetail" with the provisions of the Fire Safety Order. One of the issues raised by the Hackitt Review is the lack of clarity in the interaction between the two sets of legislation.

- The Building Act 1984 empowers the government to make Building Regulations. These regulations apply to situations where buildings are being constructed or altered. It does not apply to buildings that are unaltered but have fallen behind in their compliance with new safety standards or where buildings have not been maintained to meet the current standards. Section 36(6) of the Act deals with noncompliance with the Building Regulations and gives a local authority the powers to obtain a High Court injunction in cases where the Building Regulations have been breeched when the breach(es) are discovered outside the time limits allowed under the Building Regulations.

- The three different pieces of legislation above are supposed to cover all aspects of fire safety for residents of high rise buildings, however, the practicality of some parts have been questioned by the Hackitt Review.

6.2 Since the Grenfell disaster a number of letters of clarification have been received from the DCLG and WYFRA relating to the enforcement of standards relating to the external cladding of high rise residential buildings.

Under Housing legislation the definition of common parts would include the external structure of a building. The various letters of clarification from the DCLG and WYFRS have advised that under the Regulatory Reform (Fire Safety) Order 2005 the definition of common parts does not include the external structure of the building and therefore that although the WYFRS will continue to take the lead enforcement role for the common parts of high rise residential buildings this will not include the external fabric of the building, e.g. the cladding. These letters therefore advise that enforcement of standards relating to any cladding or external structure will have to

be taken by the Local Authority using its powers under the Housing Act 2004.

In order to utilise its powers under the Housing Act 2004, officers within the Council's Housing Standards team need to undertake a Housing Health and Safety Risk Assessment (HHSRS). This would include the hazard of fire safety.

In practice, in order to assess the hazard of fire safety a joint inspection with WYFRS and Building Control is being undertaken as the assessment requires information from WYFRS relating to conditions within the common parts, which WYFRS retain enforcement responsibility for, conditions within individual flats and the condition of the external structure and input from Building Control. Any enforcement required will then be undertaken by the lead authority following consultation with all 3 services.

7. OTHER IMPLICATIONS

7.1 EQUALITY & DIVERSITY

The improvement of housing conditions in the District will have a positive impact on those groups and individuals who suffer multiple disadvantages associated with poor quality and inadequate housing.

7.2 SUSTAINABILITY IMPLICATIONS

The interventions that Building Control, Housing Standards and WYFRS take to improve the quality of the housing will help to create a more sustainable housing stock for the district.

7.3 GREENHOUSE GAS EMISSIONS IMPACTS

The modifications to the external structure of Grenfell Tower were made for a number of reasons. One of the important considerations was the addition of external thermal insulation to upgrade the thermal performance of the building.

Further amendments to the legislation and required technical standards applying to the introduction of additional thermal insulation may reduce the achievable levels of energy savings. The likely introduction of a requirement for insulation materials to be non-combustible will make the use of the highly thermally efficient foamed polyisocyanates redundant. The current available non-combustible substitutes are mostly based on mineral fibre which does not have as good a thermal resistance.

7.4 COMMUNITY SAFETY IMPLICATIONS

High rise residential buildings are by their very nature of higher risk due to a number of factors;

- the height of the building, leading to greater travel distances,
- more restricted escape routes,
- More difficult rescue operations and greater challenges in fighting fires.

The mitigation of these factors is addressed through the design and construction of the buildings and the maintenance of the features that make a building safe in case of fire is critical for the safety of the building's residents. The Council and WYFRS have visited all high rise residential buildings where ACM cladding is thought to be present and has followed DCLG guidance to ensure that, where ACM is confirmed, other interim measures are in place to protect residents from the risk of fire.

7.5 HUMAN RIGHTS ACT

No implications under the Human Rights Act have been identified.

7.6 TRADE UNION

No Trade Union implications have been identified.

7.7 WARD IMPLICATIONS

The Council and WYFRS work to address any issues with high rise residential buildings across the district.

8. NOT FOR PUBLICATION DOCUMENTS

None.

9. RECOMMENDATIONS

9.1 That the Committee note the report and request a further update on the work relating to high rise residential buildings in 12 months.

10. APPENDICES

None.

11. BACKGROUND DOCUMENTS

Letter to Local Authorities from DCLG Building Safety Programme 29 November 2017

Building a Safer Future; Independent Review of Building Regulations and Fire Safety: Interim Report