

Report of the Strategic Director of Place to the meeting of the Regeneration and Environment Overview and Scrutiny Committee to be held on 2nd October 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 a further update for members of the Council's involvement with high rise residential buildings following the Grenfell Tower disaster.

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Overview & Scrutiny Area:

Regeneration and Environment

1. SUMMARY

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

2. BACKGROUND

- 2.1 Members last received an update on the Council's involvement with high rise residential buildings in March 2018 at a time when the investigations across the district were incomplete. This report provides an update on activity since that date.
- 2.2 Following a review of over 300 structures over 18 meters high, 36 high rise residential blocks were identified in the District. Subsequent investigations relating to these 36 buildings, involving examination of technical information relating to the external cladding materials and inspection and testing of the cladding material where necessary, have identified that 2 of the 36 buildings are partially clad with aluminium composite material (ACM).
- 2.3 Council officers have worked with the Ministry of Housing, Communities and Local Government (MHCLG) Building Safety Programme and Tower Casework Teams to record on the Ministry's DELTA database system the details of all the high rise blocks' external construction.
- 2.4 The two blocks identified are, at the time of writing, subject to "interim measures" in line with the guidance issued by MHCLG following joint inspection by the Council's Housing Standards and Building Control Teams in partnership with the West Yorkshire Fire and Rescue Service (WYFRS). These interim measures are intended to minimise the fire risk to occupants but are considered a temporary measure.

The Council has stressed the need for those responsible for the buildings to ensure that residents are kept informed of the measures in place to ensure their continued safety.
- 2.5 The ACM materials that partially clad the two buildings will need to be removed and replaced. The costs of such works are significant, with estimates for the works varying dependent on the requirements relating to the upgrading of the thermal insulation of the buildings as well as the replacement of the cladding.
- 2.6 The Government has made funding available to support Councils and Registered providers to replace ACM cladding on buildings that they own and manage as social housing but as these two building are almost entirely in private ownership, the cost of removing and replacing the ACM cladding will be the responsibility of those persons in control of the building.
- 2.7 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 the Grenfell disaster.

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

- 2.8 Since the Grenfell disaster a number of letters of clarification have been received from the MHCLG and WYFRS relating to the enforcement of standards relating to the external cladding of high rise residential buildings.

In practice, because of the joint statutory responsibilities in this type of building in order to fully assess the hazard of fire safety a joint inspection involving WYFRS, Housing Standards and Building Control is undertaken as the assessment requires information from all 3 services. Any enforcement required will then be undertaken by the lead authority following consultation between all 3 services.

- 2.9 Officers from the Council and WYFRS are monitoring both buildings to ensure that the interim measures remain in operation as agreed. These measures are however only intended as an “interim” arrangement and officers are therefore continuing to monitor the progress that those responsible for the buildings are making with plans to remove and replace the ACM cladding.

- 2.10 In line with the Private Sector Housing Enforcement Policy (formally agreed at Executive on November 7th 2017) officers are seeking to ensure compliance with statutory requirements through co-operation in the first instance.

- 2.11 The Government has funded a number of services to assist with this highly complex matter. This includes funding to assist leaseholders to interpret lease terms and the formation of a Joint Inspection Team which will be hosted by the Local Government Association. This team will comprise Environmental Health Officers, Fire Engineers and Legal advisors and is intended to act as a Centre of Excellence to assist Local Authorities should they need to enforce the removal of cladding. The Joint Inspection Team is expected to be in place in Autumn 2018.

Officers will continue to work closely with MHCLG to update and access such services as necessary.

3. OTHER CONSIDERATIONS

- 3.1 The investigation into the Grenfell Tower disaster will, in time, produce recommendations to further protect the residents in tower blocks. Those recommendations will include changes to the Building Regulations and the powers of local authorities to enforce safety standards, especially through the creation of Joint Competent Authorities to oversee the safety of a high risk building from its inception through to its demolition. There may well be resource implications for local authorities as the standards and the expectation of inspection and enforcement activity is escalated.

The constitution of Joint Competent Authorities will require the local authority to

have the technical expertise to undertake that function.

4. FINANCIAL & RESOURCE APPRAISAL

- 4.1 The Government's view is that the costs of replacing ACM cladding on privately owned buildings are the responsibility of building owners. Nationally there are many and complex legal arguments ongoing between developers, owners and leaseholders as to where the responsibility lies.

Should the Council have to utilise its enforcement powers to ensure the removal and replacement of the cladding there could be significant resource implications.

- 4.2 The government has been clear that no additional resource will be made available to Councils for the work involved in dealing with the district's high rise buildings, other than a small amount of "new burdens" funding to facilitate the data collection required by the MHCLG.
- 4.3 Dame Judith's report, "Independent Review of Building and Fire Safety" raises the issue of the competence of those involved with high risk buildings. The council will need to fund the continuing training and development of the skills needed to carry out its statutory duties.

5. RISK MANAGEMENT AND GOVERNANCE ISSUES

- 5.1 As already outlined the enforcement of standards in high rise residential building is complex. Officers from the Council and WYFRS will continue to work together to deal with the issues identified with these buildings and will access the LGA hosted Joint Inspection Team, when established, as necessary should the need to formally enforce standards arise.
- 5.2 Further to the report of the 6th March 2018, the report by Dame Judith Hackitt entitled "Independent Review of Building and Fire Safety" has now been published. The report makes many recommendations including the creation of Joint Competent Authorities (JCA) to oversee the safety in high rise residential block from their construction through to their demolition. JCAs will be made up of representatives of the Fire & Rescue Service, the Local Authority and the Health & Safety Executive. The proposal to create JCAs will cause a draw on the resources of local authorities with tall buildings in their district as there will need to employ the requisite expertise. The intention is to make the JCA self-financing through charges on the buildings' management.

The introduction of JCAs and their associated powers will require a Statutory Instrument to be introduced before it can come into force. In the meantime, the existing legislation is the only tool available for the council to safeguard the residents in the effected blocks.

6. LEGAL APPRAISAL

- 6.1 The legislation enforced by both authorities relating to fire safety is risk based. Since the Grenfell disaster a number of letters of clarification have been received from the MHCLG and WYFRS relating to the enforcement of standards relating to the external cladding of high rise residential buildings.

In practice, because of the joint statutory responsibilities in this type of building in order to fully assess the hazard of fire safety a joint inspection involving WYFRS, Housing Standards and Building Control is undertaken as the assessment requires information from all 3 services. Any enforcement required will then be undertaken by the lead authority following consultation between all 3 services.

- 6.2 Enforcement action will be complicated and time consuming due to the number of flats involved and the complex nature of the buildings and ownership. Should formal enforcement action be required the Council would seek to utilise the expertise of the newly formed LGA hosted team.

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

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 curtail the use of the highly thermally efficient foamed polyisocyanates. The currently available non-combustible substitutes are mostly based on mineral fibre which does not have as good a thermal resistance.

7.4 COMMUNITY SAFETY IMPLICATIONS

The removal of potentially combustible cladding from the exterior shell of residential properties provides for a higher safety standard for the residents.

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.

7.8 IMPLICATIONS FOR CORPORATE PARENTING

Not applicable

7.10 ISSUES ARISING FROM PRIVACY IMPACT ASSESSMENT

Any data gathered in order to ensure compliance with legislative requirements will be the minimum for the needs of the process.

8. NOT FOR PUBLICATION DOCUMENTS

None

9. OPTIONS

9.1 Option 1 – that the Committee note the report.

9.2 Option 2 – that the Committee note the report and request a further update on the work relating to high rise residential buildings in 12 months.

10. RECOMMENDATIONS

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

11. APPENDICES

None

12. BACKGROUND DOCUMENTS

None.