

Committee Name and Date of Committee Meeting

Cabinet – 12 February 2024

Report Title

Fire Safety Policy for Council Housing

Is this a Key Decision and has it been included on the Forward Plan?

Yes

Strategic Director Approving Submission of the Report

Ian Spicer, Strategic Director of Adult Care, Housing and Public Health

Report Author(s)

Lynsey Stephenson, Head of Housing Property Services, Adult Care, Housing and Public Health. 01709 334950.

Kerry Brentnall, Housing Asset Manager, Housing Property Services, Adult Care, Housing and Public Health.01709 334969.

Ward(s) Affected

Borough-Wide

Report Summary

The risk of fire presents a significant hazard to the safety of homes and their occupants, and it is imperative that there are robust management systems in place to manage fire risk appropriately.

The Housing Services Fire Safety Policy outlines the Council's approach to identifying, managing, and mitigating the risks associated with fire in council-owned residential and associated properties. It sets out the roles and responsibilities of the Council in line with legislation and the Council's responsibility as a landlord.

The Policy has been developed to meet the requirements of the Regulatory Reform (Fire Safety) Order 2005, The Fire Safety Act 2021, The Fire Safety (England) Regulations 2022 and The Building Safety Act 2022.

Recommendations

That Cabinet:

1. Approves the Housing Services Fire Safety Policy included at Appendix 1.
2. Delegates authority to the Strategic Director of Adult Care, Housing and Public Health, in consultation with the Cabinet Member for Housing, to alter the Policy to bring it into line with any future regulatory or legal requirements.

List of Appendices Included

Appendix 1 Housing Services Fire Safety Policy
Appendix 2 Initial Equality Screening (Part A).
Appendix 3 Equality Analysis Form (Part B).
Appendix 4 Carbon Impact Assessment.

Background Papers

The key legislation that the attached policy has been developed to fulfil is:

The Regulatory Reform (Fire Safety) Order 2005
<http://www.legislation.gov.uk/ukxi/2005/1541/contents/made>

The Fire Safety Act 2021
<https://www.gov.uk/government/publications/fire-safety-act-2021>

The Building Safety Act 2022
<https://www.legislation.gov.uk/ukpga/2022/30/contents/enacted>

The Fire Safety (England) Regulations 2022
<https://www.gov.uk/government/publications/fire-safety-england-regulations-2022>

There are various guidance documents available:
<https://www.gov.uk/government/collections/fire-safety-legislation-guidance-for-those-with-legal-duties>

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

No

Exempt from the Press and Public

No

Fire Safety Policy for Council Housing

1. Background

- 1.1 The Council is responsible for managing fire safety in its housing or housing-related assets with the objective of reducing the risk of fires starting and reducing the risk of injury to residents, staff, contractors, and public that visit or utilise properties.
- 1.2 The Regulatory Reform (Fire Safety) Order 2005 (FSO) is the main piece of legislation governing fire safety in England. The FSO places a duty on the “responsible person” to take general fire precautions to ensure, as far as is reasonably practicable, the safety of the people on the premises and in the immediate vicinity. Following the tragedy at the Grenfell Tower in 2017, the legal framework for fire safety has been strengthened alongside specific additional requirements for high-rise buildings.
- 1.3 The Fire Safety Act 2021 amended the FSO and extended its scope to include buildings containing two or more sets of domestic premises. In these cases the FSO applies to the structure, external walls (including windows, cladding, insulation, fixings and balconies) and all doors between domestic premises and common parts such as flat entrance doors.
- 1.4 In addition, the Building Safety Act 2022 introduced a set of new roles and responsibilities for those who manage occupied, high-rise residential buildings in order to make these buildings safer. The Act established a new national Building Safety Regulator within the Health and Safety Executive, reporting to the Secretary of State, with specific control over higher-risk buildings, which includes buildings above 18 metres or 7 storeys and containing at least two residential units i.e. flats. If an organisation manages a high-rise residential building, reasonable steps will need to be taken to prevent incidents and reduce the severity of an incident should one occur.
- 1.5 The Council owns circa 19,963 homes including 1,196 blocks containing flats and one high-rise building, Beeversleigh House. These are held in the Housing Revenue Account (HRA). The HRA also manages non-residential assets including neighbourhood centres, district heating boiler houses and bin storage areas.
- 1.6 Whilst there are robust management systems and processes in place, as well as the corporate Health and Safety Policy, a specific housing services fire safety policy has been developed which outlines to residents and stakeholders how the Council manages Fire Safety in Council homes.

2. Key Issues

- 2.1 The Policy covers assets that are held within the Council’s HRA and are managed by Housing Services.
- 2.2 The aim of the Policy is to set out the Council’s approach to identifying, managing, and mitigating the risks associated with fire in assets within scope of the Policy. It is underpinned by the following principles:

- Compliance with legal and statutory requirements including carrying out, updating, and regularly reviewing fire risk assessments of all relevant accommodation in line with the level of risk.
- Ensuring as far as is reasonably possible that the risk of fires igniting and spreading in properties is minimised.
- Ensuring residents and staff know what to do when a fire does occur – in partnership with emergency services.
- In the event of any fire or a fire safety incident, ensuring that an investigation is undertaken to review the causes and that control measures are implemented to minimise any potential re-occurrence.
- Ensuring all fire safety, electrical and mechanical equipment on the Council's estate is regularly maintained, and records kept in line with legal requirements. This includes in respect of cyclical servicing and inspections of gas and electrical installations within flats.
- Defining roles and responsibilities within the Council and contractors for fire safety.
- Collaborative working with the local fire authority, and the Council's Health and Safety service, including complying with any orders they issue in writing and seeking advice as to the severity of the risks identified.
- Maintaining accurate record keeping which will be shared with the local fire authority, as appropriate.
- All staff receiving training appropriate to their duties under the Fire Safety Order and those with delegated responsibility for fire safety complete specific training to assure and demonstrate competency to undertake required duties.

2.3 It is a legal requirement to undertake a Fire Risk Assessment within all blocks of flats to determine the risks and to protect against the risks of fire. This equates to 1,196 blocks. Of these, seven are classified in the Policy as requiring enhanced controls and mitigations to manage fire risk. These blocks are listed in the table below:

Block	Justification
Beeversleigh House, Clifton	Exceeds the statutory threshold for high-rise residential building (+18m) and high occupancy
Tom Burgess House, Westgate	Mid-rise (+11m) and high occupancy
Winchester Court, Wharncliffe	Mid-rise (+11m) and high occupancy
Millfold House, Westgate	High occupancy
Shaftesbury House, St Anns	High occupancy
Dawson Croft, Greasbrough	High occupancy
Hampstead Green, Kimberworth Park	High occupancy
Wellfield Lodge, Kimberworth Park	High occupancy

2.4 Fire risk assessments are in place and are up to date within these blocks. Residents residing within the blocks have also received bespoke communication outlining fire prevention measures and the fire evacuation strategy. This information is communicated to new residents and is translated where residents do not speak English. In consultation with the

fire service, the Council's fire evacuation policy for blocks of flats is Stay Put.

- 2.5 Beeversleigh is the only high-rise residential building exceeding 18 metres which meets the requirements of the Building Safety Act and all required measures within the Act are in place including building registration, a building safety case report and regular inspections to remove/remedy defects.
- 2.6 A programme of fire door replacements is underway. This is required following changes in legislation which means that some fire doors that were installed prior to new statutory design requirements are no longer compliant. 1,801 properties were identified with non-compliant fire doors. 1,403 fire doors have been replaced to date, and 398 fire doors are scheduled to be completed. There have been 22 tenants who have refused access.
- 2.7 It is important that tenants provide access to replace their fire doors to ensure their safety in the event of a fire. Therefore, where a number of attempts have been made to engage with the tenant and they have failed to provide access, legal powers will be used as a last resort. On 13 December 2023, the Council put four properties before the Court under the Environmental Protection Act 1990 and was successful in obtaining warrants to force entry in order to complete the fire door replacements. The remaining fire doors which require replacement will now be progressed to Court.
- 2.8 The Policy sets out the specific measures relating to cyclical maintenance and checks, rules for the safe managed use of communal areas, and partnership working with residents, contractors, and other statutory agencies. It should be read in conjunction with the Council's corporate Health and Safety Policy.

3. Options considered and recommended proposal

- 3.1 **Option 1:** Do not publish a bespoke and separate Housing Services Fire Safety Policy. The Council could rely on the corporate Health and Safety Policy or set out its housing-related fire safety procedures in another document such as a Repairs and Maintenance Policy. This is not recommended because a separate Policy ensures that residents and stakeholders know how the Council manages Fire Safety and makes it more straightforward to communicate the approach.
- 3.2 **Option 2 (recommended):** Publish a bespoke and separate Policy. This option, combined with a delegation to bring the Policy into line with any new legal requirements and a commitment to review annually, is recommended because it ensures a clearer and more flexible approach.

4. Consultation on proposal

- 4.1 The draft policy has been shared with tenant representatives who generally felt that the document was thorough and covered all fire safety related

matters. The document has also been shared with South Yorkshire Fire and Rescue Service who are supportive of the Council's approach.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The Policy will be published on the Council website in February 2024.
- 5.2 The key performance indicators included within the policy will be reported through Housing Services performance reporting arrangements.
- 5.3 The Policy will be reviewed annually.

6. Financial and Procurement Advice and Implications

- 6.1 There are no future direct budgetary implications linked to this policy, as and when issues arise either following risk assessment or change in legislation a business case will be developed in line with financial procedures.
- 6.2 Resources for fire safety compliance are being increased to meet the needs of the Fire Safety Act and Building Safety Act with increased financial requirements.
- 6.3 There are no direct procurement implications associated with the approval of the Policy.

7. Legal Advice and Implications

- 7.1 The relevant legislation has been referred to within the body of the report but for clarity will be set out in more detail within this section. The Regulatory Reform (Fire Safety) Order 2005 (FSO), The Fire Safety Act 2021, The Fire Safety (England) Regulations 2022 and The Building Safety Act 2022 are the key pieces of legislation that the policy has been developed to fulfil.
- 7.2 Fire safety within the home is an extremely important issue, especially in mixed-use premises and where unrelated occupiers, who live independently of one another, share common areas of the same building. The recent change in the legislation reflects just how serious this issue is and how it should be treated as such by those who are responsible for compliance.
- 7.3 In terms of the fire safety law, the FSO is the main piece of legislation and it applies to all non-domestic premises and the common parts of buildings which contain two or more domestic premises. The FSO places legal duties on the owner or landlord of premises as the 'responsible person'.
- 7.4 The FSO was amended by the Fire Safety Act 2021 which clarified the areas covered by the FSO e.g. external walls, flat entrance doors and the structure of buildings.

- 7.5 The Fire Safety (England) Regulations 2022 and The Building Safety Act 2022 has also brought in additional duties for Responsible Persons. The definition of a high-rise residential building (The Fire Safety Regulations) aligns with the definition of a higher risk building under the Building Safety Act 2022; that definition being a building that contains at least two sets of domestic premises and is at least 18 metres in height or has seven storeys.
- 7.6 The Council as a Landlord/Owner is a Responsible Person for the purpose of the legislation and therefore must comply with the legal duties imposed. It is the responsibility of the Responsible Person and those they appoint to assist them, to comply with the fire safety legislation.
- 7.7 The Social Housing (Regulation) Act 2023 lays the foundations for changes to be implemented as to how social housing should be managed. It includes increased regulation of social landlords and new rules for protecting tenants from serious hazards in their homes. This policy is fundamental to setting out to the regulator how the Council deals with Fire Safety.
- 7.8 If the Council does not have such a policy in place, it will be more difficult to demonstrate compliance with legislative requirements to the regulator. The regulator has been granted enforcement powers and will be able to issue unlimited fines to social landlords where they deem appropriate. The inspections by the regulator under the new regime are expected to commence in April 2024.
- 7.9 A failure to implement this policy may also leave the Council open to wider legal challenge and implications, particularly in the unfortunate event that an incident occurs. A failure to comply with fire safety law can also result in enforcement action and sanctions being imposed.
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8. Human Resources Advice and Implications

- 8.1 The Housing Service has followed due process and is proposing to introduce new posts to reflect increased requirements associated with Compliance and Fire Safety.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 Fire presents a significant risk to children and vulnerable adults. It is therefore imperative that it is managed robustly in line with legislation to reduce the level of risk.

10. Equalities and Human Rights Advice and Implications

- 10.1 Tenants have a right to reside in a home which is safe and fit for habitation.

11. Implications for CO₂ Emissions and Climate Change

11.1 It is not anticipated that that the carbon emissions of the service will increase because of this policy.

11.2 The Housing Service is carrying out investment to the housing stock to improve the thermal efficiency of properties which positively contributes to the reduction of CO₂ emissions and climate change agenda.

12. Implications for Partners

12.1 Contractors are currently delivering work programmes relating to fire safety compliance including fire door replacements and CO₂ alarms. They are also responsible for cyclical servicing.

13. Risks and Mitigation

13.1 The key risk is to the health and safety of tenants who are living in properties with identified fire safety risks, which could be life threatening. With the implementation of this policy, it will put in place robust processes to reduce the risk of harm from fire.

13.2 Failure to comply with legislation, fire risk assessments and associated specifications could result in The Regulator for Social Housing issuing an unlimited fine, enter properties with 48 hours' notice and make emergency repairs where there is a serious risk to tenants, with landlords footing the bill. The policy sets out the zero-tolerance and proactive response to fire safety.

14. Accountable Officer(s)

James Clark, Assistant Director of Housing

Approvals obtained on behalf of:

	Name	Date
Chief Executive	Sharon Kemp	29/01/24
Strategic Director of Finance & Customer Services (S.151 Officer)	Judith Badger	24/01/24
Assistant Director of Legal Services (Monitoring Officer)	Phil Horsfield	24/01/24

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