

Item No. 13.	Classification: Open	Date: 10 February 2015	Meeting Name: Cabinet
Report title:		Lakanal Inquiry – Progress with Coroners recommendations	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Richard Livingstone, Housing	

FOREWORD – COUNCILLOR RICHARD LIVINGSTONE, CABINET MEMBER FOR HOUSING

The horrific fire at Lakanal in 2009 and the deaths of Dayana Francisquini, Thais Francisquini, Felipe Francisquini, Helen Udoaka, Michelle Udoaka and Catherine Hickman were a tragedy that we must ensure can never again be repeated.

In March 2013, the Coroner's inquest into the tragedy returned narrative verdicts and the Coroner wrote to the council on 28 March 2013 setting out recommendations to improve the safety of its high rise residential buildings. The council responded to these and cabinet considered a report on future steps in December 2013.

This report provides detail on the progress being made to enact the Coroner's recommendations. It also proposes the installation of LD2 combined smoke and heat detection equipment in council leasehold properties at the council's cost to provide further safety to both those leasehold properties and their neighbours.

RECOMMENDATIONS

1. That cabinet notes the contents of this report.
2. That cabinet approves the installation of LD2 type automatic battery powered smoke/heat detection to the leasehold homes in the blocks to which the coroner's recommendations refer (see paragraph 13) in the estimated sum of £1,263,000.
3. That cabinet notes the method for approval for the installation of LD2 type automatic battery powered smoke/heat detection to the leasehold homes in blocks across the borough as set out in paragraph 22.

BACKGROUND INFORMATION

4. The Lakanal fire on 3 July 2009 in which six people died was a dreadful tragedy. In response to the fire the council quickly made a number of improvements to its management of fire safety, including:
 - the creation and establishment of the in-house fire safety team;
 - the immediate undertaking of the programme of Fire Risk Assessments (FRAs) to all blocks of five storey and above, completed by April 2010;
 - the prioritisation of FRA works carried out, with £48m spent/committed to date;

- the professionalisation of the FRA responsibility, with the in house fire safety team having responsibility for blocks of four storey and below and new FRAs completed in March 2013;
- achieving full compliance with the Regulatory Reform (Fire Safety) Order 2005 (the legislation which governs the need for fire risk assessment) by having suitable and sufficient FRAs in place for all blocks where required;
- the forging and maintenance of a strong relationship with the London Fire Brigade (LFB) operationally and strategically, initially with the co-signed Memorandum of Understanding;
- clear advice, information and guidance given to residents including use of secondary means of escapes, the removal of grilles and gates, the need for clear walkways, stairs and common areas, the disposal of refuse;
- working toward a strategy for enforcing fire regulations in leasehold properties sub-let as Houses in Multiple Occupation (HMOs).

KEY ISSUES FOR CONSIDERATION

5. The creation and establishment of the in-house fire safety team has proved to be very successful, and it has grown over the last few years, mostly as a result of taking over the Fire Risk Assessments (FRA) process for blocks of four storeys and below, and more recently in order to meet the requirements borne out of the Lakanal Coroners recommendations.
6. The fire safety team leads the way across the country, and is quite unique insofar as most other housing providers still use consultancy firms, at great cost, to provide the FRA service. This is slowly changing and the creation of in-house fire safety teams is starting to gather pace.
7. To date the fire safety team has achieved recognition from the London Fire and Emergency Planning Authority (LFEPA) for its work and strategies in relation to sheltered housing units, hostels and converted street properties, along with its production and distribution of residents fire safety information packs. Other achievements, which go over and above what most other housing providers have done, include the provision of information provided to assessors in advance of the FRA, specific block and dwelling information to residents, and the support of specialist functions across the department.
8. The Coroner's inquest into the tragedy commenced on 14 January 2013 and narrative verdicts were returned by the jury on 28 March 2013.
9. Pursuant to Rule 43 of the Coroners Rules (as amended), the Coroner wrote to the London Borough of Southwark on 28 March 2013.
10. The Rule 43 letter recognised steps the council had already taken since the tragedy, however it also made a number of recommendations applying to the councils high rise residential buildings.
11. Rule 43A of the Coroner's Rules required that the council respond to the coroner within 56 days starting from the day the report was sent to the chief executive of the council.
12. The council responded on 23 May 2013 with details of action that had been taken and which would be taken.

13. In its response the council firstly defined high rise buildings as being those above 30m, equating to those of 10 storey and above, and advised that it would also apply the coroner's recommendations to known lower storey but complex blocks, i.e. those with more than one means of escape, along with the council's sheltered housing schemes and temporary accommodation units.
14. The council's response to the last and most significant recommendation that "the authority considered the question of retro fitting of sprinklers in high rise residential buildings", advised that the council would undertake a full feasibility study which would conclude within 6 months.
15. Following receipt and consideration of the feasibility study in November 2013, the officer report to Cabinet on 10 December 2013 explained in detail the considerations given to this issue and Cabinet approved the following measures:
 - The installation of sprinkler systems in all existing sheltered housing schemes by September 2016, and any built in the future
 - The installation of sprinkler systems in all existing temporary accommodation hostels by September 2016, and any built in the future
 - The installation of LD2 type automatic battery powered smoke/heat detection to all the council homes forming part of this study by March 2015.
 - The installation of LD2 type automatic battery powered smoke/heat detection to council homes across the borough over the next 10-15 years through the major works investment programme.
 - Instructed the Strategic Director of Housing and Community Services to explore ways in which leaseholders could be provided with similar early detection and warning, considering the likely funding, management and other issues.
 - Instructed the Strategic Director of Housing and Community Services to work with the Southwark SAIL (safe and independent living) project in order to consider alternative fire safety solutions for vulnerable residents.

Progress

16. Attached as Appendix 1 is an update which shows the progress made against all of the Coroners recommendations.
17. Although the seventeenth recommendation, that the council considers the question of retrofitting sprinklers in its high rise residential buildings, has been completed and was the subject of the report to Cabinet on 10 December 2013, attached at Appendix 2 is an update showing progress made on the installation of sprinklers at SHU's and temporary accommodation units, while Appendix 3 shows progress made on the installation of LD2 type smoke/heat detection at the blocks referred to in paragraph 13.
18. Exploration and consideration has been given to how leaseholders could be provided with similar early detection and warning.
19. Counsel advice was received which considered it legitimate to fund the provision of alarms to leaseholders from the Housing Revenue Account in circumstances where their provision is in a scheme of preventative measures, designed to minimise the spread of fire and smoke, and assists with the protection of the building and the residents of other units in the building.

20. However, there is no obligation on leaseholders to have the detection installed, and in order to maximise the installations, and thus increase residents safety, it was agreed that the system be offered free of charge, with the ongoing maintenance becoming the leaseholders responsibility. It should be noted that the council cannot force the leaseholders to maintain the detection, and over time there is a potential for the dwelling systems to become less effective due to lack of ongoing maintenance.
21. So that maximum efficiencies could be gained, the offer and installation of detection to leaseholders commenced in August 2014 using the delivery vehicle already installing the systems to tenanted dwellings approved in the report to Cabinet on 10 December 2013. The completions are included in the figures set out in Appendix 3.
22. Approval for LD2 type smoke/heat detector installations to the remaining leasehold dwellings in blocks across the borough in the estimated sum of £8,407,000 will be sought on a project by project basis through the appropriate constitutional processes.
23. In terms of working with the Southwark SAIL project, the in-house fire safety team has worked closely with colleagues in the SAIL team and Children's and Adult's Services, and is now part of the referral process. To date 19 referrals have been made to the fire safety team.
24. With regard Lakanal itself, much progress has been made in terms of its refurbishment and return to use. It is proposed to refurbish the dwellings to the Decent Homes Standard, plus undertake fire safety works, replace both lifts and undertake works to the internal district heating system within the block. This scheme addresses the main concerns of the fire damaged block, as well as the development of the undercroft space and thereby improving the ground floor and landscape areas in front of the block.
25. It is also proposed to relocate two of the existing commercial/community tenants in the shop units adjacent to Lakanal House into the newly developed undercroft area, thereby creating a site for a new build housing block with a mixture of private sale, shared ownership and council rented units.
26. The scheme aims to create capital value through the creation of units for sale, which will subsidise the cost of the works, and also create a fund to deliver local environmental improvements to the estate.
27. There have been many consultation events including two exhibitions held in January and July 2014, with residents and representatives of the Sceaux Gardens T&RA and this was followed by an estate wide exhibition/consultation event in September 2014 to discuss the option appraisals and agree the following:
 - a) It has been proposed that 7 dwellings located at the top floor of Lakanal House will be refurbished to a private sales specification.
 - b) It is also proposed that there will be three alternative tenure flats in the proposed new-build block to enable younger residents from the estate to move onto the property ladder.
 - c) That there will also be a net gain of nine council rented properties over the total development, due to the buyback of leasehold flats after the fire in Lakanal House.

- d) Sceaux Gardens T&RA requested that the South London Gallery and the theatre group who had a long standing track record of works with residents be provided with alternative spaces once the shop redevelopment is underway. Adequate space has been identified in the undercroft of Lakanal House for their combined needs.

Policy implications

28. Not applicable.

Community impact statement

29. The Coroner's recommendations impact on residents across the council's housing stock across the borough.

Cost implications

30. Estimated and actual costs of the various works are set out in the table below. Staffing costs have not been included.

	Capital Tenanted Stock £	Capital Leasehold Stock £	Total Estimated Cost £
Installation of sprinkler systems in all existing sheltered housing	3,318,000	0	3,318,000 (e)
Installation of sprinkler system in all existing temporary accommodation hostels	1,645,000	0	1,645,000 (e)
Installation of LD2 type smoke/heat system to all general needs blocks forming part of the recommendations	3,588,000	1,263,000	4,851,000 (e)
Installation of LD2 type smoke/heat system to council homes across borough (as part of future investment programme)	23,931,000	8,407,000	32,338,000 (e)
Block plans	362,000	0	362,000 (a)
Signage (inc. Premises Information Plates)	103,000	0	103,000 (a)
Total cost of recommendation shown in this report	32,947,000	9,670,000	42,617,000

- (a) = actual
(e) = estimated

Financial implications

31. The total estimated cost of this programme is £42,617,000 (as shown above). Funding for these works comprise £465,000 from the HRA for the block plans and

signage and a capital allocation of £42,152,000. The capital works forms part of the Housing Investment Programme.

32. The approved budgets are included in the councils Housing Investment Programme as shown below:

Smoke/heat detection & sprinklers (H-3326-2522)	= £32,482,000
LD2 type alarms in leasehold dwellings (H-3326-2554)	= £9,670,000
Total Capital Allocation	= £42,152,000

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Specialist Housing Services

33. Hostels, supported hostels and sheltered housing units fall under the remit of the Head of Specialist Housing Services. Funding for the retro-fitting of sprinklers for all hostels, supported hostels and sheltered housing units has been obtained and works are currently underway. The retro-fit to all units is due to be completed by the end of the financial year 2016/17.
34. The Head of Specialist Housing Services previously given advice on the installation of smoke and heat detectors to leasehold properties, and this is reflected in paragraphs 19 and 20 of this report.

Director of Legal Services

35. The report summarises, and provides an update to, the actions taken following the council's response to the coroners report required under the Coroners rules in force at the time.
36. So far as is relevant to this report, the council has responsibilities towards its leaseholders, tenants and visitors to council premises under the Fire Safety Order and the Occupiers Liability Act.

The Fire Safety Order

37. The Regulatory Reform (Fire Safety) Order 2005 (the "Order") imposes a number of duties on the council to protect persons on the council's premises and those in the immediate vicinity who are at risk from fire (referred to in the Order as "relevant persons"), in so far as the requirements are within the council's control.
38. The duties imposed by the Order include duties to:
- Take such general fire precautions as are reasonably required to ensure that the premises are safe;
 - Carry out a suitable risk assessment to identify the appropriate fire precautions to take at each premises, and keep such assessments up to date;
 - Make arrangements for the planning, control, and review of preventive and protective measures, including appointing competent persons to manage this;
 - Provide appropriate fire fighting equipment and implement appropriate measures for fire-fighting;

- Comply with requirements in the Order for emergency routes and exits including indication by signage;
 - Establish procedures to be followed in the event of serious and imminent danger; and
 - Keep premises and fire-fighting equipment in good repair and working order to safeguard relevant persons.
39. It is an offence to fail to comply with these duties where that failure places one or more relevant person at risk of death or serious injury in case of fire.

Occupiers Liability Act 1957

40. Section 2 of the Act stipulates that the council as "occupier" of tenanted and leased properties owes the "common duty of care" to "visitors", which will include tenants and leaseholders as well as other people permitted to be on the premises. The common duty of care is a duty to "take such care as in all the circumstances of the case is reasonable to see that the visitor will be reasonably safe in using the premises for the purposes for which he is invited or permitted by the occupier to be there".
41. The actual steps required from the council to discharge the duty will depend on the degree of control which the council has over the premises, among other things. For example the council has much wider rights to enter and make alterations to tenanted properties than it does in relation to leasehold properties, so that the standard of care required in connection with leasehold flats will be lower. Resource implications will also be a relevant factor.

Housing Revenue Account / General Fund

42. Section 74 of the Local Government and Housing Act 1989 (the "Act") sets out the local housing authority's obligation to establish and maintain an account of sums falling to be credit or debited with respect to its general housing stock, and related matters. This account is known as the Housing Revenue Account ("HRA").
43. Section 74(3) of the Act provides that this does not apply to "land, houses or other buildings disposed of by the authority". This will include houses and flats disposed of by the local authority by way of sale of the freehold or by a grant of a long lease. Therefore it will not apply to homes conveyed under the "Right to Buy" programme.
44. Part II of Schedule 4 of the Act sets out the types of expenditure which may be debited to the HRA. So far as is relevant to this report, the relevant item is item 1: "the expenditure of the authority for the year in respect of the repair, maintenance, supervision and management of houses and other property within the [HRA]".
45. As regards the cost of installation of sprinklers and smoke/heat detectors in sheltered housing schemes, temporary accommodation hostels, and homes let by the council to secure tenants, this expenditure clearly falls within the HRA.
46. As regards leaseholders, expenditure that benefits the interiors of their homes are generally excluded from the HRA by virtue of section 74(3) of the Act. However as indicated in paragraph 19 of the report, Legal advice has been

received that as the installation of each LD2 system is part of a scheme of preventative measures to each block of flats (or house, split into flats) which is designed to reduce the risks of fire and smoke damage to that block or house, the cost of supplying smoke detectors may properly be accounted for as a Housing Revenue Account ("HRA") debit.

47. The report correctly states, however, that there is currently no obligation on leaseholders to have the system installed.

Strategic Director of Finance and Corporate Resources

48. This report is updating cabinet on the progress made on the Coroner recommendations, following the fire at Lakanal.
49. The strategic director of finance and corporate services notes the financial implications included in the report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Coroners Rule 43 letter (See paragraphs 4 and 5)	160 Tooley Street London SE1 2QH	Tony Hunter, Tel: 020 7525 1756
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=4253&Ver=4		
Report to Cabinet 16 April 2013	160 Tooley Street London SE1 2QH	Tony Hunter Tel: 020 7525 1756
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=4253&Ver=4		
Report to Cabinet 14 May 2013	160 Tooley Street, London SE1 2QH	Tony Hunter Tel: 020 7525 1756
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=4254&Ver=4		
Council response to Coroner – Letter of 23 May 2013 (See paragraph 7)	160 Tooley Street London SE1 2QH	Tony Hunter Tel: 020 7525 1756
Link http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=4553&Ver=4		
Report to Cabinet 10 December 2013 (See paragraphs 10 and 12)	160 Tooley Street, London SE1 2QH	Tony Hunter
Link: http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=4553&Ver=4		

APPENDICES

No.	Title
Appendix 1	Progress update on Coroners recommendations/council actions
Appendix 2	Progress update on installation of sprinklers
Appendix 3	Progress update on installation of smoke/heat alarms at the blocks subject to Coroners recommendations

AUDIT TRAIL

Cabinet Member	Richard Livingstone, Housing	
Lead Officer	Gerri Scott, Strategic Director of Housing and Community Services	
Report Author	Tony Hunter, Compliance Operations Manager	
Version	Final	
Dated	29 January 2015	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Head of Specialist Housing Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team		29 January 2015