

Item No. 6	Classification: Open	Date: 15 December 2021	Decision Taker:
Report title:		The Impact of the Fire Safety Act and the Building Safety Bill upon the HRA and Leaseholders	
Ward(s) or groups affected:		ALL	
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BACKGROUND INFORMATION

1. On 3 July 2009, 6 people were killed at the Lakanal Fire on the Council's Sceaux Garden Estate. The Council sought to learn lessons from this and it has since spent £62 million to improve the safety of its properties.
2. The Grenfell Fire, which took place on 14 June 2017, killed 72 people. The tragedy exposed significant failings across the system of building and managing High Rise residential buildings.
3. On 15 June 2017, the government announced the Grenfell [Public Inquiry](#). Phase 1 of this inquiry, which was completed in 2019, looked at the events of the fire itself. Phase 2, which is ongoing, is looking at the causes of the fire. The Council's response to Phase 1 of the Grenfell inquiry recommendations was discussed by a [Cabinet report](#) on 4 February 2020.
4. The government also announced the [review of Building Regulations & Fire Safety](#). This was conducted by Dame Judith Hackitt. Her report, which was published in 2018, recommended a more robust approach to managing High Rise residential buildings.
5. The government accepted the recommendations of this review and they have responded with new legislation – this includes the Fire Safety Act and the Building Safety Bill.
6. On 10 February 2021, a [Building Safety and Cladding report](#) was taken to the Housing and Community Engagement Scrutiny Commission by the Head of Engineering. This report outlined the position of the council at the time and the actions that had been taken to date.

KEY ISSUES FOR CONSIDERATION

7. This paper discusses the Fire Safety Act and the Building Safety Bill, the Council's response to these changes, and the impact that this response will have upon the HRA and leaseholders.

THE FIRE SAFETY ACT (2021)

8. Under the existing legislation, The Fire Safety Order (2005), landlords must conduct Fire Risk Assessments (FRAs) to understand the actions and strategies

required to keep their residents safe. Under the Fire Safety Order, FRAs are only required to look at the communal aspects of buildings.

9. The Fire Safety Act has received Royal Assent and it is expected that it will be implemented during 2022. Under this act, FRAs will also need to look at the structure, the external walls (including cladding, windows, both sides of fire doors, and balconies), and the entrance doors of buildings.
10. The Fire Safety Order and the Fire Safety Act apply to any residential building with communal areas. The Council is the landlord for 45,858 homes with a communal area – this is 83.4% of its stock and 3,588 buildings.
11. To meet the requirements of the Fire Safety Act, the Council will need to conduct new FRAs across its stock. This will begin with the blocks which are the highest priority: High Rise blocks. However, it will need to continue with its approach to mitigate risk and meet the requirements across the rest of its stock.
12. The Council does not have the skills to conduct FRAs which meet the requirements of the Fire Safety Act. Therefore, during the short-term, it will need to use consultants to deliver these services. During the medium-term, the Council will recruit and upskill to enable it to deliver the new FRAs.

THE BUILDING SAFETY BILL

13. The Building Safety Bill will establish a new, more stringent regulatory regime for higher-risk residential buildings. This regime will cover the life-cycle of the building, from design and construction, through to management, handover and demolition. There will be increased responsibilities for responsible persons (landlords) and tougher sanctions for those who do not meet their obligations. The Building Safety Regulator, which will sit within the Health and Safety Executive, will oversee and enforce the new regime of regulations.
14. The legislation will likely receive Royal Assent during 2022 and will be implemented from 2023/24 onwards.
15. The Building Safety Bill only covers High Rise residential buildings (those with a height of 7 storeys and above or 18 metres and above) The Council is the landlord for 170 of these High Rise blocks – these blocks contain 9334 homes between them. This is a greater number of blocks than many other landlords and higher than any other social landlord across England.
16. The Building Safety Bill has significant implications for the Council. The Council will need to acquire Building Safety Certificates for its High Rise blocks – this will require the collation of Building Safety Cases. These cases are the collection of relevant data and documents relating to the safety of the building, this includes data that captures the views of the residents and it will also need to cover the management of the building too, e.g. the skills of those working on the block.

17. There are also requirements about new roles and more stringent competence requirements. Many of these relate to Asset Management, but other service areas may also be affected, such as Homeownership Services. The Bill also requires the Council to decide which officers will be the Accountable Person and the Principal Accountable Person (these are the persons who are legally accountable for the Council meeting the relevant requirements).
18. Other significant implications include: improving the ways that the Council holds, updates and shares data relating to the safety of its High Rise blocks; delivering a resident engagement strategy across the borough and for each High Rise block; and, collecting the Building Safety Charge - a charge that landlords will need to collect from homeowners to cover some of the costs of their new responsibilities. The cost of this charge will be determined at a later date.

BUILDING SAFETY PROGRAMME

19. The Council has responded to the new requirements with the Building Safety Programme. This Programme has 12 workstreams – each of these is delivered by the relevant department. An operational group is used to facilitate collaboration between the leads of the different workstreams. The workstreams and the operational group report to a Strategic Board, which is chaired by the Strategic Director for Housing and Modernisation.
20. The Programme also includes a Partnership Board – this is a 6 weekly meeting with the Council's partners at the London Fire Brigade (LFB), the Department for Levelling Up, Housing and Communities (DLUHC), and the Health and Safety Executive (HSE). These meetings assist the Council to develop its understanding of the upcoming legislation and to raise concerns about the challenges being imposed.
21. The sections below discuss the Council's responses to the new legislation and other requirements. The most significant of these is the Priority Surveying Programme.

PRIORITY SURVEYING PROGRAMME

22. The Priority Surveying Programme will be used to survey the Council's 170 High Rise blocks. These are the blocks within the scope of the Building Safety Bill and they are a high priority for the Fire Safety Act too.
23. The surveys will provide FRAAs (Fire Risk Assessment and Appraisals) and an assessment of the Building Safety Case (including stock condition surveys). These will help the Council to meet the requirements of the Fire Safety Act, the Building Safety Bill, and the Council's Duty of Care. Table 1, on the page below, explains this further.
24. The Council is conducting Pilot Surveys at Andoversford Court, 88, Bibury Close, Gloucester Grove, Peckham, SE15 6AE. The Pilot Surveys will give the Council

chance to learn about its approach and improve it ahead of the Priority Surveying Programme.

25. The Pilot Surveys commenced during November 2021 and are expected to be completed by March 2022. Appendix 1 has a more detailed timeline for the Pilot Surveys.

Table 1

Requirement	How do the surveys meet this?
The Fire Safety Act	The FRAA covers the additional and requirements of the FSA – the structure, the external walls (including cladding, windows, both sides of fire doors, and balconies), and the entrance doors of buildings.
The Building Safety Bill	FRAAs bring together the relevant data for the Building Safety Case. The stock condition surveys are also needed for this. The FRAA also determines the risk and the fire strategy needed for the building. Therefore, they will show that the Council's high rise residential buildings are safe for residents. This will also be needed for the Building Safety Case.
Duty of Care	FRAAs also include checks of compartmentation (Type 4 FRA), this is not a requirement of the new legislation, but the Council has determined it is necessary to meet its Duty of Care.

26. The Health and Safety Executive (HSE) will be checking Building Safety Cases from April 2024 onwards. The Council will need 12 months for the Priority Surveying Programme and a further 12 months to collate its Building Safety Cases. Therefore, the Priority Programme will need to commence by March 2022.
27. If the Council does not start the Programme by this date, it will not have time to collate the Safety Cases and it will breach the requirements of the new legislation. This will have significant reputational damage and financial implications for the Council and those officers who hold the positions of Accountable Person and Principal Accountable Persons.
28. The response to the surveys will include remediation works. The surveys will show which works are needed and these would be incorporated into the Quality Homes Investment Plan (QHIP).
29. The Council does not have the skill sets to conduct FRAAs to meet the requirements of the Fire Safety Act. Neither does the Council have the skillsets or equipment to undertake BIM surveys. Therefore, the Council will need to appoint

consultants to carry out the surveys for the Pilot and the Priority Surveying Programme.

COSTS OF THE PRIORITY SURVEYING PROGRAMME

30. The costs of the Pilot Surveys and Priority Surveying Programme will be significant.
31. The Pilot Surveys will include an FRAA (as discussed above) and a Building Information Modelling (BIM). BIM is used to generate a 3D model of the building and the use of this is recommended by the Building Safety Regulator. BIM includes a digital and modern stock condition survey - this is needed for the building safety case, as discussed by Table 1. It is an aspiration of the Council for every resident to have access to data about their home – 3D BIM Modelling help with the delivery of this, due to its accessibility to non-technical audiences. The use of BIM will be reviewed after the Pilot Surveys.
32. The cost of the Pilot Surveys are estimated to be £100,905. This is broken down by Table 2: the FRAA costs £24,964 and the BIM costs £75,941. The Council will not be charging homeowners for the costs of the pilot surveys. The costs of the Pilot Surveys will be included within spending for the 2021/22 financial year and they will be included within the QHIP.

Table 2

Activity	Cost (£)
FRAA	24,964
BIM	75,941
Pilot (Total)	100,905

33. If the Council uses BIM for the Priority Surveying Programme, it is estimated that (the surveys across the other 169 blocks) the cost of the Programme will be circa £17,000,000. This estimate is based upon the costs of the Pilot Surveys.
34. If the Council does not use BIM for the Priority Programme, it will need to undertake new stock condition surveys for the 169 High Rise blocks. With this cost and the cost of the FRAAs, it is estimated that the cost of the surveys will be around £58,000 per block. Therefore, it is estimated that the cost of the Priority Programme (the surveys across the other 169 blocks), would be circa £9,800,000. This estimate is also based upon the costs of the Pilot Surveys.
35. The costs for the Priority Programme without BIM have been included as a commitment in the budget challenge meetings in November 2021. If BIM is included, further discussions will be needed at budget challenge meetings and

the QHIP will need some reconfiguration to meet the costs. The Council will seek to reduce the costs of BIM by developing its own capacity to deliver these.

36. Table 3 gives a breakdown of the costs, with the different options relating to BIM (the benefits of these are discussed above), the costs per block, and the costs. These costs will fall during 2022/23.

Table 3

Option	Cost per Block (£)	Cost across 169 blocks (£)
Surveys with BIM	100,905	17,052,945
Surveys without BIM	58,000	9,802,000

RESPONSES TO THE SURVEYS – REMEDIATION

37. Following the surveys, remediation works will be required. It is not possible to comment on the specifics of these costs until after the surveys have been conducted. However, a contingency of £120,000 will be needed for each block. This will cover any critical tasks that need to be completed after the surveys. Across the 170 blocks, the contingency would be £20,400,000.
38. Several factors will impact the costs of the remediation works. First, these costs are usually most significant if they relate to either cladding, compartmentation or window panels. The Council do not expect to have any significant costs relating to cladding, but there may be some relating to compartmentation and the window panels.
39. Second, the results from the surveys will explain how much remediation will be needed to reduce the risk rating of the building (e.g. how much is needed to get to a Medium risk rating). The lower the desired risk rating, the more costs there will be for remediation.
40. Third, there is also the question of when the remediation costs will fall. The Council will take a gradual approach to the remediation – this is possible because the fire strategies for the building will mitigate risks to life. It is unlikely that remediation will be urgent because the Council has fire strategies for the blocks. The gradual approach will help to spread the costs over a longer period of time. However, the specific timings of this gradual approach will depend on the blocks and the remediation required.

RESPONSES TO THE SURVEYS – FIRE STRATEGIES

41. After the surveys, the Fire Strategies for our High Rise blocks will be reviewed and may need to be revised. Fire Strategies outline the actions that need to be

taken if there was a fire. The actions seek to keep the residents of the building safe and the strategy will reflect the unique characteristics of the building. These would have been captured by the surveys.

42. Discussions around fire strategies often relate to the differences between 'Stay Put' and 'Simultaneous Evacuation'. On one hand, Stay Put refers to a Fire Strategy which instructs the residents of the building to stay within their homes during a fire (the exception to this would be for the resident or residents who have the fire within their home). On the other hand, Simultaneous Evacuation refers to a Fire Strategy which instructs the residents to evacuate the building during a fire.
43. Every Council owned residential building has an existing Fire Strategy. With a few exceptions (Marie Curie and the High Rise blocks on the Ledbury Estate), the Council's 170 High Rise blocks have Stay Put policies.
44. Stay Put policies are not always effective – this reflects the lessons learnt from the tragedies at Lakanal and Grenfell, where Stay Put policies did not prevent the loss of life.
45. The Council continues to use Stay Put policies because it is usually safer for residents to stay within their homes than it is for them to evacuate. If a resident does evacuate, they would be moving from their home, where there should not be any fire or smoke, to a communal area, where there could be fire or smoke. Within High Rise blocks, it can be especially difficult for residents to understand whether they will be evacuating to a communal area where there is fire or smoke. Furthermore, if residents evacuate, this can reduce the ability of the London Fire Brigade (LFB) to deal with the fire.
46. At the Lakanal and Grenfell Fires, Stay Put policies did not prevent the loss of life because the compartmentation within these buildings was not effective. Compartmentation should stop the spread of fire between homes. This is achieved through the use of fire resistant walls and doors.
47. If the compartmentation is effective, then it is safe for residents to Stay Put, as the fire and smoke will not enter their homes. With Lakanal and Grenfell, the compartmentation was not effective, hence the fire and smoke could spread, and residents were not safe.
48. The Council's continued use of Stay Put reflects the following considerations around compartmentation. First, since Lakanal, a number of fires within the Council's blocks have not spread between homes. This is evidence to show that our compartmentation is effective. Second, when the buildings are constructed, they are done so with effective compartmentation. There will have been changes to the buildings since construction, but these should not have reduced the effectiveness of the compartmentation. If the change was conducted by the Council, it should have been conducted by a competent officer following best practice. If the change was conducted by a resident, it should have been authorised and checked by the Council.

49. During the Priority Surveying Programme, our surveys will include Type 4 FRAs. These check the compartmentation of the blocks and will allow the Council to understand if there are any problems. These problems may have arisen if changes to the blocks have not reflected best practice from Council officers. The problems might have also arisen due to unauthorised changes from residents.
50. After the FRAAs and the Type 4 FRAs, some Fire Strategies may need to be moved from Stay Put to Simultaneous Evacuation. If the Fire Strategy is changed, it will be the Council's priority to remediate that block, allowing for a return to Stay Put.
51. The challenges around Stay Put do not only relate to the construction of the block. The Council also needs residents to understand and follow Fire Strategies - this can be difficult. On one hand, our local knowledge suggests that residents may not always trust the Stay Put policy (due to the fires discussed above) and will often want to evacuate the block if there is a fire. On the other hand, behaviour is not always predictable. At Marie Curie, a block where the Council has a Simultaneous Evacuation policy, many residents chose to Stay Put when a fire alarm recently went off there. It should also be noted that neither the Council nor the LFB can legally force residents to follow the fire strategy.
52. The Council is considering and responding to these challenges by developing and implementing its resident engagement strategy for Building Safety. This strategy is being used to understand the views and feelings of residents about these matters and it will respond with the necessary engagement, messages and support. For example, we do not have concerns about compartmentation. However, the checks will show residents that we are following best practice by double-checking this. When we communicate this with residents, we would expect them to have more confidence around Stay Put. For our pilot block, Andoversford Court, we are conducting a perception questionnaire which asks residents to answer questions about fire strategies and other relevant matters.

IMPACT UPON THE HRA

53. The costs of the Priority Surveying Programme will be budgeted and paid for through the housing capital Programme. It is possible to do this because the surveys are being used to understand which remediation works are required for the blocks. Specifically, the Priority Surveying Programme would be described as 'pre-surveys' and the costs of the Programme will be included within the future QHIP Programme.
54. As shown by the table above, the estimated costs of the surveys, without BIM, is £9,802,000.
55. It will be possible to charge leaseholders for the costs of the Priority Surveying Programme (see paragraph 59 for more details). Across the Council's High Rise blocks, the leaseholder occupancy is around 25%. Therefore, after leaseholder charges, it is expected that the Priority Surveying Programme will the Council cost circa £7,351,500 (without BIM).

56. If the surveys do include BIM, the estimated cost is circa £17,052,945. After leaseholder charges, this would be circa £12,789,708.
57. The costs of remediation will also be included within the future QHIP Programme. As discussed, the costs of remediation are unknown at this stage.
58. The costs of the surveys and remediation will contribute to the existing demands on the existing QHIP commitments and other capital spending; this covers New Homes, Net Zero commitments, and Decent Homes requirements. This capital spending will need to be reviewed continuously to ensure that it is affordable.

IMPACT UPON LEASEHOLDERS

59. The Council will be able to charge leaseholders for the costs of the surveys because they are legislative and they are needed for the management of the building.
60. The Council will be able to accommodate the costs of the Priority Surveying Programme if it can charge leaseholders for the surveys and the remediation. Furthermore, if the Council did not charge the costs to leaseholders then tenants would bear an unfair amount of the costs.
61. As discussed, the Priority Programme will be delivered by consultants. The duration of the contracts with these consultants will be 12 months or less, this is due to the challenging timescales of the Priority Surveying Programme. A Section 20 consultation will not be needed because the contract lengths are 12 months or less. However, alternative consultation will be carried out with homeowners to provide details of the surveys and the costs.
62. It should be noted that the Council will not be charging leaseholders for the costs of the Pilot Surveys.
63. As discussed above, there is around 25% leaseholder occupancy across the Council's High Rise blocks, leaseholder charges will cover circa £2,450,500 without BIM or £4,263,236 with BIM.
64. At this stage, it is not possible to provide any realistic estimates of the costs to leaseholders. The pilot surveys at Andoversford Court will provide more accurate information on what the surveys will involve, giving a further indication of the cost. However, the High Rise blocks are of different sizes and configurations so the cost for each survey is likely to be different subject to scope. This will mean that the cost per leaseholder may be significantly different, and any service charge estimate given on present indicative costings would not be meaningful.
65. Where appropriate, leaseholders will be charged for remediation. Any decisions around charging leaseholders will be taken on a case-by-case basis. Leaseholders will not be charged if previous works were: not up to standard (e.g. latent defects, warranties, poor installation) or not compliant with regulations (the regulations when the works were completed, rather than the new regulations). This approach reflects the Council's usual approach to such matters.

66. The remediation works will be delivered by a combination of the new long term alliance contracts (which are due January 2023) and the use of external frameworks. This will provide a balance of delivery routes and ensure best value can be benchmarked.

SUMMARY

67. Table 4 summarises the impact that the Priority Surveying Programme will have upon the HRA and Leaseholders.

Table 4

	Surveys (without BIM)	Surveys (with BIM)	Remediation (Critical)	Remediation (Non-Critical)
HRA	£7,351,500	£12,789,708	£20,400,000 (Contingency)	Unknown – additional pressure on capital spending
Leaseholders	£2,450,500	£4,263,236	Unknown – leaseholders will only be charged where appropriate	Unknown – leaseholders will only be charged where appropriate
Total	£9,802,000	£17,052,945	£20,400,000 (Contingency)	Unknown

OTHER RESPONSES TO THE FIRE SAFETY ACT AND BUILDING SAFETY BILL

68. The Council is developing other responses to the Fire Safety Act and the Building Safety Bill. These are discussed below.
69. These other responses will have implications for the HRA; however, as discussed by paragraph 120, the costs attached to them are still being understood. Leaseholders will be impacted by some of these other responses too, such as remediation for non-high rise blocks (paragraph 73) and the Building Safety Charge (paragraph 77). The costs for these are also unknown at this stage.
70. The Fire Safety Act affects over 3500 of the Council's residential buildings and the Priority Programme covers 170 of these. Therefore, new FRAs will be needed across other residential buildings too. This will begin with blocks with additional characteristics, such as scissor blocks and unprotected corridors.
71. The Council would have delivered FRAs for these buildings, regardless of the new legislation (as there is an existing requirement to deliver them under the Fire Safety Order). However, the new legislation will lead to additional costs.

72. First, these additional costs will relate to upskilling and training. As discussed, the Council does not have the skills to deliver the new FRAs. For the Priority Programme, the Council is using consultants. However, it is the Council's aspiration to develop its own capacity to deliver the new FRAs. Therefore, there will be additional costs related to upskilling and training. These additional costs are unknown at this stage. They would be covered under the HRA Revenue Account.
73. Second, as the new FRAs are conducted across the rest of the relevant buildings, there are likely to be other costs around remediation. The costs of these cannot be determined at this stage, but they would be added to the QHIP and leaseholders will be charged appropriately.
74. The Building Safety Bill has other requirements too, as discussed by paragraph 18. For the resident engagement strategies, the Council is delivering a comprehensive engagement plan for the Pilot Surveys. This includes:
 - A. Briefings to the Homeowner Forum and the Tenants Forum
 - B. Communications pack sent to residents of the block – which included FAQs and a questionnaire asking them for their views
 - C. Organizing a virtual Q&A session for the residents and attending the block for Q&As too
 - D. Working closely with the Gloucester Grove TMO
 - E. Briefings for Councillors and MPs.
75. Going forward, the Council will learn the lessons from the Pilot and deliver the engagement needed to meet the requirements of the new legislation.
76. The Building Safety Bill also has requirements around data (as discussed by paragraph 18). The Council are working with consultants to develop a Modern Data Platform for Building Safety. This would bring together the different systems that the Council uses to hold data about buildings, allowing the Council to meet the new requirements around data and access to this data would be better for officers, Councillors and residents.
77. As discussed above, under the Building Safety Bill, the Council will collect the Building Safety Charge from leaseholders. The cost of this charge will be determined at a later date.

OTHER CONSIDERATIONS

78. EWS1 certification is not a legal requirement; however, it is often needed for the buying and selling of High Rise flats. The Council expects to deliver EWS1 where required – not every High Rise block will need the certification, and the Priority Surveying Programme will show this. However, the Council needs to develop a further understanding of the costs associated with EWS1. This will allow for the impact upon the HRA and Leaseholders to be understood. This understanding will be developed alongside the Pilot Surveys.

79. Buildings Insurance also needs to be considered. The costs of this insurance affect both the HRA and Leaseholders.
80. The council's insurance policies renewed on 1 October and the property covers are held by Zurich Municipal. Currently, the market for this insurance is challenging and premiums are rising. However, the premium for 2021-2022 is relatively consistent with 2020-2021. Insurers highlighted concerns they had with a handful of housing blocks (Marie Curie House, Ednam House, Redman House and Maydew House) plus some sites on the general properties schedule. Different rates were applied to these at this year's renewal.
81. The Council has a separate leasehold buildings insurance policy; this has been extended and will run until April 2023. After this date, the Council will need to re-procure for this insurance. Similar challenges are expected here, with other local authorities and the private sector seeing high increases in premiums.
82. The Council awaits further findings from Phase 2 of the Grenfell Inquiry and will need to consider any changes to the Building Safety Bill. These may have further impacts upon the HRA and leaseholders.

Policy implications

83. The Building Safety Programme will uphold the safety of residential buildings across Southwark, both now and during the future. Therefore, the Programme will help the Council to meet Theme 6 of the Fairer Future for All Commitments. This theme states that 'Everyone should have a safe place they are proud to call home. Southwark Council is the biggest social landlord in London and we're committed to maintaining the highest standards, so all our homes are clean, safe and cared for'.
84. Under Principle 2 of its Housing Strategy, the Council is committed to 'Demanding the Highest Standards of quality of homes'. The Building Safety Programme will help to meet some of the specifics of this. The Priority Surveying Programme will ensure that the Council continue to 'undertake regular Fire Risk Assessments and ensure any resulting actions are completed or Programmed; continue to publish fire risk assessments for blocks 7 storeys and above online with others available on request.' The Programme will also be used to 'quickly implement any of the recommendations that result from the tragic Grenfell Tower fire inquiry.'
85. Principle 4 of the Housing Strategy is 'Empowering residents and communities to have pride and responsibility in the running of their homes and neighbourhoods'. This includes promises to: 'Work with tenants, residents and homeowner groups to find new ways to engage so that more people can have their say'. The engagement strategies will reflect these principles by developing and implementing a comprehensive strategy for resident participation, allowing residents to have their say about building safety.

86. Under the Asset Management Strategy, fire safety is a high priority – the Building Safety Programme reflects this. As discussed by the Asset Management Strategy, 'Works required to reduce the risk from the spread of fire and smoke from these Fire Risk Assessments, will usually be integrated into the cyclical Programme.'
87. The use of the Modern Data Platform (discussed by paragraph 76) is aligned with the Council's corporate strategies around data and platforms. For example, the platform reflects the organisation's 'cloud first' infrastructure approach via Microsoft Azure.

Community, equalities (including socio-economic) and health impacts

Community Impact Statement

88. The Fire Safety Act affects any home with a communal area and the Building Safety Bill covers High Rise blocks. Therefore, the new legislation and the Council's response to it will affect residents of over 45000 homes across 3,588 buildings. Over 9000 of these will be within the Council's 170 High Rise blocks.
89. The Building Safety Programme will uphold the safety of the Council's residential buildings, both now and for the future.
90. Achieving this outcome will lead to some disturbance and financial costs to residents. For example, access to homes will be needed for some of the surveys. There will also be financial costs for the surveys and remediation. The Council's resident engagement strategies will explain the need for any disturbance and costs and will seek to respond to any concerns that residents raise.

Equalities (including socio-economic) impact statement

91. Section 149 of the Equality Act 2010 lays out the Public Sector Equality Duty (PSED) which requires public bodies when taking decisions, to have due regard to the need to: eliminate discrimination, harassment, victimisation or other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it; foster good relations between those who share a relevant characteristic and those that do not share it.
92. The Council's response to the Fire Safety Act and the Building Safety Bill will reflect the relevant duties, especially with regard to vulnerable residents and those with protected characteristics.
93. When surveying and remediating Council buildings, particular consideration will be given to the needs of vulnerable residents. This will reduce discrimination and advance equality of opportunity. For example, through the use of Personal Emergency Evacuation Plans (PEEPs), the safety of vulnerable residents can be improved. This will require collaboration from different divisions, such as Asset Management and Residents Services.

94. By developing and implementing an engagement strategy for the borough and for each block, the Council will be able to reach out to as many residents as possible – this will give residents, including those who are vulnerable, to report any relevant concerns that they might have. By giving residents the chance to voice their concerns, the Council will be able to reduce discrimination and advance equality of opportunity.
95. Across Southwark, there are variations across different ethnic groups and housing tenures – more specifically, residents who are white are less likely to rent their home from the Council than any other ethnic group (with the exception of Asian/Asian British residents). Therefore, any actions which improve and uphold the safety of the Council's blocks will disproportionately benefit residents who are from the following ethnic groups: Black/African/Caribbean/Black British, Mixed/multiple ethnic groups; and Other ethnic groups.
96. There is also variation with regards to age and housing tenures – the residents who rent their home from the Council include a higher percentage of older residents than other housing tenures. Therefore, any actions which improve and uphold the safety of the Council's blocks will disproportionately benefit residents from the following age groups – 50 to 64, 65 to 74, 75 to 84, and 85 and over.
97. As discussed above, leaseholders will be charged for the costs of surveys and remediation. The Council acknowledges that leaseholders have existing costs and it will only charge as appropriate. If the Council did not charge any costs to leaseholders then tenants would bear an unfair amount of the cost. Around 2083 leaseholders will be charged for the costs of the Priority Surveying Programme.

Health Impact Statement

98. Where required, the Council's social housing have FRAs and Fire Strategies – these are the strategies that help to determine the appropriate response to a fire, depending on the characteristics of the building. Fire Strategies mitigate the health risks around fire and smoke.
99. The Priority Surveying Programme will allow the Council to meet new legislative requirements around FRAs and to update fire strategies as required. Therefore, the Council can continue to mitigate the health risks around fire and smoke.

Climate Change Implications

100. Following council assembly on 14 July 2021, the council has committed to considering the climate change implications of any decisions. A motion passed by cabinet in April 2019 commits the council to achieve carbon neutrality by 2030 if possible.
101. Any works conducted for the Building Safety Programme will reflect the goal of reducing the Council's carbon emissions.

Social Value

102. When the Council procures and appoints the consultants for the Priority Surveying Programme, the necessary consideration will be given to social value, including the London Living Wage, sustainability, the local economy, and employment opportunities.

Resource implications

103. The response to the Building Safety Bill, Fire Safety Act, and other requirements, will have significant resource implications for the Council. These are most significant for the Asset Management Division – these implications are discussed by paragraphs 104 to 109. Paragraph 110 discusses the possible requirements for other services.
104. For the Fire Safety Act, there are resource requirements relating to the new FRAs. Consultants will be needed for the short-term and upskilling will be needed for the medium-term.
105. The Building Safety Bill requires the Council to recruit officers to meet the duties of 'Building Safety Managers'. These are new duties and they include the day-to-day management of activities relating to the safe management of the Council's High Rise buildings and effective communication with the residents of those buildings. It is expected that these duties can be split between different roles.
106. On 7 December, a paper is going to Cabinet – this will recommend that Cabinet approves the creation of a new Assistant Director role for Building Safety, at either Grade 17 or Grade 18, subject to evaluation. This role will hold the Building Safety portfolio of responsibilities. This Assistant Director role for Building Safety would oversee the new Building Safety structure (the officers who hold the duties of the Building Safety Managers and the Building Safety Programme Lead) and all aspects of Major Works Programmes.
107. Appendix 3 has an organogram which shows the proposed structure of Asset Management, with the inclusion of the Assistant Director Role. It should be noted that this structure is subject to consultation. The Assistant Director would also give the strategic leadership required to deliver the Priority Surveying Programme and other aspects of the Building Safety Programme.
108. The new Assistant Director role would need to coordinate the response of the Asset Management Division with other services, such as Building Control and New Homes.
109. The Bill also requires the Council to decide which officers will be the Accountable Person and the Principal Accountable Person (these are the persons who are legally accountable for the Council meeting the relevant requirements).
110. Due to the need to collect the Building Safety Charge, Homeownership Services may also require additional resources. There may be a need for additional resources to support the resident engagement strategies too.

Legal implications

111. The implications of the Building Safety Bill, the Fire Safety Act, and other legislation have been set out throughout this report. Further legal implications are also noted by paragraphs 125 to 136.

Governance

112. The Building Safety Programme now has a clear governance structure. This is discussed by paragraphs 19 and 20.

Financial Implications

113. There are significant pressures on the HRA revenue and capital accounts, the costs associated with the Fire Safety Act and the Building Safety will exacerbate these.
114. For the Priority Surveying Programme (including the Pilot Surveys), estimated costs have been discussed above. These are between circa £10,000,000 and £17,000,000. However, the costs of remediation which follow the Programme are unknown at this stage. The costs of the surveys and the remediation will be included within the QHIP.
115. For the other responses to the Building Safety Bill and the Fire Safety Act, most of the costs are unknown – these are the costs for the upskilling for the new FRAs. Some of the costs around data are being covered by an existing contract, but if there were changes to the Modern Data Platform, there would be additional costs here too. Both the upskilling and the changes to data would need to be covered by the HRA revenue accounts.
116. For EWS1, the costs are unknown – like the other surveys and the remediation, these costs would be included within the QHIP.
117. The costs relating to Asset Management resources (the officers with the duties of the Building Safety Managers and the Assistant Director role) have been estimated at £2,303,000 per annum. During 2022/23, the costs are expected to be £1,278,000. From 2024/24, the costs will be £2,303,000 per annum. These costs reflect current estimates of the roles required, but further requirements may become apparent. The costs for future years will be determined at a later stage; however, it should be highlighted that many of the roles which relate to the duties of Building Safety Managers will continue to be required under the Building Safety Bill.
118. The costs for the resources from other service areas (Resident Participation and Homeownership Services) are unknown at this stage. These costs would be added to the HRA Revenue account.
119. Table 5 has a summary of the financial implications for the HRA. The table does not account for the costs that will be charged to leaseholders. The table shows the responses, the specific activities, the costs attached to each, the source of funding and when these costs are expected.

120. The response of the Council is still being developed and understood. Consequently, the table has a number of unknowns. It should also be highlighted that there may be additional costs which have not been discussed here. For the current financial year, the expected costs are for the Pilot Surveys only - £100,905. This will add pressure to existing forecasts. Costs for the 2022/23 year will need to be agreed. The costs for the Asset Management resources are being approved through the budget challenge. Table 4 does not account for the costs that will be charged to leaseholders.

Table 5

Response	Activities	Estimated Cost (£)	Funding	Year
Priority Surveying Programme	Pilot Surveys	100,905	QHIP	21/22
	Priority Surveys	10,000,000 to 17,000,000	QHIP	22/23
	Remediation	Unknown until survey findings 120,000 per block for Critical Tasks (Contingency)	QHIP	Critical Tasks 22/23 onwards
Other responses to the Building Safety Bill and Fire Safety Act	Upskilling for the new FRAs	TBC after the Pilot Surveys	HRA Revenue	23/24
	Modern Data Platform	Existing costs covered by existing contracts, other costs are unknown.	HRA Revenue	TBC
Responses to other Requirements	EWS1	TBC until after the Pilot Surveys	QHIP	TBC
Asset Management Resources	Building Safety Managers and Assistant Director Role	2,303,000	HRA Revenue	22/23 - £1,278,000, 23/34 - 2,303,000
Other Resources	Homeownership Services	TBC after more legislative details	HRA Revenue	TBC
	Resident Participation	TBC until after the Pilot Surveys	HRA Revenue	22/23

Consultation

121. Consultations have taken place across the Council, allowing each department to understand the requirements of the new legislation and the responses they need to deploy.
122. Consultation with the Staff and Unions within Asset Management will commence in January 2022 around structures, training and development
123. Using the Partnership Board (as discussed by paragraph 20), consultations with LFB, DLUHC and HSE are ongoing.
124. Consultation with residents has begun for the Pilot Surveys (discussed by paragraph 74). This will continue through the resident engagement strategies.

Director of Law and Democracy

125. The Fire Safety Act received royal assent on 29th April 2021. It amends the Regulatory Reform (Fire Safety) Order 2005 (RRO 2005) by clarifying that the Order applies to specific parts of residential buildings, notably external walls and anything attached thereon.
126. For any building containing two or more sets of domestic premises, the RRO 2005 applies to the building's structure and external walls and any common parts, including the doors between domestic premises and common areas. References to external walls in the RRO 2005 include 'doors or windows in those walls' and 'anything attached to the exterior of those walls (including balconies).
127. The Act enables the government to issue risk-based guidance, which can be referred to as proof that a responsible person has either complied or failed to comply with the requirements of the RRO. This applies only to buildings in England containing two or more sets of domestic premises.
128. The Act will complement the existing powers local authorities have to take enforcement action against building owners and managers under the Housing Health and Rating System provided for in the Housing Act 2004 and the Building (Amendment) Regulations 2018. This regulation banned the use of combustible materials within external walls and certain attachments to the external walls, of any new building with a storey of at least 18 metres in height. It applies where the building contains at least one dwelling, residential accommodation for the treatment, care or maintenance of individuals or rooms for residential purposes such as school dormitories and student accommodation.
129. The Act came into force partly on 29 April 2021. Regulations will bring the rest of the Act into force. The key provisions of the Act (sections 1 and 3) are not likely to be brought into force until the end of 2021 or early 2022.
130. Where a landlord has to carry out works or provide services under obligations imposed by statute or regulations, such as in relation to fire safety, the cost of

complying with the obligations (subject to the terms of the lease) is generally recoverable as part of the service charge.

Building Safety Bill

131. The Building Safety Bill seeks ‘to make provision about the safety of people in or about buildings and the standard of buildings, to amend the Architects Act 1997, and to amend provision about complaints made to a housing ombudsman’. It sets out a new regulatory regime aimed at ensuring the safety of residents in residential buildings and aims to ensure ‘greater accountability and responsibility for fire and structural safety issues throughout the lifecycle of buildings in scope of the new regulatory regime for building safety’
132. The bill runs to 218 pages, comprising 6 parts, 147 sections and 9 schedules. Table 5 sets out and describes each section of the bill.

Table 5 – The Building Safety Bill

Part and Title	Description
Part 1 – Introduction	Provides an overview of the Bill.
Part 2 – The Regulator and its Functions	Gives the Building Safety Regulator (BSR) a statutory footing within the Health and Safety Executive (HSE) and identifies the risks that the BSR will manage. The BSR will secure the safety of people in or around buildings and seek to improve the standards of buildings. The BSR’s functions will include functions under the Building Safety Act, the Building Act and functions under the Health and Safety Act. Staff to support the BSR will be drawn from local authorities and Fire and Rescue Services.
Part 3 – Building Act 1984	Makes amendments to the BA 1984 as it applies to England and Wales; <ul style="list-style-type: none"> • Enabling the government to decide by way of secondary legislation which buildings are included in the scope of the regime. • Setting out the provisions for the new regulatory regime during the design and construction phase for higher-risk buildings • Providing for the registration of building inspectors and building control approvers and seeking to regulate and improve competence levels in the building control sector • Remove discretion such that where building work has not commenced within 3 years the deposit of plans, the plans will be considered null and void.

Part 4 - Higher-risk buildings	Provisions relating to procedures and control of occupied Higher Risk buildings in England. It places duties on the Accountable Person and Building Safety Managers in relation to building safety risks in their building. This includes registration and certification, appointment of Building Safety Managers and their duties including the provision of information and engagement with residents, The regulator will have a duty to enforce provisions concerning higher risk buildings.
Part 5 - Supplementary and General	<p>Includes provisions:</p> <ul style="list-style-type: none"> • relating to service charges in respect of remediation works There will be a charge associated with duties under the Act which can be passed onto leaseholders with leases of over 7 years or more in high rise multi occupied buildings. The charge will apply to leaseholders whether their landlord is a private landlord, local authority or housing association. Landlords may be required to seek other cost recovery avenues before passing costs onto leaseholders. • Duties relating to work to dwellings • catering for changes to the (RRO 2005) • for the establishment of a New Homes Ombudsman scheme • for the power to regulate construction products • on disciplinary matters relating to Architects, • removing the "democratic filter" that requires social housing residents to refer unresolved complaints to a "designated person" or wait eight weeks before they can access redress via the Housing Ombudsman.
Part 6 – General	<p>Covers miscellaneous provisions, including:</p> <ul style="list-style-type: none"> - the liability of officers of bodies corporate; - reviewing the regulatory regime; and - the Bill's jurisdictional scope

133. The detail supporting the statutory provisions will be provided by regulations and guidance, which are likely to be developed as the bill progresses and after it receives Royal Assent. Sets of draft regulations have already been published as follows: - The Higher-risk buildings Descriptions Regulations; Duty-holder regulations; The Architects Fees for Services Regulations; The Building Restricted Activities Regulations; The Building Safety Fees Regulations; The Construction Products Regulations, The Building Higher Risk Buildings (England) Regulations; The Higher Risk Buildings Principles for Management of Risk Regulations

134. Under the MHCLG (DLUHC) transition plan, the bill is expected to receive Royal Assent within approximately 9-12 months (of publication) with the first round of provisions coming into force within 6-12 months of the Bill receiving Royal Assent and the bulk of the new regulatory regime coming into force within 12-18 months of Royal Assent. Despite this proposed timetable, there is uncertainty as to when the bill's proposals will come into effect. Given the complexities of the provisions, its progress through the law making process may be subject to delays.
135. Certain obligations have come into force earlier. The requirements of the 'Gateway 1' process, relating to construction and major refurbishment of higher-risk buildings, which forms part of the current planning process is implemented by secondary legislation and statutory guidance which amends the Town and Country Planning Act 1990 and came into force on 1 August 2021. Gateway 1 seeks to ensure that fire safety matters are considered at the planning application stage for relevant buildings and requires applicants to submit a fire statement to the planning authority confirming that fire safety issues have been addressed.
136. As noted in the report, preparation for, and compliance with, the new regime will require considerable resources.

STRATEGIC DIRECTOR OF FINANCE AND GOVERNANCE (FC21/037)

137. The Strategic Director of Finance and Governance notes the contents of the report and the onerous responsibilities conferred by the Building Safety Bill and Fire Safety Act 2021 on local authority landlords.
138. For Southwark, this represents a seismic endeavour and requires significant financial commitment given the unique size and nature of the council's housing stock, with 170 in-scope high-rise buildings (the highest number in the country), and a significant number of buildings that also require further investigation, albeit deemed to be of low or moderate risk outside the scope of the legislation.
139. The report sets out indicative costings to undertake the building surveys (based on a pilot survey currently underway). The two options outlined have considerably different cost implications, ranging from c. £10m to £17m, and the long-term merits of each need to be carefully evaluated before a decision and commitment is made. In addition, there are new and additional staffing requirements needed within the council's Asset Management division to undertake the work and ensure compliance with the legislation and within the timeframe specified of April 2024. Revenue and capital funding commitments totaling £6.7m currently form part of the HRA budget proposals for 2022-23 to address these needs (based on the lower of the two survey cost options). In addition, there are likely to be other organisational/administrative costs arising across other parts of the council e.g. Building Control, which are yet to be quantified as the full requirements of the regulations become clearer.
140. Notwithstanding the critical importance of these new duties to enhance residents' safety, they create a substantial additional financial pressure on already constrained resources, particularly capital, both for the initial surveys and moreover the cost of remediation works arising, which is an unknown. Given this,

it remains incumbent on the council to ensure full cost recovery from leaseholders under the terms of their lease, to mitigate any potential cross-subsidy from tenants. The council is currently undertaking a wholesale review of its asset management strategy and this must be the council's highest priority, which is likely to be at the expense of other less-essential programmes over the medium-term. As previously reported, capital resources are under extreme pressure and borrowing to support the QHIP and New Homes programmes continues to rise at an unprecedented rate with consequent revenue financing impact on the HRA, which cannot be sustained over the long-term.

141. The council's response to the provisions of the Building Safety Bill and Fire Safety Act continue to develop at pace and the costs and commitments arising will be kept under review and updated as better information comes to hand and reported as appropriate.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Review of Grenfell Inquiry Phase 1 Recommendations	Cabinet, February 2020	Michael Scorer, Strategic Director, Housing and Modernisation
Link (please copy and paste into browser): https://moderngov.southwark.gov.uk/documents/s86915/Report%20Review%20of%20Grenfell%20Inquiry%20Phase%201%20Recommendations.pdf		
Building Safety and Cladding Report	Housing and Community Engagement Scrutiny Commission	Simon Holmes, Head of Engineering
Link (please copy and paste into browser): https://moderngov.southwark.gov.uk/documents/s93588/Report%20Building%20Safety%20and%20Cladding.pdf		

AUDIT TRAIL

Lead Officer	Michael Scorer		
Report Author	Dave Hodgson		
Version	FINAL		
Dated	03/12/21		
Key Decision?	Yes/No		
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER			
Officer Title		Comments Sought	Comments Included
Director of Law and Governance		Yes	Yes
Strategic Director of Finance and Governance		Yes	Yes
Cabinet Member		Yes	No
Date final report sent to Constitutional Team / Scrutiny Team			03/12/21

APPENDICES

No.	Title
Appendix 4	Timeline for the Pilot Surveys
Appendix 5	Glossary
Appendix 6	Proposed Organogram for Asset Management

APPENDIX 4 – TIMELINE FOR PILOT SURVEYS

Month	Activities
November 2021	<p>Surveys Commenced – Fire Door Check at Flat 67 (Void) and Asbestos Documentation shared with the consultant.</p> <p>Communications delivered to residents and Q&A sessions held.</p>
December 2021	<p>Consultants will survey Flat 67 (Void) and Asbestos to be removed from riser panel</p> <p>Further update to residents via TMO newsletter</p>

January 2022	Arrange appointments to survey resident's flats and commence with these surveys (BIM and the FRAs)
February 2022	Complete the surveys of the flats
March 2022	Report from consultant, showing any next steps that may be needed Report will be shared with the residents

APPENDIX 5 – GLOSSARY

High Rise Residential Building: these are blocks which are 18 metres and above or 7 storeys and above.

Fire Risk Assessment (FRA): a detailed assessment to determine the following:

- the risk rating for the building – these ratings range from ‘trivial’ (the lowest risk rating) to ‘intolerable’ (the highest risk rating)
- any actions needed to uphold and improve the safety of the building, such as repairs
- the fire strategy for the building – the actions that should be taken if there was a fire

Under current legislation, FRAs must look at the communal areas of the building only. Under the new legislation, the Fire Safety Act, FRAs will also need to look at the structure, the external walls (including cladding, windows, both sides of fire doors, and balconies), and the entrance doors of buildings.

Fire Risk Assessment and Appraisal (FRAA): these are FRAs which meet the requirements of the new legislation – the Fire Safety Act. The FRAAs meet these new requirements because they include the assessments of the external walls of the building. FRAAs also include recommendations for whether the building needs to be remediated.

Type 4 Fire Risk Assessment: these assess whether the construction of a building prevents the spread of fire (either within the building or to an adjacent building). FRA Type 4s are intrusive surveys – they require a small hole or holes (this would be a maximum of 5 holes, each being 10mm) being made to accommodate a borescope camera.

Fire Strategy: these outline the actions that need to be taken if there was a fire. The actions seek to keep the residents of the building safe and the strategy will reflect the unique characteristics of the building.

QHIP: this is the Quality Homes Improvement Programme. This is the programme of major works to improve and maintain the Council's housing stock.

Compartmentation: this stop the spread of the fire between homes and between buildings. This is achieved through the use of fire resistant walls and doors.

APPENDIX 6 - PROPOSED ORGANOGRAM FOR ASSET MANAGEMENT

