

Item No. 10.	Classification: Open	Date: 14 May 2013	Meeting Name: Cabinet
Report title:		Lakanal Inquiry – Coroner’s Recommendations	
Ward(s) or groups affected:		All	
Cabinet Member:		Councillor Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	

FOREWORD – COUNCILLOR IAN WINGFIELD, DEPUTY LEADER AND CABINET MEMBER FOR HOUSING MANAGEMENT

The inquest into the fire at Lakanal reviewed all of the factors which contributed to the tragedy, including areas where the council had failed. The coroner made a number of recommendations for the council, to address the failures, to review our working practices and the information, advice and guidance the council provides to make sure that the safety and well-being of our residents is fully protected into the future.

When reviewing the recommendations, I am constantly mindful of the responsibility the council has as a landlord to keep our residents and homes safe. Some of the recommendations have already been completed by the council, not least because of the dedicated fire safety team which already coordinates the council’s landlord responsibilities for fire safety. Others are of national significance for all landlords of social rented property and as such, require a coordinated response in partnership with other housing providers, government and the expert advice of strategic fire authorities.

We never forget the families and all those affected by the fire, and the need to reassure all of the council’s residents that we have an enduring and ongoing commitment to fire safety. We take these recommendations seriously, and ideally would like to act on all of them. However it should be noted that there are legal obstacles, detailed in this report that would prevent full progression of some of the recommendations.

I will be writing to the Secretary of State for Communities and Local Government in order to obtain clarity and guidance as to how some of these legal obstacles can be overcome so that all of our residents are best served by the coroners recommendations.

RECOMMENDATIONS

1. That Cabinet notes and approves the contents of this report which provides detailed information and considerations which will shape the response to the Coroner’s Rule 43 letter of 28 March 2013.
2. That the council defines high rise buildings as being those above 30m, equating to those of 10 storey and above.
3. That the coroner’s recommendations also apply 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.

4. That officers investigate how a full internal stock condition survey of the council's housing stock, that includes those sold leasehold, would be possible.
5. That officers carry out a full feasibility study into the retro-fitting of sprinklers into high rise blocks and report back to cabinet on the findings by November 2013.
6. That Cabinet delegates the full response to the rule 43 letter to the Chief Executive.

BACKGROUND INFORMATION

7. The Lakanal fire on 03 July 2009 in which six people died was a dreadful tragedy and one of the darkest days in Southwark's recent history. In response to the fire the council 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 above 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).
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 (see Appendix 1).
10. The Rule 43 letter recognised steps the council had already taken since the tragedy, however it also made a number of recommendations.
11. Rule 43A of the Coroner's Rules requires that the council responds to the coroner within 56 days starting from the day the report was sent to the chief executive of the council.
12. The council's response must contain details of any action that has been taken or which it is proposed will be taken, or an explanation as to why no action has been taken.

13. Initial responses to the recommendations were presented to Cabinet on 16 April 2013 and officers were instructed to return and set out the fully detailed responses to each of the recommendations. This report constitutes the full response and the basis of the final response to the coroner's Rule 43 letter within the 56 day deadline, subject to cabinet approval.

KEY ISSUES FOR CONSIDERATION

14. The coroner's specific recommendations are appended as Appendix 2, with officers' proposed responses in italics. Estimated timescales for completion are also included for information and consideration.
15. Officers anticipate that, for the majority of the recommendations, the council can comply quickly. Some of the recommendations are already complete or are in train. These include:
 - The use of pictogram signage for those for whom English is not their first language
 - Liaison with the LFB has started regarding the format of premises information plates and boxes and the prioritisation for installation
 - Training for staff is complete and our staff have been assessed against the competency criteria for fire risk assessors and meet the requirements
 - The electronic storage of information relating to building's design, construction and any recent refurbishment or replacement is due to complete imminently
 - Access for emergency vehicles is already a key component of the fire risk assessment and the LFB and the council have agreed a reporting/resolution process
16. For most of the remaining recommendations, officers anticipate that the council will be able to comply fully within clear timescales and Appendix 2 refers. There are however two recommendations that have significant resource and legal implications and are of significance to all landlords of social rented housing.
17. The first of these refers to the coroner's recommendation that the council should identify when individual flats or maisonettes should be inspected and how these should be selected for inspection. The council's current process for fire risk assessment identifies areas where further in-dwelling inspection may be required. However, in-dwelling inspection is currently outside the scope of the current legislation, the Regulatory Reform (Fire Safety) Order 2005 (FSO) which applies to common areas up to and including the front entrance doors to dwellings.
18. The council is already rolling out an annual property check process, which as well as carrying out a tenancy check of the occupancy of the dwelling, carries out the annual gas check for properties with gas appliances and checks the condition of the property, including whether any modifications have been made to the layout of the building. This check however only applies to the council's tenanted properties and the council does not currently have the legal right to check the internal layout of leasehold properties. This access issue is particularly important when the council is seeking to ensure the safety of all of its properties.

19. The Secretary of State for Communities and Local Government has also been sent a Rule 43 letter where it is recommended that the government provide clear guidance on the
- The definition of common parts of buildings containing multiple domestic premises
 - Inspection of a maisonette or flat which has been modified internally to determine whether compartmentation has been breached
 - Inspection of a sample of flats or maisonettes to identify possible breaches of the compartment.

Clearly this issue is of national significance and subject to further exploration of the legal basis for inspection of all council properties and the response from DCLG, officers recommend that the council continues with its current strategy.

20. The most significant recommendation is that the coroner asks the council to consider the question of retrofitting sprinkler systems to high rise buildings. The same recommendation was made in the Rule 43 letter relating to the inquest into the tragic deaths of two fire fighters in Southampton, which recommended that “Social housing providers should be encouraged to consider the retro-fitting of sprinklers in all existing high rise buildings in excess of 30 meters in height”.
21. Sprinkler guidance in BS 9991:2011 supports a definition of high rise being above 30m where it says “All buildings with a floor higher than 30m above ground should be fitted with sprinklers”.
22. Southwark has 68 blocks of 10 storey and above. There are also 37 known lower level complex blocks, 20 sheltered housing schemes and 20 temporary accommodation units. Details of these properties are appended at Appendix 3.
23. The installation of sprinkler systems into newly built high rise blocks is clearly defined by building safety guidance and should be installed in individual properties and in some rare cases to the common areas of high risk buildings. This is because the point of origin of most fires is in individual dwellings. This is confirmed in the Building Regulations 2000 Approved Document B, section 8.14 and also in BS 9991: 2011.
24. Officers have carried out initial research into the feasibility of the retrofitting of sprinkler systems into high rise and other smaller complex blocks. This included commissioning a specialist fire protection contractor to carry out a visual external survey at Peronnet House, Cornish House and Glenfinlas Way, blocks which are typical of the complexity of the housing stock. This initial research identified a number of issues for consideration which are set out below.

Retrofitting of Sprinkler Systems

25. The first issue identified was that of the legal ‘Right of Access’ to sold leasehold dwellings to carry out any such retrofitting of sprinkler systems. The council does not have an automatic right to access any leasehold dwelling to fit these, and it is only with leaseholders’ permission that they could be. This is an important issue because the effectiveness of a sprinkler system would be undermined if it was not installed to all individual properties in a block as it would leave parts of blocks unprotected, in some cases up to 50% of the block.

26. Any project to retrofit sprinklers would have to have the full written cooperation and consent of all of the leaseholders in that block to enable the full application and continuity of works. The work would also be rechargeable to leaseholders.
27. Because fire safety precautions have hitherto been focused on communal areas, including front entrance doors, and because we do not currently access flats and maisonettes to carry out internal surveys unless there is a clear need to, notwithstanding the coroner's recommendation that this should happen in the future, we do not have a comprehensive knowledge and understanding of the room layouts and size of individual properties. A full internal stock condition survey would be recommended and in any event would be required prior to retrofitting to ascertain if any of the original walls have been moved by tenants and leaseholders thus compromising any of the original fire compartmentation features such as the opening up of kitchens and dining area to make them semi-open plan. However because the council cannot legally access leasehold dwellings for such stock condition surveys, a full survey of all the dwellings in the blocks would not be possible. Officers therefore need to consider how to effectively carry out full stock condition surveys to all dwellings, including those sold leasehold.
28. Careful consideration would need to be given to the general routing of any pipework both within the communal areas and dwellings themselves ensuring that the piping is either hidden behind fire proof coving or fire board partitions and that all residents are made aware that the painting of the sprinkler heads will render them ineffectual if a fire should occur. The industry standard CPVC IPS Blazemaster piping is coloured bright orange and is not particularly aesthetically pleasing but it is not recommended that it should be painted as some acrylic based paints will have a serious deleterious effect on the plastics causing them to fail.
29. The builders works and electrical works required in support of any retrofit sprinkler programme would be disruptive as there would be a need for the coring/boring of holes through both ceilings and walls to facilitate the routing of both piping and fire signal cabling and the need for provision of a bespoke addressable fire alarm and pump power supplies by electrical contractors. There would also be required certified fire stopping, after all piping/cabling is complete, to all holes through the existing fire walls and floors.
30. It is also considered that asbestos would likely be disturbed and therefore would have to be carefully considered and managed. This could be costly and potentially disruptive to residents.
31. Based on the surveys carried out on the three blocks, the following works would be required:
 - Initial design/drawings for the sprinkler system
 - Structural Engineering report and recommendations for water storage tank, diamond/core drilling for services
 - The initial structural works that are required to install services, physical core drilling and destructive/exposure works to accommodate the sprinkler system.
 - The supply and installation of sprinkler services (pipe work) to all areas required.

- The supply and installation of electrical services to pumps and dwelling monitoring units
 - The supply and installation of water tank and pumps
 - The supply and installation of sprinkler monitoring panel
 - The supply and installation of plaster boarding/boxing/profiles to all new sprinkler services, communal and residential areas
 - Certificated fire stopping for all breaches formed in construction during works
 - The supply of materials and labour to decorate all areas affected, residential and communal
 - The supply and installation of a 60 minute fire rated service hatch to each and every dwelling for service/monitoring and isolation purposes
32. The estimated average unit cost for these works to each of the three blocks surveyed equates to £7500 per dwelling. These blocks have features which cannot necessarily be extrapolated across all of the 7803 unit/dwellings included in the list at Appendix 3, however if they did have similar requirements, the required investment would be in the region of £59m. In addition, there will be an ongoing revenue cost for maintenance. This has considerable resource implications for Southwark and other social housing landlords, however the scale of Southwark's stock is such that the initial investment and ongoing maintenance regime is particularly costly.
33. The installation and maintenance costs would also be service chargeable to leaseholders living in the blocks.
34. The social housing sector has looked to government for guidance on the retrofitting of sprinklers however the response from the Department of Communities and Local Government (DCLG), to the Southampton Rule 43 letter suggests that, instead of taking a view on behalf of all social housing landlords, that decisions regarding the retrofitting or not of sprinkler systems to high rise building is for landlords to consider themselves.
35. There are also differing opinions within the social housing sector and the fire industry as to whether compartmentation and other appropriate fire stopping (passive measures) and early warning systems (active measures), such as heat and smoke detection, are in themselves sufficient risk mitigation for high rise dwellings.
36. In conclusion, the scale of the task and its full implications suggest that it would be premature to make a recommendation based on a sample survey of 3 blocks. Officers therefore recommend that a full feasibility study is undertaken which looks at the requirements for each of the blocks in Appendix 3, taking into account the complexities of the blocks, their design intent, and existing fire safety features and arrangements, as well as thorough research into best practice and guidance from the government and fire authorities.
37. Officers consider that a full feasibility study can be concluded within six months.

Policy implications

38. The recommendations may require the revision of a number of policies which will be considered in line with the feasibility study.

Community impact statement

39. The coroner's recommendations impact on all residents of the council's housing stock.

Financial implications (FIN0770 – JP)

40. The costs arising from the works relating to the retro-fitting of sprinkler systems would be of a capital nature and no provision currently exists within the Housing Investment Programme for this. There would also be an additional on-going revenue commitment arising from the maintenance regime required for the systems post installation, which is as yet unquantified.
41. There is currently a base budget of £3.5m per annum (£17.5m over five years) available within the Housing Revenue Account for Fire Risk Assessment (FRA) testing and remedial works. Planned programmes and commitments over the next 5 years against this budget total £14.3m currently, subject to the requirement for additional remedial works and higher costs emerging over that period. However, there is potentially the opportunity to use the indicative headroom within this budget for the maintenance element, but it should be noted that the FRA spend profile is largely front loaded and any requirement to divert resources towards a sprinkler maintenance contract in the short-term would require the re-profiling of existing programmes to accommodate it.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Head of Specialist Housing Services

42. There are a number of issues concerning sold properties and leaseholders which do have an impact on the nature of the responses and need consideration.
43. Any work carried out to the communal areas of the blocks, including the retro fitting of sprinklers, would be service chargeable under the terms of the lease and would require that statutory consultation be carried out with leaseholders. In particular the retro fitting of sprinklers to communal areas of blocks could result in high service charges which may well be disputed by leaseholders. The Head of Specialist Housing Services advises that the council would not be able to fit sprinklers in individual sold properties.
44. In Southwark the majority of the leases leave the responsibility for the individual flat entrance doors to the council, rather than passing this obligation to the leaseholder as part of the demise. It is more common for local authorities to sell the flat entrance door to the leaseholder as part of the demise of the property. This means that the responsible person as regards ensuring that the flat entrance door is of a suitable standard would be the leaseholder rather than the council.
45. With regard to the provision of information and guidance to occupiers of high rise blocks, once a property has been sold under the right to buy or other such scheme the council will have difficulty in fulfilling this requirement.

46. The same problems arise with regard to fire action notices. Specialist Housing Services would recommend that these are included in the pack issued to new owners and also the Home Owners Guide, but the council would not be able to guarantee that this information would be disseminated to sub-lessees.
47. Home Ownership Services can arrange for relevant information to be included in the regular billing and statement runs sent to leaseholders. Additionally, Home Ownership Services will carry out a regular audit of contact details to ensure that as far as possible the council is able to identify sub-let properties. Home Ownership Services is also in the process of bringing a customer service portal on line for service charge accounts, which would allow block specific information to be available via the web.
48. Within the existing Southwark leases the council has little control over what it can do inside individual sold flats. The council has sold approximately 13,500 leases which would not allow the council to insist on installing notices or signage within the individual properties. Under the terms of the lease the interior of the property is the responsibility of the individual leaseholder, and the council can only enforce certain actions – and frequently this is under its powers as a local authority rather than as a landlord. For the purpose of the Fire Regulations the responsible person for the interior of the property is actually the individual leaseholder rather than the council.
49. In Southwark the council recognizes that the height of a block is not the only fact when considering action to take to improve fire safety. For example the council has a number of low rise sheltered accommodation units, which are considered to be high priority due to the vulnerable nature of the residents. The council has recently been out to tender on a £2m scheme to carry out fire safety works, to include sprinkler systems particularly for those blocks with atriums. The council has also carried out short term emergency work including smoke alarms and door closers.

Director of Legal Services

50. The Background Information section accurately summarises the relevant Coroners' Rules.
51. 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.
52. 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.

53. 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.

Strategic Director of Finance and Corporate Services (FC13/028)

54. This report is requesting cabinet to note and approve the detailed information contained within the report which will form the basis of the council's response to the Coroner's Rule 43 letter of 28 March 2013 on the Lakanal Inquiry.

55. Details of the Coroners recommendations together with the council's proposed response against each of the recommendations are contained in Appendix 2. However, the most significant recommendation arising from the Coroner's letter asks the council to consider the question of retro fitting of sprinkler systems in high rise residential buildings and this option is explored in the main body of the report.

56. The report identifies the estimated cost of retro fitting of sprinkler systems in dwellings detailed in appendix 3 to be approximately £59m and it is noted that there are no capital budget allocation within the council's Housing Investment Programme to fund this expenditure.

57. The report also highlights further financial implications on departmental revenue budgets for the maintenance costs which could be significant. It is noted that, although there may be scope within the total revenue budget allocation over the 5 year period to allocate some resources towards the maintenance costs, any requirement to divert resources to the sprinkler contract, in the short term from other currently committed maintenance programme would require the re-profiling of existing programme. However, it is noted that the scale of the task on this proposal and the full financial implications cannot be quantified at this stage until a full feasibility study is undertaken.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Report to Cabinet 16 April 2013 http://moderngov.southwark.gov.uk/ieListDocuments.aspx?CId=302&MId=4250&Ver=4 "	160 Tooley St SE1 2QH	Tony Hunter Compliance Operations Manager Tel: 0207 525 1756

APPENDICES

No.	Title
Appendix 1	Coroners Rule 43 letter
Appendix 2	Proposed detailed response with timescales
Appendix 3	Lists of 10+ storey blocks, other known lower complex blocks, sheltered housing schemes and temporary accommodation units

AUDIT TRAIL

Cabinet Member	Ian Wingfield, Deputy Leader and Cabinet Member for Housing Management	
Lead Officer	Gerri Scott, Strategic Director of Housing and Community Services	
Report Author	Tony Hunter, Compliance Operations Manager	
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CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
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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
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