

Item No. 5.	Classification: Open	Date: 10 February 2021	Meeting Name: Housing and Community Engagement Scrutiny Commission.
Report title:		Building Safety and Cladding Report	
Ward(s) or groups affected:		All Wards	
From:		Head of Engineering	

Recommendations

1. That the Housing and Community Engagement Scrutiny Commission note the contents of this report and the actions that asset management have taken.

Background

2. Following the tragic fire at Grenfell Tower in 2017, a number of concerns were raised about the construction materials used in external cladding systems on residential buildings. Initially, these concerns were specifically aimed at Aluminium Composite Material (ACM) systems on buildings of 30m (ten floors) and above but, as the investigation into the fire continued, the advice from the Ministry of Housing, Communities and Local Government (MHCLG) changed. These changes widened the scope of the concerns to include all cladding systems regardless of the presence of ACM, as well as spandrel or infill panels forming part of the façade. The MHCLG sent a request to all local authorities, asking that they supply information on external wall systems on all blocks within scope. This request not only encompassed the stock owned by the local authorities but also that owned and/or managed by others, within their geographical area. LBS duly provided the information pertaining to council owned blocks and sent out requests to other landlords of residential buildings within Southwark. The initial requests elicited a poor response with only around 25% of landlords responding. The MHCLG, through the Joint Inspection Taskforce (JIT) are currently conducting independent inspections across the country and local authorities are expected to use their powers to enforce compliance with the investigations for the information requested. The changes also increased the number of buildings in scope by reducing the height limit to 18m (seven floors) and above. A later amendment to the MHCLG guidance also suggested that landlords should look at cladding systems on all residential buildings, regardless of height.
3. As a result of the concerns raised around cladding systems, mortgage lenders began to require confirmation from landlords that the buildings

containing the dwellings to be bought or sold, met the recommendations of the MHCLG guidance. Initially these were simple requests for confirmation from the landlord; however, the Royal Institute of Chartered Surveyors (RICS) created a review and certification process known as External Wall Fire Review (EWS1) in collaboration with the Building Societies Association (BSA) and UK Finance. The Institute of Residential Property Management (IRPM) and the Association of Residential Managing Agents (ARMA) giving it greater credence then endorsed this process.

4. Although the EWS1 is not a legal requirement, the MHCLG are supportive of the approach and this, coupled with the endorsements by the BSA and UK Finance, has led the majority of mortgage lenders to make an EWS1 a requirement for any purchase of a dwelling within a residential block regardless of height, despite the intended 18m plus target. Subsequently, Southwark Council have received a number of requests for the EWS1 certification which it cannot provide at this time. This is directly affecting resident's applications to buy or sell properties in blocks managed by Southwark Council.

Building Safety Board (Formed November 2020)

5. The challenges of EWS1 inspections across the wider scope of both LBS owned housing assets and non-owned LBS buildings within the borough combined with the impending impact of compliance with the Building Safety Bill has created significant pressure on our existing resources. In response, Southwark Council has acted in two ways:
 1. Creation of a Building Safety Board, Chaired by the Strategic Director of Housing, Vice Chaired by the Director of Asset Management and the London Fire Brigade Borough Commander. Not exclusively but included in the terms of reference for this Board is to support all residents of Southwark in matters relating to the safety of their homes and creation of a web based platform for residents to engage with the Board in supporting them with Landlord and safety concerns.
 2. The Appointment of an Assistant Director of Building Safety reporting to the Director of Asset Management will hold operational responsibility for the actions arising from the board as directed.

Current Position

6. The EWS1 form (see Appendix A for the full document) includes two options:

Option A applies where the external wall materials are unlikely to support combustion. This option is to be completed by someone with the expertise to identify the relevant materials within the external wall and attachments

and whether fire resisting cavity barriers and fire stopping have been installed correctly. However, this would not necessarily include the need for expertise in fire engineering. The signatory should be a member of a relevant professional body within the construction industry.’

Option B applies where combustible materials are present in the external wall. This option is to be completed by someone with expertise in the assessment of the fire risk presented by external wall materials and should be a member of a relevant professional body that deals with fire safety in the built environment. This could be a Chartered Engineer with the Institution of Fire Engineers or equivalent.’

7. Either option is likely to require a physical inspection of the building and in most cases will require some invasive work to identify specific aspects of the construction, such as the presence and location of cavity barriers. Evidence of the fire performance of materials would also be required. The EWS1 certification is valid for 5 years, assuming no changes are made to the external façade.
8. Southwark Council do not currently have the in-house resource to undertake the EWS1 inspections and certifications, and initial enquiries with accredited organisations have shown that the cost for these to be undertaken is significant
9. However, despite the 18m minimum threshold for the EWS1 certificates, as the MHCLG also recommend treating all residential buildings in the same way regardless of height, the total cost could far exceed these figures as LBS currently have circa **2500** blocks of between 3 and 6 storeys (below 18m), any or all of which could potentially require an EWS1 form.
10. At this time, approximately **79** blocks from this category have been identified as having external wall systems in place we continue with a pilot scheme principle and will be undertaking further EWS1 inspections to 4 x blocks but even those without these systems may require some form of investigation to enable the sale or purchase of individual dwellings within them. It should be noted that the costs stated here **do not include any remediation works**.
11. Although the initial requests received from mortgage lenders requested that the EWS1 certification is completed by an independent party, the form and accompanying guidance makes no mention of or reference to this as a requirement. It should also be noted that the documents do not place the obligation for the production of the EWS1 form on the landlord or building owner. MHCLG guidance does however suggest that landlords should be conducting investigations into the facades of residential buildings.
12. Southwark Council currently has more than 30 pending requests for EWS1 certificates and each sale/purchase is currently being held up due

to this issue. Additional requests are being received on a regular basis, so this number will continue to grow and it is likely that many of these (both existing and new) will lose or be unable to secure mortgage offers.

Additional Background Information

13. Southwark Council have received communications from other Council's in respect of this issue, as the certification process is affecting all LA's and building owners.
14. Camden Council provided us with their internal report on the subject, the majority of which echoes the position given by this briefing note. There are however, a number of areas where Camden's findings/approach differs from Southwark's.
 - The Camden document states that the EWS1 certifiers must be independent, however as mentioned earlier in this briefing note, there is no specific reference to this within the EWS1 document.
 - The costs identified by Camden are essentially the same as those quoted to Southwark, demonstrating that there is a relatively standard price for this service.
 - In relation to where the finance for these inspections is provided, the Camden report suggests that the leaseholder should bear the entire cost as there is no benefit to the Council.
15. Discussions with other LAs/RSLs have shown that all housing providers seem to be in the same predicament regarding this issue.
16. Communication between Southwark Council and RICS confirmed that they (RICS) are aware of the difficulties that the EWS1 form has created and are working with the financial industry to try and clarify the issue. However, RICS acknowledge that it may not be a simple process to change the position that the mortgage lenders are taking.
17. As part of the information request from the MHCLG, LBS have identified circa 400 residential properties of 18m or over, owned or managed by other parties within the borough.
18. Although sales of properties within these buildings will also likely require an EWS1 certificate, the responsibility of producing this will be the responsibility of the building owner or landlord and not that of LBS. However, as the LA for the borough, it is possible that LBS may have to become involved, where other landlords fail to provide these documents to existing or potential residents of Southwark.

Actions Taken

19. LBS Engineering division instructed an external qualified consultant to undertake the EWS1 process. This involves a multi stage process:

Step 1 (a) – Review as built information, photographs etc. Where no information is available and the building is believed to comprise masonry construction, a simple drill sample may suffice to complete ‘Option A’. 3rd party can complete this option or provide training to support LBS internal fire professionals to complete.

Step 1 (b) – Following a site visit which identifies all the wall systems present and dimensions, this can be compared to BS 8414 tested systems. If there are minor differences, a BS 9414 review can be completed.

Step 2 – Site inspections could range from a simple drill test where masonry construction is in place, or a more extensive, intrusive survey for other wall types, to check for insulation and cavity barriers. Generally, this would be each elevation, each wall type and identify presence of cavity barriers around windows, horizontal, vertical and penetrations. This is usually between 5-10 areas, depending on the building.

20. Due to the limited construction details currently available for many existing LBS blocks, the inspection process will begin at step 2 above. This dramatically reduced the overall costs obtained from previous companies and allowed LBS to move forward with the initial inspections. 3rd party attended the initial 3 pilot properties/blocks along with one of LBS’ partnered contractors to conduct the investigations but were hampered by access issues, which limited the locations for the inspections. Despite these limitations, the inspections revealed that there are issues with the EWS which will require remediation works. The full extent of the works will not be known until inspections on the additional areas have been undertaken but they are likely to be significant and, it is expected that these concerns will be repeated on other buildings with similar systems.
21. LBS have now received the full reports of the 3 x pilot properties/blocks and all of those blocks inspected have revealed deficiencies which will need to be addressed. The Asset Management Team is currently reviewing the reports to establish the full extent of remediation works required and expected costs.

*****In addition to the above, the 3rd party has now been commissioned to undertake a desktop exercise review of all LBS flat blocks, using a risk matrix to provide an outline of the programme LBS will need to undertake to obtain the EWS1 certificates for relevant buildings.***

22. This programme will review circa 1600 flat blocks and is estimated to take approximately 16 weeks. During this process, it is proposed we will continue to undertake further EWS1 inspections on an individual pilot *scheme principle for the purpose of capturing learning opportunities* these pilot schemes will be identified from the existing 72 x block locations awaiting an EWS1 Inspection.

Update 25 November 2020

23. On Monday (23 November), following discussions between the Government, RICS and the financial industry, the Government announced a change in the EWS1 approach by stating that:

'Owners of flats in buildings without cladding will no longer need an EWS1 form to sell or re-mortgage their property'

24. Although this will provide welcome relief to a large number of leaseholders, this change will only impact those buildings which have no form of external wall system. This will apply to those masonry buildings with exposed brick or concrete facades and no or very limited spandrel panels, which will apply to circa 50% of Southwark Council's stock of flat blocks of 18 metres or above.
25. Buildings with external wall systems such as EWI, CLT or large areas of spandrel panels, will still require an EWS1 certificate.

Update January 2021

26. RICS are undertaking a consultation on new guidelines with its members to decide if EWS1 inspection is required consultation closes 25th January and an expected guidance document issued in the spring of 2021 It should be noted however, that there are no guarantees that the financial industry will support these amendments and that therefore, this may have limited impact on the process.
27. The Government also announced a £700,000 fund for RICS to deliver a series of training programmes to risk assessors, which will provide the competency and qualification for these assessors to undertake EWS1 certification. This will increase the number of suitable qualified practitioners available to the currently under resourced marketplace, and will enable Southwark Council to train the FST to undertake these internally. This may also provide an additional revenue stream for the Council, as we may be able to offer these services to other housing providers within the borough.
28. Further enquiries with RICS have discovered that this training will only be open to RICS members and not available to anyone else. However, our external consultant can provide a training course to enable Southwark Council's FST to undertake and complete the simpler, Option A part of the EWS1 certification. This will enable LBS to respond to some applications

from leaseholders in a more timely fashion than currently possible and at reduced cost.

29. Although this updated approach from the Government will make a difference to the way Southwark Council manages the EWS1 process, and may render some sections of this report irrelevant no alterations to these sections have been made, to retain the overall understanding of the actions taken by the Council to date.

Options for Consideration

30. **Option 1:** Issue a simple statement that it is not the Council's responsibility to undertake and provide these certificates and that the process should be undertaken at the buyer/seller's expense.
31. This will place a significant additional burden on the buyer/seller but is not an unjustifiable position. Southwark Council was not involved in the creation of this document or the agreement for its use and it is not a legal requirement. It could be argued that this is no different than the Energy Performance Certificate (EPC) which became a requirement in 2008. However, this option has the potential to create significant negative press exposure, as well as potentially alienating residents/leaseholders. In addition, Southwark Council would still need to be involved in the process to provide data sheets on products used and oversee any destructive or invasive aspects of the inspection process. This would still involve a significant cost to the Council. **(This option has been rejected as not a viable).**
32. **Option 2:** Procure an appropriate third party to undertake the EWS1 process, for each, in scope building where a request has been received, and bear the cost.
33. This option will require significant financial investment by the Council.
34. **Option 2a:** Procure an appropriate third party to undertake the EWS1 process for each, in scope building where a request has been received, and recharge the leaseholder.
35. **Option 3:** Create a new, internal position and recruit an appropriate person to undertake the EWS1 process.
36. Although this could be a potential long term option due to the current position within the fire safety industry the ability to recruit a qualified fire engineer is unlikely due to the limited availability of suitable resource and the salary required could also be restrictive to LBS scales/banding.

Recommendations:

37. **Option 2/2a** is the most viable solutions; to resolve LBS current waiting list for EWS1. This allows us to commence with the undertaking of the

EWS1 Inspections with a short lead-in period once we have determined our pilot schemes have provided LBS with the knowledge and learning to undertake the task of completing the current volume of blocks awaiting EWS1 inspection once instructed these EWS1 inspections could be completed within a 15 week period. The exercise being undertaken denoted as **** under actions taken** will further assist LBS in managing EWS1 inspections from building type/risk basis and help us to determine the extent of the EWS1 inspection requirements (under Option A or Option B) and the volume and extent of this task.

Concurrent Position (Homeownership Interpretation and Intention)

38. MCLGH guidance is that landlords should look at the cladding systems of all of their blocks. This work, which informs the production of EWS1 forms, is a landlord function and the costs are therefore chargeable to leaseholders. Although survey costs could be charged to the individual blocks for this initial work, that would not be possible where the costs are absorbed into staffing costs (**Option 3**).
39. The survey costs would be included as part of the chargeable fire safety overhead costs both in respect of the initial work carried out by external bodies (**Option 2**).
40. The cost of the certification will be borne by the individual leaseholder as part of the charges applied at pre assignment and the cost will need to be formally agreed through this briefing paper (**Option 2a**).
41. As costs are not being applied against individual blocks as qualifying work there is no S20 consultation requirement. It is essential that payments made against the inspections are identified for the service charge and so the code that payments are raised against needs to be identified in advance to the Service Charge Accountant.

NEXT STEPS

42. Present Lead Member with this briefing paper on preferred option recommending option 2/2a.

AUDIT TRAIL

Cabinet Member	Councillor Leo Pollock, Cabinet Member for Housing
Lead Officer	Dave Hodgson, Director of Asset Management
Report Author	Simon Holmes, Head of Engineering
Version	Version 1
Dated	28 January 2021

Appendix A



Form EWS1: External Wall Fire Review

Objective - This form is intended for recording in a consistent manner what assessment has been carried out for the external wall construction of residential apartment buildings where the highest floor is 18m or more above ground level or where specific concerns exist ^(Note 1). It should not be used for other purposes. It is to be completed by a competent person with the levels of expertise as described in Notes 2 and 3 below.

This review is for the sole and exclusive use of the client organisation named below. No responsibility is accepted to any third party for the whole or any part of its contents ^(Note 4). For the avoidance of doubt, the term 'third party' includes (but is not limited to): any lender who may see the review during the process through which they come to make a loan secured on any part of the Subject Address; and any prospective purchaser who may see the review during the process through which they come to purchase an interest in any part of the Subject Address.

Client organisation:.....

Subject Address (One form per block)

Block or building name	Street	Town	Postcodes (all built)

I confirm that I have used reasonable skill and care to investigate ^(Note 5) the primary external wall materials (typically insulation, filler materials and cladding) and attachments of the external walls of the above building/block.

OPTION A^(Note 1) – Where external wall materials are unlikely to support combustion

I confirm that:

- I meet the professional body membership and competence criteria as described in Note 2
- In relation to the construction of the external walls, to the best of my knowledge the primary materials used meet the criteria of limited combustibility ^(Note 6) or better and cavity barriers are installed to an appropriate standard in relevant locations (Note 7)
- In relation to attachments to the external wall (*tick one of the following*):
 - A1 - There are no attachments whose construction includes significant quantities of combustible materials (i.e. materials that are not of limited combustibility ^(Note 6) or better);
 - A2 - There is an appropriate risk assessment of the attachments confirming that no remedial works are required
 - A3 - Where neither of the above two options apply, there may be potential costs of remedial works to attachments ^(Note 8)

OPTION B^(Note 1) – Where combustible materials are present in external wall

I confirm that:

- I meet the professional body membership and competence criteria as described in Note 3
- I have used the reasonable skill and care that would be expected of the relevant professional advisor to assess the level of fire risk ^(Note 5) presented by the external wall construction and attachments (*tick one of the following*):
 - B1 - I have concluded that in my view the fire risk ^(Note 8) is sufficiently low that no remedial works are required
 - B2 - I have concluded that an adequate standard of safety is not achieved, and I have identified to the client organisation the remedial and interim measures required (documented separately).

Name	Qualifications
Organisation	Professional body
Signature	Date