

Committee(s): Port Health and Environmental Services Committee	Dated:19 September 2023
Subject: Medium and High-Rise Building Safety Programme	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1, 2, 4, 6, 10 and 12.
Does this proposal require extra revenue and/or capital spending?	No
If so, how much?	N/A
What is the source of Funding?	N/A
Has this Funding Source been agreed with the Chamberlain's Department?	Yes
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Summary

Following the Grenfell tragedy, the Government, via the Department of Levelling Up, Housing and Communities (DLUHC) asked Local Authorities to gather data on privately owned residential high-rise blocks of flats. Subsequently, DLUHC called upon Local Authorities to use their powers under the Housing Act 2004 to investigate, inspect and where necessary take enforcement action to rectify fire safety issues in these buildings.

The City of London Corporation has responded to this by establishing a building safety programme to investigate these mid and high-rise residential buildings.

The purpose of this programme is to make sure that residents of mid and high-rise buildings are safe, and feel safe, now, and in the future.

This note sets out the current position with the project and the way forward.

Recommendation(s)

Members are asked to:

- Note the report.

Main Report

Background

1. Following the Grenfell tragedy, the Government, via the Department of Levelling Up, Housing and Communities (DLUHC) asked Local Authorities to gather data on privately owned residential high-rise blocks of flats (either converted or purpose built) that required a variety of information including the materials used in the make-up of external wall systems (EWS) of these buildings.

2. One of the areas of concern raised by the Grenfell tragedy was the use of combustible materials in the external wall systems. Aluminium Composite Material (ACM) was, in particular, identified as a contributor to the fire, and it was initially information on ACM clad buildings that was the primary focus of data gathering. This has subsequently been extended to other potentially combustible external wall materials used in high-rise buildings. This has in effect created a list of buildings in the City of London that may have issues with their EWSs.
3. Following on from this data gathering exercise DLUHC called upon Local Authorities to use their powers under the Housing Act 2004 to investigate, inspect and where necessary take enforcement action to rectify fire safety in these buildings.
4. The City of London Corporation have responded to this by establishing a building safety programme to investigate these high-rise buildings. As this is a specialised area of work a suitably qualified professional was engaged to lead on the project. This included data management and case investigation. This has been fully funded through the government's New Burdens regime.
5. The project, at the request of DLUHC, has also been extended to look at mid-rise privately owned residential blocks of flats.
6. High-rise is where a building is over 18m in height (there is a specific methodology for establishing height). This definition has now been extended by the Building Safety Act 2022 (BSA 2022) to include buildings that are 7 or more storeys in height. Mid-rise relates to a building that is 11m in height and again this definition has been extended by the BSA 2022 to include buildings that are 5 or more storeys in height. Under the BSA 2022 these are defined as 'high-risk' buildings. These definitions and terminology are also used in the new Fire Safety Regulations 2022 (enforced by the Fire and Rescue Services), which set out new requirements on the responsible person.
7. The City of London Corporation is required by DLUHC to collect data on privately owned blocks of flats, hotels, hostels, and hospitals. Social Housing Providers (Registered Providers) provide data directly to DLUHC.
8. Appendix one sets out the legislative context for this project.

Current Position

9. 85 mid and high-rise blocks have so far been identified. Of these 10 are mid-rise, 8 are hotels, leaving 67 privately owned high-rise blocks of flats or student accommodation. The City of London Corporation collaborates closely with colleagues in the London Fire Brigade (LFB) on these buildings and it is the LFB that have jurisdiction over the hotels. Officers have collaborated with colleagues in Building Control, City Surveyors, DCCS and Operations in the identification of properties and are grateful for the intelligence supplied.
10. These buildings are subject to a risk prioritisation assessment and ranked accordingly. A RAG traffic light system is used. Prioritisation is based on

height, the possible combustibility of the EWS, the information held on the property and confidence in the building owners (e.g., if the building owners fail to engage and provide survey data). Although this information is limited and there is other information that could be used to prioritise a building, it is the information available via the initial survey questionnaires sent out (as dictated by DLUHC) and therefore used as a base for the risk rating. This means that as information is established this could result in the movement of a building into a different risk prioritisation category. This has resulted in the following assessments on the high-rise privately owned high-rise blocks of flats or student accommodation:

- a) 6 high-risk buildings (9%)
 - b) 39 medium-risk buildings (58%)
 - c) 5 low-risk buildings (8%)
 - d) 17 uncategorised buildings (25%)
11. Of the high-risk buildings four have a form of ACM or MCM (metal composite material) in their EWS and the remaining have other combustible materials in the EWS, with the exception of one, which is discussed separately (see Appendix 2).
 12. Investigations are ongoing on the high-risk buildings, which includes enforcement to require information and documentation to allow an assessment of all the fire safety measures in place at the buildings and inspections. Appendix 2 sets out the position on each of the high-risk buildings.
 13. Information is being continually updated by officers via investigations and sending out further EWS questionnaires to keep the DLUHC data up to date.
 14. An Environmental Health Specialist has been engaged to conduct this work, who provides a one day a week resource for the project.
 15. A total of £110,897 to date (£31,656 for financial year 2022/23 and £79,241 for financial year 2023/24) of New Burdens funding from DLUHC has been awarded to the City of London Corporation to assist in resourcing this ongoing project. The 2022/23 funding was received too late in that year to be used but was the subject of a successful carry-forward bid to 2023/24, so remains available.

Proposals

16. The Environmental Health Specialist remains responsible for:
 - a. Data collection and providing that data to DLUHC. This includes the continuation of data gathering on buildings that the City of London Corporation is unable to take action on, such as hotels and liaising with partners so that action can be taken forward.
 - b. Liaison and collaboration with LFB and DLUHC colleagues as well as the Building Regulator as it comes onstream.
 - c. Investigation, inspection assessment and where necessary enforcement.

- d. Providing an expert resource to the City of London Corporation on this project and associated legislation/guidance.
17. Once the required investigations into high-rise blocks of flats have begun to reach conclusions we will begin work on the mid-rise interventions.
18. DLUHC have now voiced that they expect Local Authorities to investigate and enforce on social housing providers (Registered Providers) with high and mid-rise blocks of flats. This is change in approach. Previously DLUHC had relied on the social housing providers to deal with their own stock. However, they are concerned that some providers are not being proactive in their approach and that intervention is required. Unfortunately, DLUHC are unable to share the data they have on the buildings they have concerns about in this sector (due to data protection issues). Liaison continues with DLUHC on this issue and officers will look to independently start gathering data on Social Housing stock in the City that may have issues with their EWS. This has the potential of increasing both the high and mid-rise programmes.
19. Officers will consider the powers available under the Building Safety Act 2022, such as Remediation Orders and use these, if warranted, on a case-by-case basis.
20. Officers will continue to review the data collection to ensure all relevant buildings have been captured.

Corporate & Strategic Implications

Financial implications

This project has been developed in liaison with the Chamberlains Department. The Government has provided the City of London Corporation with New Burdens funding. This will be used to fully finance the project. There is an expectation that there will be further funding on a year-by-year basis.

There is the possibility that the City of London Corporation may have to fund certain investigations into conditions found in any given building, for example, compartmentation surveys, etc. Where possible this money will be recovered via enforcement action, but this may not always be possible. Therefore, where it is later expected that expenditure may exceed the existing agreed resource, separate authorisation will be sought.

Resource implications

The City of London Corporation is utilising the New Burdens funding to fund an expert resource (one day week). This resource is also being used to assist in the development of in-house staff.

The project is overseen by the Assistant Director of Public Protection, Environment. This equates to approximately 5% of the post's time.

There are also administrative functions undertaken to support the expert resource, such as obtaining printing and posting, land registry searches, etc. This is estimated at being 10% of a 1 FTE and is being undertaken by existing resource.

Legal challenges to the City of London Corporation's enforcement action (see legal implications below), may also result in unrecoverable costs.

Legal implications

The City of London Corporation is utilising an expert resource to assist with this project, which helps to minimise the legal challenges to this work.

However, the work involves enforcement action, some of which provides for legislative rights of appeal. The expert resource has considerable experience in appeals to action under the Housing Act 2004. However, if appeals are lodged then the City of London Corporation will need to use legal representation via the Comptroller and City Solicitor and may require the appointment of external counsel. This will come at both a cost and will also impact on resourcing.

In addition to this, new legislation is in place, such as the Building Safety Act 2022, which is a relatively untested piece of legislation. It might be appropriate for the City of London Corporation to use powers under these statutory instruments, and it may therefore be necessary to utilise legal representation (possibly external) for this activity.

It should be noted that DLUHC have and continue to offer assistance in these areas, should it be needed.

Risk implications

Reputational – there are ongoing reputational risks associated with this project, such as a high-profile building being identified for investigation. However, these buildings are subject to a systematic and methodical programme of risk analysis and investigation, this reduces the risk.

Where necessary the City of London Corporation Media Team will be engaged ahead of any significant action, such as taking enforcement action. In addition, Ward Members will be briefed ahead of any action.

Financial and resource risks have been discussed under the relevant sections.

Conclusion

DLUHC has set out its expectation that local authorities play a key role in driving the remediation of unsafe cladding on mid and high-rise residential buildings in their areas by managing and prioritising the risks to residents; escalating and taking enforcement action where needed.

The City of London Corporation has in place an appropriately funded and resourced programme to investigate fire safety in mid and high-rise residential blocks of flats. The programme seeks to ensure information and data are kept up to date and reported on investigations into buildings are risk rated to ensure those that suggest the highest risk are investigated first.

The outcome of this programme will be that residents of mid and high-rise buildings are safe, and feel safe, now, and in the future.

Appendices

- Appendix 1 - Legislative Context.
- Appendix 2 – High-Risk Buildings in the City of London (non-public)

Background Papers

[Risk Management Update for ARMC May 2023](#)

[DLUHC Building Safety Programme Guidance](#)

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