

**Meeting date:** 9 January 2023

**Report to:** Resources & Delivering Value Scrutiny Board

**Report title:** Follow up report – Building Safety

**Report from:** Chief Finance Officer SCH/Assistant Director of Finance and Property Services & Interim Executive Director of Asset Management and Development – Solihull Community Housing

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**Wards affected:**

- All Wards |  Bickenhill |  Blythe |  Castle Bromwich |  Chelmsley Wood |  Dorridge/Hockley Heath |  Elmdon |  Kingshurst/Fordbridge |  Knowle |  Lyndon |  Meriden |  Olton |  Shirley East |  Shirley South |  Shirley West |  Silhill |  Smith's Wood |  St Alphege
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**Public/private report:** Public

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**1. Executive Summary**

- 1.1 To provide the Scrutiny Board with an update on current Building Safety legislation and activities undertaken for the Council's Housing Stock and other Council owned buildings.

**2. Decision(s) Recommended**

- 2.1 To note and comment on the implications arising from the Fire Safety Act, Building Safety Act and associated legislation.

### **3. Matters for Consideration**

- 3.1 A report was presented to Resources and Delivering Value Scrutiny Board on 2 December 2021, which provided an update on the implications arising from the Draft Building Safety Bill to Cabinet.
- 3.2 Since this report, the Council and Solihull Community Housing (SCH) have taken a number of steps to work towards meeting the demands of the new Building Safety regulatory regime and these are detailed at 3.3 onwards

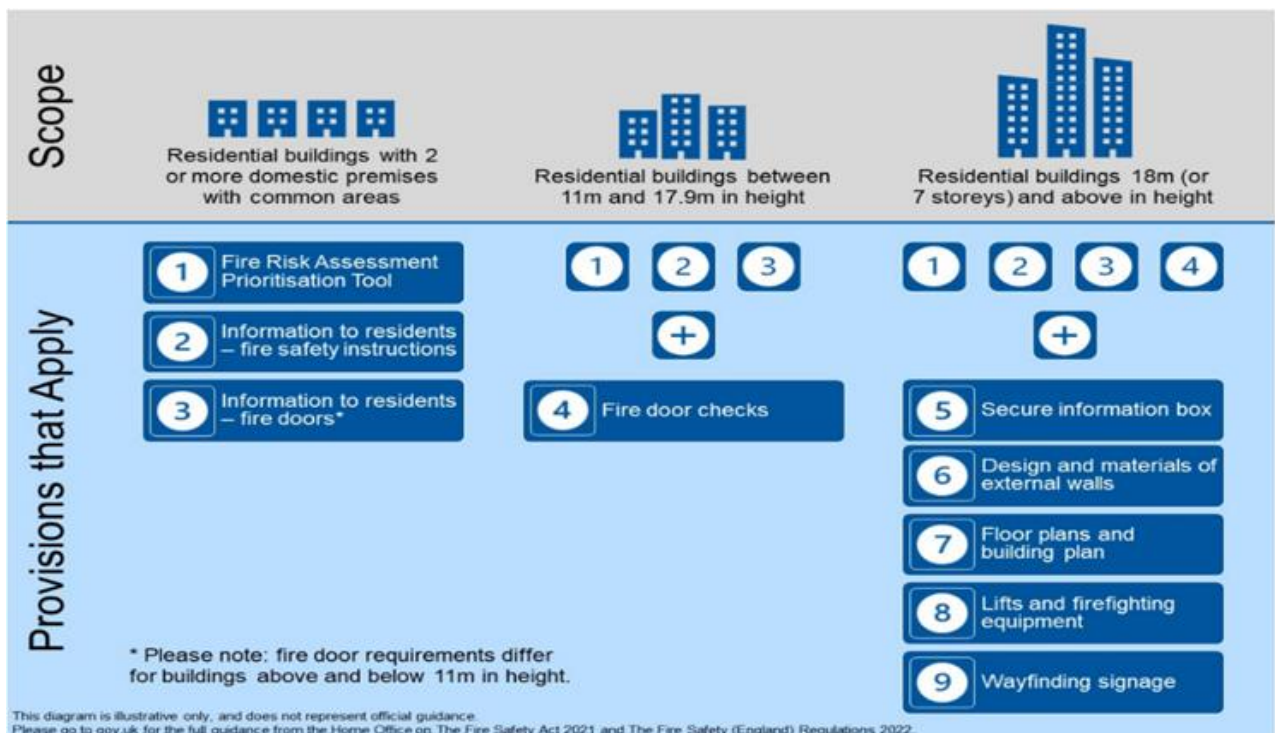
#### **3.3 Fire Safety Act 2021**

- 3.3.1 The Fire Safety Bill has received Royal Assent and is now an Act of Parliament, known as the Fire Safety Act 2021. The Act amends the Regulatory Reform (Fire Safety) Order 2005, known as the Fire Safety Order.
- 3.3.2 This Act confers further responsibilities on those responsible for the fire safety of buildings including:
- It explains who is responsible for the fire safety of communal doors, external walls and anything attached, such as windows and balconies. It also allows for further changes to the type of premises covered by the Fire Safety Order in the future, which removes the need for further primary legislation.
  - The requirement to share information with the local fire and rescue service about the external walls of the building.
  - Building owners or managers will have to inspect flat entrance doors at least annually, have clear fire safety instructions for residents and must inspect fire evacuation lifts monthly, reporting any faults to the local fire and rescue service.
  - All residents of buildings which have two or more flats will have to have access to evacuation and fire safety instructions provided by the building owner or manager.
- 3.3.3 Additionally, under the new law, fire and rescue services will be empowered to take enforcement actions and hold building owners to account if they are not compliant.
- 3.3.4 SCH Carry out risk assessments on the communal parts of both the High Rise Residential Buildings (HRRBs) and low rise residential buildings. Risk assessments on the HRRBs are carried out annually by an external specialist fire risk assessment organisation. The low rise building risk assessments are carried out every three years. The frequency for carrying out the risk assessments is based on risk.
- 3.3.5 The Corporate Fire Policy and the Corporate Fire Safety Management Policy – Managed Housing Service, sets out how the Council assigns the duties of the Duty Holder to ensure we meet the requirements of the Fire Safety Act 2021. The roles and responsibilities in summary are the Chief Executive will be the Duty Holder, but the management responsibilities have been delegated to the Head of Corporate Property

Services as the Corporate Responsible Person for Core Council Buildings and the Director of Economy and Infrastructure the Accountable Person for Social Housing Stock.

### 3.4 Fire Safety (England) Regulations 2022

3.4.1 The Fire Safety (England) Regulations 2022 introduce new duties under the Fire Safety Order for building owners or managers (responsible persons). It is intended that these regulations come into force on 23rd January 2023 and will implement a number of recommendations from phase one of the Grenfell Tower Inquiry. The graphic below provides a useful summary of the requirements contained in the regulations.



3.4.2 The above Regulations did not implement the requirement for PEEPs (Personal Emergency Evacuation Plans) and evacuation plans. These were originally a recommendation from the Inquiry. The Government ran a separate consultation on the issue of PEEPs between 8<sup>th</sup> June and 19<sup>th</sup> July 2021. The PEEPs consultation has made clear the substantial difficulties of mandating PEEPs in High Rise Residential Buildings. The Government recognise that this is an important issue and so they are consulting on an alternative solution. This predominantly affects buildings without a ‘stay put’ fire evacuation strategy. This is the strategy still currently recommended by the National Fire Chiefs Council:

“if there is a fire in your building but not inside your own home, then you are usually safer to stay in your flat unless the heat or smoke from the fire is affecting you. If you ‘stay put’ you should still immediately call 999 for advice and to ensure that the fire and rescue service along with attending emergency crews have been notified.”

This is the approach applied to the 37 HRRBs within the Council Housing Stock.

3.4.3 The Inquiry recommendation on evacuation plans has a clear link with the issue of PEEPs and therefore the Government intend to deal with evacuation from high-rise, and other residential buildings, as a single issue. Responsible persons will be required to provide residents with fire safety instructions which set out how they should respond to a fire and a reminder of their building's existing evacuation strategy.

### 3.5 **The Building Safety Act**

3.5.1 The Building Safety Act was passed on 28th April 2022. This Act makes ground-breaking reforms to give residents and homeowners more rights, powers, and protections so homes across the country are safer. It delivers far-reaching protections for qualifying leaseholders from the costs associated with remediating historical building safety defects, and an ambitious toolkit of measures that will allow those responsible for building safety defects to be held to account.

3.5.2 The Act will regulate higher risk buildings. Buildings 'in scope' for the purpose of this legislation must meet two tests:

1) The floor surface of the building's top storey is 18 metres or more above ground level or where the building contains more than 7 storeys.

2) Contains two or more dwellings, or 2 or more rooms used for residential purposes, or student accommodation.

3.5.3 Many of the detailed provisions in the Building Safety Act will be implemented over the next two years through a programme of secondary legislation. The Building Safety Act 2022 - Commencement Regulations (Commencement No.1, Transitional and Saving Provisions) are the first commencement regulations made under the Building Safety Act 2022 and make certain sections of the Building Safety Act come into force, including extending the powers of the Health and Safety Executive (HSE) to become the Building Safety Regulator, amending the Building Act 1984 and Schedule 2 to the Housing Act 1996. The HSE is now the new Building Safety Regulator (BSR) as part of these reforms. Building control professionals and private sector building control organisations will have to register with BSR. Registration will open October 2023.

3.5.4 In order to achieve this, the BSR is developing Operational Standards Rules (OSRs). OSRs were introduced by the Building Safety Act 2022 to set performance standards for the effective delivery of Building Control functions. They also recognise the introduction of a competency framework and codes and the development of a unified building profession. OSRs are new and will apply to all Building Control bodies and their Building Control functions outside of the higher-risk building regime in England. They are underpinned by reportable data, which Building Control bodies will be required to report to BSR, and a strategic context that draws all the component parts of the new regulatory framework together.

3.5.5 There are 37 Higher Risk Buildings (HRB) that are in scope in the Borough. No other council owned buildings fall within the scope of this legislation at this time.

### **3.6 Actions taken to date in response**

- 3.6.1 Although some legislation is in draft and subject to a parliamentary process, the Council and SCH continue to take action to meet the new requirements.
- 3.6.2 A Council-led Building Safety Delivery Group has been established, chaired by the Assistant Director (Communities and Partnerships) to oversee and inform the approach to Building Safety across the Council housing stock. The Board has representation from SCH, Building Control, Finance, Property Services, Housing and Health and Safety to ensure appropriate levels of collaboration, support and challenge. The Governance arrangements for this Board are currently being reviewed with a likelihood that the Group will move to an Assurance Board moving forward working with and holding SCH further to account. A copy of the revised governance arrangements within SCH are attached at Appendix 1.

### **3.7 Accountable Person under the Building Safety Bill**

- 3.7.1 The Building Safety Bill requires an Accountable Person to be nominated for the 'in occupation' phase of the lifecycle of 'in scope buildings' such as the 37 SCH managed HRRBs in the Borough. This Accountable Person is legally responsible for a range of key statutory obligations under the proposed Bill which have been previously reported to the Board. The Director of Economy and Infrastructure is the Accountable Person for the purposes of the Building Safety Bill.

### **3.8 Building Safety Manager Role**

- 3.8.1 Although the Accountable Person holds most of the duties, all or any of these tasks can be delegated to a Building Safety Manager role, as long as the Accountable Person has oversight and understands that they are ultimately accountable for fulfilling those duties. The Building Safety Manager role is not a legal requirement of the Act. It has been agreed for the functions and duties of the Building Safety Manager to be placed within SCH, to be aligned with their current housing management role. A Head of Building Safety has recently been appointed within SCH and budget agreed for four designated Building Safety Managers that will be appointed during the latter part of 2022/23 and the 2023/24 financial year.

### **3.9 Building Safety Lead**

- 3.9.1 A Building Safety Programme Lead was appointed on 1<sup>st</sup> June 2021, until the end of the financial year, to facilitate the introduction and the roll out of the new building safety regime and associated regulations. The Group Manager for Development Services has taken this additional responsibility as well as her substantive role which includes Building Control and reports directly to the Assistant Director for Communities and Partnerships.
- 3.9.2 A detailed review and gap analysis has taken place to better understand the current position within the Council/SCH in relation to legislative changes to the Building Safety Regime and a plan to support delivery of the required changes is being developed.

### 3.10 SCH Building Safety Implementation Plan

3.10.1 The Building Safety Implementation Plan has been created as a single plan to focus and drive the key building safety activities that SCH needs to implement in order to meet the regulatory framework for Building and Fire Safety and more importantly ensure that residents, staff and visitors are kept safe. The Key Headline Achievements that will be achieved from implementing this plan over the next two years will be:

- A Data Strategy that produces high quality and reliable information on safety activities
- Building Safety Cases for all HRRBs;
- Compliant building safety arrangements and considerations within all new contracts;
- Easily accessible and transparent safety information being available to all stakeholders;
- Building and fire safety functions are undertaken by capable, competent and motivated staff;
- Information systems will be integrated, coherent and synchronised to store and record safety information;
- Engaged and informed residents that feel safe in their homes
- High risk buildings that have additional safety systems such as sprinklers to keep residents safe.

3.10.2 The Implementation Plan is overseen by the SCH Governance arrangements attached at Appendix 1 and include the Building and Resident Safety Group which reviews progress against the Plan on a monthly basis.

### 3.11 Building Safety in Higher Risk Buildings

3.11.1 There are currently a number of Building Safety Projects already in progress, including the following.

#### **Sprinklers**

3.11.2 This project is to retrofit sprinklers into all 37 HRRBs over a four-year period. The initial works commenced in 2020 and focused on the design of a suitable system for each building undertaken by a suitably qualified specialist. The work proposed was approved by the Council's planning and building control officers and the associated preparatory works such as water supply, infrastructure, siting of water tanks, smoke detection and sprinkler activation alarm systems commenced. Installation of the sprinkler systems began in April 2021. However, a change to the British Standard governing the installation and operation of sprinklers occurred in July 2021 (BS9251:2021) and the project has been re-scoped as a result. A summary of the progress to October 2022 of the Project is provided below.

3.11.3 Work has continued on-site, with 1,339 properties (out of 1,920) being completed to October 2022, this is 70% of the programme:

- (a) Phase 1 (4 High Rise Blocks) – Four Blocks completed. The first two, Woodbrooke and Redwood House have live systems installed to the 2014 British Standard. The other two blocks, Wedgewood and Westham have live systems installed to the 2021 British Standard. There are still 5 residencies that

the project requires access for installation and further actions are being carried out to gain access including legal processes. Woodbrooke and Redwood House will have their systems upgraded to the 2021 British Standard at the end of the programme.

- (b) Phase 2 (10 High Rise Blocks) – 9 of the 10 High Rise Blocks have live systems installed: Warwick House, Chester House, Keele House, Bangor House, Clare House, Pembroke House, Bedford House, Birkbeck House and Newnham House. Each system is installed to the 2021 British Standard. The remaining Block, Kingsgate House, is 98% complete.
- (c) Phase 3 (10 High Rise Blocks) – Works is completed in 3 Blocks: Keble House, Fircroft House and Avoncroft House with work commencing in the next quarter at Somerville House, Selwyn House, Linacre House, Merton House, Balioll House, Richmond House and Trevelyan House.

This project is likely to be the first in the Country to have installed a sprinkler suppression system to the new 2021 British Standard level. The overall programme is planned to be completed during the Summer of 2023.

### **Spandrel Panels**

- 3.11.4 Following the establishment of the Government's Building Safety Programme and the release of the then Ministry of Housing Communities and Local Government advice notes (specifically Advice note 19), the Council completed a borough wide exercise to identify all materials used on the façade of all properties contained within this definition. 16 buildings in total have been identified with panels that could sustain the vertical spread of flame and a decision to replace them was taken.
- 3.11.5 A procurement process has now been carried out and completed. The evaluation process has taken place and a preferred bidder has been identified. Financial diligence checks have been carried out and the contract has now been awarded. Contract mobilisation is expected to take place during December with a start on site in the New Year.

### **Structural Surveys**

- 3.11.6 The funding for this project from SCH Reserves was agreed by the SCH Board earlier this year and the procurement arrangements for this work have now been completed. The project has now mobilised, and desk top assessments have commenced. The plan is to coordinate the work programme so that intrusive survey work is synchronised with that of the Sprinkler and Spandrel Panel Work Programmes to maximise access and value for money opportunities.

## **4. What options have been considered and what is the evidence telling us about them?**

- 4.1 The "do nothing" approach is not acceptable. The Council and SCH need to act to be compliant with the latest regulations. Both organisations continue to respond to the new proposals as they develop.

## 5. Reasons for recommending preferred option

- 5.1 Although subject to further Parliamentary approval, the Building Safety Bill and associated secondary legislation are expected to become law in their entirety; the Fire Safety Act 2021 is already in place. The Council and SCH must act to ensure both organisations are compliant and work to ensure residents continue to be safe.

## 6. Implications and Considerations

- 6.1 State how the proposals in this report contribute to the priorities in the [Council Plan](#):

Priority:	Contribution:
<p>People and Communities:</p> <ol style="list-style-type: none"> <li>1. Improving outcomes for children and young people in Solihull.</li> <li>2. Good quality, responsive, and dignified care and support for Adults in Solihull when they need it.</li> <li>3. Take action to improve life chances and health outcomes in our most disadvantaged communities.</li> <li>4. Enable communities to thrive.</li> </ol>	<p>The safety of tenants in their homes is a priority for the Council and SCH where it has the responsibility for social housing.</p>
<p>Economy:</p> <ol style="list-style-type: none"> <li>5. Develop and promote the borough's economy, with a focus on revitalising our town and local centres.</li> <li>6. Maximising the opportunities of UK Central and HS2.</li> <li>7. Increase the supply of affordable and social housing that is environmentally sustainable.</li> </ol>	<p>Ensuring that all buildings over 18 metres that are built in the future in Solihull, alongside those that already exist, are safe will help to revitalise our towns and local centres.</p> <p>Maintaining and upholding building safety standards is an essential requirement.</p>
<p>Environment:</p> <ol style="list-style-type: none"> <li>8. Enhance our natural environment, improve air quality and reduce net carbon emissions.</li> </ol>	<p>There are some improved heating efficiency benefits for Council tenants as a result of the Spandrel Panel replacement project.</p>
<ol style="list-style-type: none"> <li>9. Promote employee wellbeing</li> </ol>	<p>N/A</p>

- 6.2 Consultation and Scrutiny:

- 6.2.1 The Council have set up a Building Safety Delivery Group to oversee all aspects of Building Safety. In addition, quarterly health and safety updates, including fire safety, are reported to the Council/SCH Quarterly Monitoring Board (QMB), the Council's Corporate Health and Safety Board, the SCH Executive Leadership Team and SCH



Full Board. Officers also work closely with West Midlands Fire Service to inform on policy and approaches to fire safety. SCH are advised on all Health and Safety issues and legislation by the Council's Health and Safety Team.

- 6.2.2 Resident engagement is a key part of the Building Safety Implementation Plan as well as the Building Safety Act. A series of roadshows have been carried out during the summer to engage residents on shaping the overall Building Safety Engagement Strategy as well as individual Building Safety Plans for each of the HRRBs.
- 6.2.3 The Sprinkler installation within HRRBs has provided the opportunity for SCH to engage with each tenant and understand their needs. Surveys undertaken on resident satisfaction where work has been undertaken showed a 90% satisfaction rate at period 3.
- 6.2.4 Building Safety was also a key discussion area at the Resident Engagement Day that has taken place 8 October 2022.
- 6.3 Financial implications:
  - 6.3.1 SCH has increased their staffing budgets to reflect the additional resource required. This will form a team of 9 to be introduced on an incremental basis between 2022/23 to 2024/25 at a total cost of £505,000. A Head of Building Safety has recently been appointed and joins a Risk Assessment Officer and Fire Co-ordinator already in post. The funding provides for a further 2 x Building Safety Co-ordinators and 4 x Building Safety Managers. In the event there are further revenue costs required, these will also require to be funded by SCH through the HRA.
  - 6.3.2 The total sprinkler programme is budgeted to cost £11.194 million over the 4 years and is funded from HRA reserves. The work will be supported by additional building safety works undertaken at the same time totalling £3.5 million funded from the HRA capital programme. The spandrel programme was originally expected to commence earlier in the year with a programme budget of £8.757 million to be funded through prudential borrowing. The delayed start will see a delay in undertaking borrowing for the programme and the capital programme requiring rephasing of a substantial portion of costs.
  - 6.3.3 Any further capital projects required to meet the evolving requirements of building safety will be a first priority when considering the HRA capital programme and funded from HRA resources.
- 6.4 Legal implications:
  - 6.4.1 Details of the legislation are highlighted within the report. The Council will need to comply with the requirements of the legislation once the Act is passed. Whilst this remains a bill passing through parliament, its progress will be monitored to ensure any changes are acted on and incorporated into the work identified in this report.
- 6.5 Risk implications, including Risk Appetite:
  - 6.5.1 There are relevant risks listed on both the corporate risk registers at SCH and the Council. SCH also holds programme risk registers for each of the Sprinkler programme and the Spandrel programme. The highest risk is a net 7 based on the

Management of the project to the agreed budget due to the increase cost of materials that has been mitigated to a low likelihood by the contractor bulk buying materials through their supply chain.

6.5.2 The risks have been scrutinised by the SCH Board and the Council's Audit Committee respectively for the SCH and Council risks. Both organisations recorded that the risk is being appropriately managed through existing mitigations.

6.6 Equality implications:

6.6.1 As highlighted above, SCH will carry out extensive consultation with tenants and leaseholders affected by any significant scheme. SCH will ensure that wide-ranging opportunities for participating in the consultation are made available to tenants and leaseholders to get diverse opinions and views.

6.6.2 All written information for tenants and leaseholders about the works will be in plain English and, where unavoidable jargon is used, it will be clearly explained.

6.6.3 SCH will arrange one-to-one discussions with people who have communication barriers, for example because of hearing and visual impairment or do not speak or read English

6.7 Linkages to our work with the West Midlands Combined Authority (WMCA), Local Enterprise Partnership or the Birmingham & Solihull Integrated Care System (ICS):

6.7.1 N/A

## **7. List of appendices referred to**

7.1 Appendix 1 SCH Governance

## **8. Background papers used to compile this report**

8.1 Building Safety Update to Resources & Delivering Value Scrutiny Board 2<sup>nd</sup> December 2021

8.2 Building Safety Reports to SCH Board

## **9. List of Other Relevant Documents**

9.1 Building Safety Bill 2021

9.2 Fire Safety Act 2021