

**Building Safety Act – Requirements on the Housing Service
(Andy Vincent, Corporate Head of Housing)**

Synopsis of report:

Runnymede Borough Council’s Housing Service is performing well in addressing compliance issues (see Q4 2022/23 performance report).

Recent legislation places additional responsibilities on landlords to ensure building safety and fire safety issues are managed more proactively.

These responsibilities alongside a step change in our improvement/Decent Homes activity cannot be managed within existing resources.

Some provision has been made in the 2023/24 budget for Building Safety Act 2022 costs (£20,000) it is also proposed that savings are made within the Building Consultancy Budget (£400,000 per annum until 2025) to fund a Compliance Surveyor to support work in this area – which will be shared with the Corporate Assets Team (percentage of time with each team yet to be determined).

Recommendation(s):

That Housing Committee members

- 1. Note the additional obligations placed on landlords as a result of the Building Safety Act 2022 and Fire Safety (England) Regulations 2022**
- 2. Expect to receive an update on the Housing Service’s work to submit a Building Safety Case to the new regulator at the September meeting of the committee.**
- 3. Approve an addition to the Housing staff structure – the appointment of a Compliance Surveyor and request that this is presented to the Corporate Management Committee to agree the new post in June.**

1. Context and background of report

- 1.1 Housing Committee members approved the Housing Health and Safety Policy in June 2021(see background papers). This policy sets out the Health and Safety obligations of Runnymede Borough Council in provision of services to social housing tenants. A refreshed version of this policy will be presented to the September meeting of the Housing Committee.
- 1.2 Two additional pieces of legislation/regulation have been introduced since the Housing Health and Safety Policy was presented to Housing Committee, these are the Building Safety Act 2022 and the Fire Safety (England) Regulations 2022 – to be known in the remainder of the report as the Act and Regulations.
- 1.3 . The purpose of this report is to: -

- update Housing Committee members on the work that the service has done to meet the provisions of the Act and Regulations.
- Identify that the obligations of the Act and Regulations cannot be met within existing staff resources and request that other budgets be adjusted to allow for a fulltime Compliance Surveyor to be appointed to support the compliance activity of the service.

2. Requirements of the additional legislation/regulation

2.1 The Building Safety Act 2022

2.1.1 The Building Safety Act 2022 places particular emphasis on higher-risk buildings (for the purpose of Part 4 of the Act which deals with building safety measures, higher risk buildings are buildings that are at least 18 metres or seven storeys high and contain at least two residential units). These buildings now require an 'accountable person' to undertake an assessment of the building safety risks at regular intervals and, if so directed, at the direction of the newly formed Building Safety Regulator. The accountable person must actively manage building safety risks, by taking reasonable steps to prevent risks from materialising and reducing the severity of any incidents that do occur.

2.1.2 The accountable person is the owner of the legal estate in possession of any common parts of a building (i.e. the structure, exterior or any part of the building provided for the benefit and use of the occupiers of the building) or a person who is under a repairing obligation in relation to any of the common parts. This is usually the landlord, and some buildings will have more than one accountable person.

2.1.3 The Act introduces a new section 30D to the Landlord and Tenant Act 1985 (LTA 1985), which specifically provides that building safety measures should be treated as a service that can be recovered from tenants under the service charge of a relevant lease (being a lease that is granted for a term of seven years or more or including a dwelling in a higher-risk building and under which the tenant is liable to pay a service charge). Where the lease contains different measures for apportioning costs between tenants, the costs relating to building safety measures are to follow the apportionment method relating to the costs of insuring the building.

2.1.4 In general, a building safety measure would include:

- applying for the registration of a higher-risk building;
- applying for and displaying a building assessment certificate;
- preparing a safety case report and providing it to the regulator;
- establishing and operating a mandatory occurrence reporting system and providing that information to the regulator;
- establishing and operating a system for the investigation of complaints; and
- legal and professional fees, fees payable to the regulator and management costs in connection with taking a building safety measure.

However, costs incurred as a result of any penalty imposed or enforcement action taken by the regulator due to negligence, breach of contract, an unlawful act or in relation to special measures order proceedings are specifically stated to be non-recoverable.

The implied provisions in section 30D of the LTA 1985 cannot be contracted out of and any provision in a lease purporting to exclude, limit or modify those provisions will be treated as void.

2.2 Fire Safety (England) Regulations 2022

2.2.1 Runnymede Borough Council intends to exceed the requirements of the Fire Safety (England) Regulations 2022. The majority of the measures within the Regulations are already in place for all flat blocks owed by Runnymede Borough Council's Housing Service.

2.2.2 The inspection requirements of lifts and fire doors which is an additional requirement imposed by the Regulations will be undertaken for all flat blocks in addition to the high-rise building owned by Runnymede Borough Council.

2.2.3 The Regulations require landlords to make the following provisions in high-rise residential buildings:

- **Building plans:** provide their local Fire and Rescue Service with up-to-date electronic building floor plans and to place a hard copy of these plans, alongside a single page building plan which identifies key firefighting equipment, in a secure information box on site.
- **External wall systems:** provide to their local Fire and Rescue Service information about the design and materials of a high-rise building's external wall system and to inform the Fire and Rescue Service of any material changes to these walls. Also, they will be required to provide information in relation to the level of risk that the design and materials of the external wall structure gives rise to and any mitigating steps taken.
- **Lifts and other key firefighting equipment:** undertake monthly checks on the operation of lifts intended for use by firefighters, and evacuation lifts in their building and check the functionality of other key pieces of firefighting equipment. They will also be required to report any defective lifts or equipment to their local Fire and Rescue Service as soon as possible after detection if the fault cannot be fixed within 24 hours, and to record the outcome of checks and make them available to residents.
- **Information boxes:** install and maintain a secure information box in their building. This box must contain the name and contact details of the Responsible Person and hard copies of the building floor plans.
- **Wayfinding signage:** to install signage visible in low light or smoky conditions that identifies flat and floor numbers in the stairwells of relevant buildings.
- **Fire doors:** undertake annual checks of flat entrance doors and quarterly checks of all fire doors in the common parts.
- **Fire safety instructions:** provide relevant fire safety instructions to their residents, which will include instructions on how to report a fire and any other instruction which sets out what a resident must do once a fire has occurred, based on the evacuation strategy for the building.
- **Fire door information:** provide residents with information relating to the importance of fire doors in fire safety.

2.4 Resources in place currently

- 2.4.1 Runnymede Borough Council's Housing Service have contracts in place for regular fire risk assessment of flat blocks (the inspection programme is in line with our Fire Policy and is based on risk levels), annual inspections of fire doors and lifts.
- 2.4.2 Housing Services have recently procured a new consultancy (Frankham's Consultancy Group LTD) to commence our risk-based reviews via a specialist fire safety framework which will be in place for the next five years.
- 2.4.3 Six members of staff have undertaken training to certify them to undertake inspections of fire doors. Inspections will commence from June 2023. Fire door inspections are recorded on our Housing Management IT system and work is underway to enable residents to view the history of each fire door via a QR code.
- 2.4.4 A Building Safety Case template has been prepared jointly with the Corporate Assets Team (see appendix 1)
- 2.4.5 A draft tenant engagement strategy on building safety for Surrey Towers has been prepared jointly with the Corporate Assets Team (see appendix 2).
- 2.4.6 The expectations of the Act and Regulations place significant additional requirements on landlords. Runnymede Borough Council's Housing Service cannot meet these expectations and the requirements of meeting the Decent Homes Standard within existing resources.

In 2023/24 £20,000 has been identified to support the service to meet the requirements of the Building Safety Act. £400,000 has also been budgeted through the Building Consultancy Budget to enable the levels of capital expenditure to meet the Decent Homes Standard to be ramped up.

It is anticipated that only £350,000 of that budget will be required in 2023/24.

It is therefore proposed that £30,000 in 2023/24 is vired to staffing to enable a Compliance Surveyor to be recruited and that a permanent reduction to the budget is included from 2024/25.

- 2.4.7 It is proposed that the duties of this role for the Housing Service would include (the role would also undertake the majority of the functions listed below for the Corporate Assets Team): -
 - Monitoring the Fire Risk Assessment programme and ensuring actions are completed.
 - Undertaking Fire Door inspections and arranging for repair work to be completed
 - Monitoring the smoke alarm inspection programme and ensuring actions are completed.
 - Monitor the performance of RBC's lifts and ensure regular maintenance and servicing is undertaken
 - Check emergency lighting is functioning effectively and arrange repairs/servicing
 - Monitor the use of balconies in line with RBC's Balcony Safety Policy
 - Overseeing asbestos removal work – and ensuring the asbestos register is maintained.
 - Ensuring that work to limit the risk of legionella is identified and completed.
 - Supporting the Compliance Manager with compiling the Building Safety Case
 - Supporting the Compliance Manager with tenant engagement

3. Policy framework implications

- 3.1 The Housing Service Area Plan 2023/24 identifies that work is required by the team to prepare for the implementation of the Building Safety Act 2022.

H001	Legislative/ Regulatory Change	Housing Maintenance and Technical Services	Building Safety Act fund
------	--------------------------------------	---	--------------------------

- 3.2 A briefing was given to the Housing and Enabling Member working group in September 2022 on the requirements of the new legislation.

4. Resource implications/Value for Money (where applicable)

- 4.1 It is proposed that the costs for the additional staff member be met from a combination of already approved growth for Building Safety costs (£20k) and savings within the existing Maintenance Consultancy budget.
- 4.2 It is anticipated that this post would be on Band 10 (£34,474-£38,276) with on costs up to £49,185.

5. Legal implications

- 5.1 The legal implications associated with matters dealt with by this report are set out in the body of the report. As highlighted above the Act and Regulations impose a number of obligations on the Council in its capacity as landlord of various premises.

6. Equality implications

- 6.1 An Equalities Screening has been completed and no equality implications have been identified from the implementation of the Acts.

7. Environmental/Sustainability/Biodiversity implications

- 7.1 Proposals within this report have significant health and safety implications. Effective management of health and safety risks ensures residents live within an environment that is as safe as possible.

8. Other implications (where applicable)

- 8.1 **Risk Management** – this report is designed to identify and limit the ‘health and safety’ risk to residents.

- 8.2 A risk within the Housing Service Area Plan has been identified in relation to health and safety.

- 8.3 Measures within this report will serve to mitigate this risk.

HR5	Health and Safety requirements are not met within the Housing stock relating to fire risk control, asbestos management, legionella, gas and electrical safety, lifts, safe working practices within the housing stock and building safety in general.
-----	---

9. Timetable for Implementation

- 9.1 If the request to recruit a Compliance Surveyor is approved at Housing Committee and Corporate Management Committee the team will seek to recruit as soon as possible.
- 9.2 A review of the Housing Health and Safety Policy is being conducted as a result of the Acts and will be presented to the Housing Committee in September

10. Conclusions

- 10.1 Runnymede Borough Council's Housing Service has worked over a number of years to achieve full compliance with current health and safety legislation and regulatory requirements placed on social landlords. We are in a strong position – as is reflected in the Quarter 4 2022/23 Performance Report contained within this agenda pack.
- 10.2 Significant additional responsibilities have been placed on landlords by the introduction of the Building Safety Act 2022 and Fire Safety (England) Regulations 2022.
- 10.3 We do not have the capacity within our Compliance Team or the wider Housing Technical Services Team to meet these requirements indefinitely within existing resources.
- 10.4 Within the report it is proposed that we reprofile expenditure to recruit a Compliance Surveyor to support the service to meet the expectations of the two pieces of legislation/regulation.

Background papers

Housing Health and Safety Policy – from page 32 of the link [Agenda-9-June-2021-Housing-Committee \(runnymede.gov.uk\)](https://www.runnymede.gov.uk/agenda-9-june-2021-housing-committee)

Housing Service Area Plan 2023/24 - [Housing Service Area Plan 2324 DRAFT v1 3 CLT.xlsm \(runnymede.gov.uk\)](#)

Build Safety Act 2022 – Building Safety Case Guidance from the Health and Safety Executive

[Safety case report: Form and content – Building safety – HSE](#)

Appendix 1 - Building Safety Case Template

The Government is expected to detail the structure and content of the Building Safety Case later in 2021. However, the Government have worked on several pilots and with early-adopters, giving us an insight into what the cases should contain:

- A description of the building – including its construction materials, occupants, systems and how fire and structural safety is designed into the building
- A risk assessment of the risks to building occupants, users and those around it – the risk assessment must include the hazards, who will be harmed, the likely impact of the risks
- The individual actions/steps to mitigate and control those risks – evidencing that the Accountable Person is taking all reasonable steps to reduce the risk of major incidents
- The safety management system – this should set out the processes, procedures and systems that will actively manage the risks and mitigation actions on an ongoing basis, including competences, roles, review mechanisms and how residents are involved
- The emergency procedures and preparedness plan – how the risk associated with major emergency events will be managed.

A further example from outside the Housing Sector:

Safety Case Reports Exact contents depends on regulatory environment

The following are key elements of most standards:

- scope
- system description
- system hazards safety requirements
- risk assessment
- hazard control / risk reduction measures
- safety analysis / test
- safety management system
- development process
- justification
- conclusions

Ref Tim Kelly – University of York 2011

Appendix 2 - Example Tenant Engagement Strategy

[Read our new Building Safety Resident Engagement strategy | Network Homes](#)