

Report to Housing Scrutiny Panel

Date of meeting: 31st January 2012

Portfolio: Housing – Cllr M. McEwen

Subject: Fire Safety in Common Parts of Flat Blocks

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Recommendations:

That the Housing Scrutiny Panel provides comments to the Housing Portfolio Holder on the following proposed policy relating to fire safety in flat blocks before she makes a formal decision.

1. That the Council adopts the Policy on Fire Safety in Flat Blocks, agreed by the former Housing Portfolio Holder in January 2010, namely:

That the Council continues to enforce the removal of personal belongings and any other items stored in common parts of flats, with the exception of the following concessions as put forward by the Workplace Fire Safety Officer of the Essex Fire and Rescue Service:

- a. Pictures hung on the wall, provided that they do not contain glass in the frame;**
- b. Mats placed outside front doors, provided that these are rubber backed (non-slip) and have a chamfered edge all around;**
- c. Curtains at windows that are flame retardant; and**
- d. Non-flammable items which are aesthetically pleasing (eg plant pots) stored in recesses away from any means of escape routes, and not on window cills.**

2. That the Council considers undertaking a programme of installing smoke detectors in all properties, funded from any resources arising from HRA Self Financing, along with other funding priorities, which will be considered by the Housing Portfolio Holder at a later date;

3. That smoke alarms are not installed in common parts of flat blocks in line with the recommendations within the Local Government Group Guidance document “Fire safety in purpose built flat blocks;” and

4. That the Director of Housing explores further a joint working approach to fire safety risk assessments in flat blocks with Harlow District Council.

Executive Summary:

In January 2011, the then Housing Portfolio Holder decided to suspend the removal of carpets in flat blocks as part of the Policy on fire safety in flat blocks pending further guidance from the Housing Minister on the associated risks. In addition, the Housing Portfolio Holder commissioned a feasibility study into the merits, including the cost of installing smoke detection equipment into individual properties and the communal parts of flat blocks, with the outcome informing the decision on whether to continue to allow carpets to be fitted in the communal corridors and stairs to flat blocks.

Following a response from the Parliamentary Under Secretary of State (Appendix 1), the release of the guidance document "Fire safety in purpose-built blocks of flats" by the Local Government Group and the outcome of the feasibility study into the installation of smoke detectors, this report draws together the advice, risks and costs to determine the new Policy on fire safety in Flat Blocks.

The Housing Scrutiny Panel considered this report at its meeting in October 2011. However, the debate was deferred pending further consultation with the Essex County Council Fire and Rescue Service. The response to that consultation is attached at appendix 2 and 3.

Reasons for Proposed Decision:

In order to comply with the Regulatory Reform (Fire Safety) Order 2005, the Council must set a clear Policy and subsequently enforce that Policy by undertaking Fire Risk Assessments, and then following up any actions that arise as a result. The current Policy is partly "at large" pending a review of carpets installed in the common parts, and therefore requires a decision on the terms of the Policy.

Other Options for Action:

(1) To allow existing carpets in flat blocks to remain only where the carpet is fitted professionally and in a good condition, and where there is a door entry security system and all individual flats have a smoke detector, until such time as the carpet deteriorates causing a trip hazard, at which point it must be removed and not replaced. However, this will require additional annual risk inspections to determine the condition of the carpet. In addition, there would still remain a risk to health should a fire occur.

(2) To undertake a full programme of installing smoke detection equipment in flats, and door entry security to the main entrances before then actively allowing carpets to be installed. However, the cost of this is disproportionate to the benefits, especially as there still remains a risk to health should a fire occur.

Introduction and Background

1. In January 2010, following consultation with the Housing Scrutiny Panel, the then Housing Portfolio Holder agreed a policy on fire safety in flat blocks. The policy stated:

- That personal belongings, fitted or loose lay carpets, mats and any other items stored in common parts of flats be prohibited and removed, with the exception of the following concessions agreed with the Workplace Fire Safety Officer of the Essex Fire and Rescue Service:

- i. Pictures hung on the wall, provided that they do not contain glass in the frame.
- ii. Mats placed outside front doors, provided that these are rubber backed (non-slip) and have a chamfered edge all around.
- iii. Curtains at windows that are flame retardant
- iv. Non-flammable items which are aesthetically pleasing (eg small plant pots) stored in recesses away from any means of escape routes, and not on window cills (specifically not including prams, pushchairs, wheelchairs, electric scooters, bicycles and motorbikes.)
 - That letters be sent to all tenants and leaseholders in the blocks advising them of these concessions.

2. Following the introduction of that Policy, a small number of residents requested that a further review be undertaken as they felt the policy was too risk averse and prevented them from making their flat blocks feel more homely by allowing carpets in common areas.

3. In January 2011, the then Housing Portfolio Holder decided to temporarily suspend the policy relating only to carpets in the common parts until such time as a further feasibility study was carried out.

4. That decision to suspend the policy was a temporary measure, until such time as a number of additional factors could be taken into account. The following were included in the decision to suspend the policy:

a. That a feasibility study be carried out into the cost and practicalities of installing mains operated smoke detectors in:

- Flats and Maisonettes; and/or
- Houses and bungalows; and/or
- Common parts to flats

b. That a letter be sent to the Housing Minister seeking clarification on the extent to which landlords must go when undertaking fire risk assessments;

c. That the Portfolio Holder for Legal and Estates be asked to review the Council's legal responsibility in respect of undertaking Fire Risk Assessments and in particular the risks associated with fitted carpets on means of escapes in common parts to flat blocks;

d. That until the outcome of the issues above are known, the current Policy on fire safety in common parts of flat blocks agreed in January 2010 relating to residents not being allowed to retain fitted or loose lay carpets be suspended until further notice; and

e. That personal belongings and any other items stored in common parts of flats continue to be prohibited and removed, with the exception of the following:

- Pictures hung on the wall, provided that they do not contain glass in the frame.
- Curtains at windows that are flame retardant
- Non-flammable items which are aesthetically pleasing (eg small plant pots) stored in recesses away from any means of escape routes, and not on window cills (specifically not including prams, pushchairs, wheelchairs, electric scooters, bicycles

and motorbikes.)

5. The former Housing Portfolio Holder sent a letter to the Housing Minister in March 2011 expressing the concerns of Members about the lack of clarity and guidance available to local authorities when assessing fire safety in flat blocks following the Regulatory Reform (Fire Safety) Order. A response was received from the Parliamentary Under Secretary of State in July 2011, a copy of which can be found at Appendix 1.

6. The response from the Parliamentary Under Secretary of State made reference to the Local Government Improvement and Development (LIGD) part of the Local Government Group being given grant funding to develop and own practical and proportionate fire safety guidance specifically for residential buildings. That guidance was formally issued shortly after the letter was received, and is made up of 192 pages and therefore forms a background document to this report. Whilst the guidance does not make specific reference to carpets, it is a much clearer document, with statistics that support the guidance to help local authorities inform their risk assessments.

Fire Safety Guidance

7. The fire safety guidance specifically issued by the Local Government Group advises that very few deaths occur as a result of a fire in a neighbour's flat or a fire in the common part, mainly due to the fire separation between the flats. This assumes that the protected common parts are themselves free of all sources of ignition and material that could contribute to the spread of flames. The report goes on to state that nearly all deaths occur in the flat in which the fire starts. This means that more emphasis should be put on smoke detection in the flats rather than the common parts.

8. Further more, the guidance strongly discourages the installation of smoke detectors in common parts as this leads to false alarms, chaotic evacuation of an unsupervised building and potential complacency from residents.

9. The report also states that whilst the most likely place for a fire to start is in the flat, the most dangerous fires are those within the common parts, as the common parts are the means by which residents must escape. The guidance suggests that poor housekeeping in the common parts is a significant fire hazard, and adds that there should be a clear policy on whether common parts must remain completely sterile ('zero tolerance') or may be subject to 'managed use'.

10. A zero tolerance policy is one in which residents are not permitted to use the common parts to store or dispose of their belongings or rubbish with no exceptions. This would maintain an environment that is free of obstructions, ignition sources and trip hazards. This is the easiest policy to adopt and easier to police when carrying out inspections; residents know exactly what is expected of them and the risks are low.

11. A managed use policy on the other hand allows residents some scope to make the common parts more homely. However, a managed use policy must be very specific in terms of what is allowed and what is not. It must leave no scope for ambiguity. The guidance suggests that any managed use policy should generally apply only to buildings with added security, such as blocks with a door entry system.

12. The policy adopted by the Housing Portfolio Holder in January 2010 would be categorized as a 'managed use' policy as defined by the guidance, whereby

residents were given clear guidance on what could and could not be placed in the common parts.

13. Additional guidance has also been sought from Due Diligence, who are a specialist company employed by the Council to undertake fire risk assessments to high risk category blocks, including the sheltered housing schemes as well as the Council's Homeless Hostel. Their advice states that if the Council was to relax the policy to allow carpets in the common parts, then there are several implications that would need to be taken into account. From their observations and experience, the carpets that are generally fitted to common parts are 'off cuts', and that they are not fitted professionally. This gives rise to the following issues:

- a. DIY laid carpets can and do become loose and wrinkled, causing slip and trip hazards. If another tenant was to trip or injure themselves, then who would be liable, the person that fitted the carpet, the Council or a combination of them both?
- b. If the tenant that fitted the carpet was to move away, who would be responsible for removing and replacing the carpet when it becomes worn or dangerous?
- c. Carpets and rugs increase the potential for spread of flame, and production of smoke and toxic fumes.
- d. Allowing carpets and rugs may increase the risk level from "low" to "medium", which may require automatic fire detection equipment (ie smoke detectors) as a compensatory measure.

14. Their advice goes on to say that if the Council was to allow carpets to be fitted, then there should be a clear policy, regular monitoring and the introduction of an application and approval process, which would need to stipulate that these are to be professionally fitted using non flammable adhesives and then inspected on a regular basis for wear and tear. This is broadly the same advice as set out in the Local Government Forum guidance.

15. At its meeting in October 2011, the Environment Portfolio Holder made reference to a letter he had received from the Essex Fire and Rescue Service, which suggested that it was acceptable to allow carpets to be installed in common parts, subject to a satisfactory risk assessment (see appendix 2). In light of this, the Housing Scrutiny Panel asked that the report be deferred until such time as the contents of that letter could be reviewed.

16. Upon receipt, a further letter was sent to the Essex Fire and Rescue Service seeking clarification on a number of points, particularly seeking guidance on examples of where it may be acceptable for carpets to be installed in common parts. The response from the Essex Fire and Rescue Service, which is attached at Appendix 3, advises that generally, carpets in common parts should be avoided.

17. In view of this new advice, it is the Officers view that the recommendations as set out at the top of this report be re-presented in their original form for consideration.

Feasibility Study - Smoke Alarms

18. In line with the decision of the previous Housing Portfolio Holder in January 2011, a feasibility study has been carried out into the cost of providing mains wired smoke detectors in individual flats, maisonettes and common parts to flat blocks. This

decision would sit favorably with the guidance from the Local Government Forum and Due Diligence if it was not to include alarms in the common parts. However, the feasibility study was undertaken prior to that guidance and as such the feasibility study revealed the following options and costs:

Option 1 – Smoke alarms in individual flats and maisonettes only

It should be noted that the Council is currently installing smoke detectors within individual dwellings as part of the on-going decent homes works, more specifically, where properties receive electrical upgrade works, which must then comply with Part P of the Building Regulations. This is an ongoing programme. However, only 500 properties have benefited so far from this improvement, with a further 427 sheltered accommodation homes for older people that are linked to Careline, which are already benefiting from mains smoke detectors.

- a. The cost of providing mains operated smoke detectors just in each individual flat and maisonette is around £1,046,825.
- b. The cost of providing mains operated smoke detectors in all individual Council properties, including flats, maisonettes, bungalows and houses, excluding those that already have mains operated smoke detectors is around £1,810,900
- c. Smoke detectors that comply with the relevant British Standard have a non replaceable built-in lithium battery for mains back-up. These have a 10 year life, which means the capital cost of installing the smoke alarms will need to be included in a 10-year replacement cost cycle.
- d. There would be an ongoing cost to the Council to test these smoke alarms, which equates to around £92,600 per annum.

Option 2 – Smoke alarms in individual flats and maisonettes, linked to alarms in the common parts.

This option is broken down into two separate costs due to requirements of the relevant British Standards. This means that blocks of flats 2-storeys or less do not require a hard wired link between the detectors. However for blocks of 3-storeys or more do.

- Installation costs for all blocks of flats with 2-storeys or less would be around £567,450, and
- Installation costs for all blocks of flats with 3-storeys or more would be around £2,842,500
- Therefore the total cost of providing smoke alarms in individual flats and maisonettes, linked to smoke alarms in the common parts for all blocks, would be around £3,409,950 (sum of the two costs above)
- There also be an ongoing cost to the Council to test these smoke alarms, which equates to around £185,000 per annum

As stated earlier in this report, the fire safety guidance issued by the Local Government Group strongly discourages the installation of smoke detectors in common parts as this leads to false alarms, chaotic evacuation of an unsupervised building and potential complacency from residents.

19. As part of the investigations into what other local authorities are doing with

regard to carpets in flat blocks, Officers have found that virtually all Local Authorities and housing associations are adopting the 'zero tolerance' approach, whereby the common parts are to remain as sterile environments. However, one neighboring authority Harlow District Council has adopted a slightly different approach whereby those blocks that already have carpets fitted, so long as:

- a. they are in good condition, fitted professionally and do not present a trip hazard; and
- b. the flats have smoke detectors; and
- c. the main entrance has a door entry security system;

then the carpet may remain until the carpet is no longer in a good condition. That Authority is not currently allowing any further requests for carpets to be installed irrespective of the other measures being in place.

20. Adopting a similar approach is an option for the Council, since many of the Council owned flat blocks have door entry security already installed. However, it will be necessary to agree who is responsible for the reinstatement of the common parts once the carpets are no longer fit for purpose and present a hazard. It should be made absolutely clear that adopting a similar approach would result in a higher risk to life should a fire occur in a block where a carpet installed.

21. Installing mains operated smoke detectors is clearly an improvement that would save many lives and therefore should be considered as part of any future improvements. It is therefore recommended that the Council considers undertaking a programme of installing smoke detectors in all properties, funded from any resources arising from HRA Self Financing, along with other funding priorities, which will be considered by the Housing Portfolio Holder at a later date.

Shared Services

22. Whilst not specific to the issue of carpets in flat blocks, it is worth mentioning that whilst researching the policies adopted with other local authorities, it has become clear that there may be an opportunity to work in conjunction with Harlow District Council whereby the role of undertaking Fire Risk Assessments could be undertaken collectively, therefore potentially saving resources as a result. In this case, the neighboring Authority undertaking the fire risk assessments and the Council saving on the cost of employing Consultants and overtime for existing staff to carry out them ourselves. A preliminary meeting has taken place, and subject to the existing staffing resources being able to cope with the additional number of fire risk assessments, and the cost of them to the Council being less than the current arrangement, then this may be an opportunity that the Council may wish to pursue.

Resource Implications:

Nil, on the basis the installation of smoke detection equipment is already included as part of an on-going re-wire and electrical upgrade programme.

Legal and Governance Implications:

Regulatory Reform (Fire Safety) Order 2005
Housing Act 1985

Safer, Cleaner and Greener Implications:

Generation of renewable energy

Consultation Undertaken:

Housing Minister, with a response from the Parliamentary Under Secretary of State. Due Diligence, a specialist Consultancy employed by the Council to undertake fire risk assessments.
Consultation with neighboring Local Authorities, other Local Authorities and Registered Social Landlords.

Background Papers:

- a. Housing Portfolio Holder decision dated January 2010, setting the Policy on Fire Safety in flat blocks.
- b. Housing Portfolio Holder decision dated January 2011, suspending the decision not to allow carpets to be installed in flat blocks.
- c. Guidance document produced by the Local Government Group entitled "Fire safety in purpose-built blocks of flats"
- d. Report from Due Diligence who are a specialist company employed by the Council to undertake fire risk assessments to high risk category blocks, giving advice on the installation of carpets in flat blocks

Impact Assessments:Risk Management

(1) If the Council was to allow carpets currently fitted in flat blocks to remain and there was a fire, which resulted in toxic fumes or other hazard causing a fatality, then the Council may be responsible. Whilst the severity cannot be downgraded, the likelihood could be reduced. However, this would mean increased numbers of inspections to assess the risk, which would add to the staff workload. Even then, the risk is higher than if carpets were not permitted.

Equality and Diversity:

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications? No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken? No.

What equality implications were identified through the Equality Impact Assessment process?

This report sets out policies on fire safety matters that will apply to all Council owned flat blocks irrespective of tenure or occupancy. The views of residents have been taken into account. However, these have been weighed up against the Council's Duty of Care towards the residents when putting forward the recommendations set out in the report.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

Not applicable.

