

**BIRMINGHAM CITY COUNCIL**

**REPORT OF THE DIRECTOR OF  
REGULATION AND ENFORCEMENT  
TO THE LICENSING AND PUBLIC PROTECTION COMMITTEE**

**20 SEPTEMBER 2023**  
**ALL WARDS**

**UPDATE REPORT ON THE PRIVATE SECTOR HIGH-RISE  
CLADDING PROJECT WORK**

1 Summary

- 1.1 The purpose of this report is to update the Committee on progress of the Council's response to the remediation of private sector high-rise buildings.
- 1.2 The report provides background on the work achieved to date, and the plans for the project moving forward, including the new responsibilities for medium rise buildings.

2 Recommendation

- 1. That the content of the report be noted.

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### 3 Background

- 3.1 Birmingham City Council (BCC) have been collating data on fire risk within private sector high rise properties in Birmingham since 2018. This original data collection was at the request of the Department of Levelling Up, Housing and Communities (DLUHC) following the tragic fire at Grenfell Tower in London in 2017.
- 3.2 The responsibility for this work was then passed to Private Rented Services (PRS) in April 2022 as part of internal restructuring and the use of enforcement powers under the Housing Act 2004, with other legislation falling to West Midlands Fire Service (WMFS), The Health & Safety Executive, and the new Building Safety Regulator (BSR).
- 3.3 There are relevant powers, including powers of entry, to inspect individual premises under the Housing Act 2004 and at the end of November 2018 the government issued an addendum to the operating guidance to the Housing, Health and Safety Ratings System to provide more specific advice relating to cladding. Under section 9(2) of the Housing Act 2004, a local housing authority must have regard to any guidance.
- 3.4 Officers from the authority initially met with DLUHC in April 2022 where it was clarified that the City Operation's Private Rented Sector Team's Environmental Health Officers (EHOs) have enforcement powers relating to hazards (including external cladding) in such accommodation. Whilst we had not previously used our powers under the Housing Act 2004 for the purpose of inspection or enforcement in this area of work, we have subsequently developed a plan to address this issue.
- 3.5 Birmingham city has a proportionate number of high-rise buildings that require remediation for the size of the city. Owners and duty holders of these high-rise buildings are being encouraged to access [Building Safety Funding \(BSF\)](#) to help fund cladding remediation to meet new building safety standards. If remediation works are delayed, PRS and the West Midlands Fire Service (WMFS) are working together to bring responsible persons to account, including the use of appropriate enforcement powers if necessary. In the meantime, WMFS are continuing to liaise with managing agents to implement new interim measures, to ensure occupants can escape safely, until all buildings are fully remediated.

### 4 Progress to date

- 4.1 The PRS team has been working on its list of "identified at risk" buildings and has continued to engage with who it believes to be the relevant contacts for the companies holding the freehold interest in those buildings.

- 4.2 Inspections to assess cladding have been completed and all Aluminium Composite Cladding (ACM) and/or High-Pressure Laminate (HPL) buildings over 18m have been identified, and DLUHC notified. There are 14 “higher priority” buildings on the list and a further estimated 65 that may require intervention to ensure compliance.
- 4.3 Desktop intelligence gathering and initial requests for information to confirm remediation were made to the responsible persons of these companies in July 2022 and were followed up at the start of February 2023. In March 2023 the list was cross referenced with information held by other partners (West Midlands Fire Service, DLUHC and Homes England), and in advance of the commencement of an inspection programme.
- 4.4 The PRS team has been supported by the Joint Inspection Team (JIT) hosted by the Local Government Association. The JIT’s role has been to support PRS by providing specialist expertise and legal advice on inspecting and enforcing fire safety in high rise buildings. The JIT consists of 3 EHO’s who specialise in fire safety, a Building Surveyor and Fire Engineer.
- 4.5 The first block to be inspected by the JIT and PRS was located in the city centre and was carried out on 13 and 14 June 2023. This building comprises of 3 interconnected blocks, the residential parts of which were considered and assessed as one building, with a total of just under 400 residential apartments. This block was chosen due to the size and complexity of the building and the presence of ACM above the tenth floor, this allowed greater learning and use of the JITs expertise, benefitting our future work.
- 4.6 The JIT and PRS carried out an external examination of the cladding systems and panels, an assessment of all of the communal spaces, the configuration of the buildings and accessed approximately 10% of the apartments across the 3 interlinked blocks.
- 4.7 The JIT provided a comprehensive report in July with recommendations which are being followed up with the appropriate parties. Further discussions remain ongoing with WMFS with regards to ensuring compliance where they are identified as the lead authority, and PRS are the lead authority for following up actions to ensure compliance where we have the appropriate powers and jurisdiction.
- 4.8 As a result officers served a comprehensive Section 12 Improvement Notice under Part 1 of the Housing Act 2004 scheduling 30 Category 2 Hazards to be remedied between 3 October 2023 and 3 April 2024 on the freehold owners and managers. All the affected residents received copies of the notice and contact information for enquires. PRS will continue to work with the building’s owners and managers and will monitor the situation for compliance.

## 5 Future planning

- 5.1 The Council continues to work with DLUHC with progress updates through monthly reporting on the DELTA portal.
- 5.2 We have agreed to develop a regional Working Party Group (replicating best practice set up across the London Boroughs) that will aim to meet quarterly to progress issues, share intelligence and adopt best practice. This will help all agencies to develop its response to the remediation of private residential high-rise buildings and avoid overlap and supplication of resources across other statutory services.
- 5.3 The next inspection with the JIT has been set for 10 and 11 October 2023 and we are working with partners to determine which property to inspect based on intelligence, progress to date and identified risk.
- 5.4 PRS are in the process of recruiting a Compliance Officer and an Environmental Health Officer (Fire Safety) to carry out its inspections without the support of the JIT going forwards. Our intention is that the team is in place by mid-September and that inspections of the 14 highest priority building are completed by the end of March 2024.

## 6. Consultation

- 6.1 No public consultation has taken place, as this is an information report.

## 7. Implications for Resources

- 7.1 This report is for noting, there is no financial decision or implication as a result of the report recommendation. Following issuance of a S114 notice the Council is prevented, without explicit agreement of the Section 151 Officer, from entering into any new agreement or commitment for expenditure at this stage. All future expenditure decisions must follow the spend control process as per S114 arrangements.
- 7.2 DLUHC has provided funding to Birmingham City Council of £93,978 for 2022/23 (notified December 2022) and £235,246 for 2023/24. In addition, the PRS team holds a budget of £60,000 for a dedicated specialist EHO to support this work. The intention is that these resources will support the authority to set up a specific project team to enable compliance and enforcement in 2023/24, subject to the Section 114 spend control arrangements. Full details will be agreed following discussions with other partners around roles and responsibilities for Fire Risk Assessment and Building Control roles. Funding for this work has been secured up to March 2024.

8. Implications for Policy Priorities

- 8.1 This project aligns with The City Council's priority, 'A Bold Safe Birmingham' with specific focus on the availability of safe housing in the city. The PRS team will develop a medium to long term plan for the inspection and remediation of all 18m PHR buildings across the city. In addition, DLUHC and the BSR have advised of further duties to be placed on local housing authorities for the remediation of medium rise buildings (11m-18m in height), this duty is expected from April 2024.

8. Public Sector Equality Duty

- 8.1 Equality issues are accounted for during housing inspection activities carried out by officers.

**DIRECTOR OF REGULATION AND ENFORCEMENT**

Background Papers: Nil