

HIGH RISE BUILDING TEAM

Community Connections



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High Rise Building Team Policy

1.0 Introduction

1.1 – The Council has a key responsibility under the Housing Act 2004 to keep the conditions of residential buildings in their area, under review. Following the Grenfell Tower tragedy in 2017, the Government’s Department for Levelling Up, Housing and Communities (DLUHC, *formerly MHCLG*) identified that not enough progress had been made, nationally, in respect of cladding remediation. In 2021 DLUHC sent a series of communications to all local authorities and local fire rescue authority organisations across the country; reiterating their desire to expedite combustible cladding remediation on higher-risk buildings. These communications specified upcoming changes to legislation and regulation that would support future industry changes. They also included Government expectations that the local authority and local fire rescue authority organisations should utilise their current powers, under the Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005, to informally or formally take actions to achieve this aim.

1.2 – S65 of the Building Safety Act 2022 defines the meaning of a “higher-risk building” as a building in England that;

- (a) is at least 18 metres in height or has at least 7 storeys, and
- (b) contains at least 2 residential units.

1.3 – Investigation work has identified that Plymouth has 73 buildings that are 18m or greater in height, with c.56 of these buildings believed to meet the criteria of the “higher-risk building” description. However, all 73 buildings will need to be reviewed to ensure that any building meeting this description is correctly identified. There will be a pro-active response to these buildings via the implementation of a ‘higher-risk building inspection programme’.

1.4 – In addition to cladding related issues connected with “higher-risk buildings”, there has also been a focus on historical building safety related defects. The Government introduced additional ‘Leaseholder Protections’ into Part 5 (S116-S125) and Schedule 8 of the Building Safety Act 2022, to provide additional protection for leaseholders from being the first port of call for associated remediation costs of a “relevant defect”, in a “relevant building”. These protections take into account relevant works that were undertaken within 30 years prior to them coming into force.

1.5 – S117 of the Building Safety Act 2022 defines the meaning of a “relevant building” as a self-contained building, or self-contained part of a building, in England that contains at least two dwellings and;

- (a) is at least 11 metres high, or
- (b) has at least 5 storeys.

1.6 – S120 of the Building Safety Act 2022 defines the meaning of a “relevant defect” as a defect as regards the building that;

- (a) arises as a result of anything done (or not done), or anything used (or not used), in connection with relevant works, and
- (b) causes a building safety risk.

1.7 – Investigation work has identified that Plymouth has c.10,000 buildings that are 11m or greater in height and may meet the criteria of the “relevant building” description. However, the High Rise Building Team priority will be the proactive response to ‘higher-risk buildings’, and will incorporate a proportionate reactive response to ‘relevant buildings’ where appropriate.

1.8 – Dame Judith Hackitt’s post-Grenfell report, ***Building a Safer Future***, identified a broken building sector culture and the ‘Race to the bottom’ with issues of; Ignorance, Indifference, Lack of clarity on roles and responsibilities, and inadequate regulatory oversight and enforcement tools, as matters that contributed to significant safety defects in these buildings.

1.9 – The formation of the High Rise Building Team as part of Community Connections at Plymouth City Council, in partnership with Devon and Somerset Fire and Rescue Service, is the joint local authority and local fire rescue authority response to improving the safety conditions of our tall buildings, and complying with the Governments directions. The team consists of specialists in Environmental Health, Fire Safety, and Building Control to ensure the requisite skills, knowledge and behaviours are present in the team to support safety improvements.

1.10 – Beyond the scope of reviewing dangerous cladding and relevant building safety defects, there will be an ongoing requirement for the local authority and local fire rescue authority to support the Building Safety Regulator to undertake their duties in accordance with Part 2 of the Building Safety Act 2022. The Building Safety Regulator has, amongst other duties, a duty to facilitate building safety in higher-risk buildings. S13 of the Building Safety Act 2022 specifies that local authorities and fire rescue authorities must support the regulator in their duties.

1.11 – This document outlines the following matters;

- Section 2: Relevant legislation that will inform the activities of the High Rise Building Team.
- Section 3: How the High Rise Building Team will approach the proactive ‘higher-risk building’ inspection programme.
- Section 4: How the High Rise Building Team will approach the local authority and fire rescue authority’s role to support the Building Safety Regulator in undertaking their duties.
- Section 5: How the High Rise Building Team will approach the reactive responses to building safety defects highlighted in ‘relevant buildings’ below 18m height.

2.0 Relevant Primary Legislation includes;

- [Housing Act 2004 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2004/11)
- [Housing and Planning Act 2016 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2016/11)
- [Local Government \(Miscellaneous Provisions\) Act 1976 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1976/11)
- [Building Act 1984 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/1984/11)
- [Building Safety Act 2022 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2022/11)
- [The Regulatory Reform \(Fire Safety\) Order 2005 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukreg/2005/11)
- [Fire Safety Act 2021 \(legislation.gov.uk\)](https://www.legislation.gov.uk/ukpga/2021/11)

3.0 The 'higher-risk building' Inspection Programme

The High Rise Building Team will approach the higher-risk building inspection programme in a fair manner, based on the perceived levels of risk associated with the pre-inspection building risk assessment outcomes.

The team have processes in place to take a stage based approach to promote professional consistency, efficiency, and fairness. These stages include;

- **Stage 1 – Pre-Inspection**
A process of information gathering, completion of desktop risk assessments, and visual inspections (i.e. where further pre-inspection investigation is required). Once complete, the information gathered supports a risk assessment which places the building in a table of risk based priorities. The High Rise Building Team will take a top-down approach, based on the risk rating, when arranging inspections. The only perceived time where this approach may change is if there is an emerging risk in a higher-risk building that requires urgent focus. In these instances the HRBT Manager and Fire Safety Officer will consult to determine the necessary changes to the programme, as the primary representatives of the joint enforcement authorities.
- **Stage 2 – Inspection**
The High Rise Building Team have a standard 2-day initial inspection process to follow per higher-risk building. However, where necessary, extended inspection processes will be conducted. This will typically be in circumstances where the initial inspection has highlighted additional areas of interest, or a need to widen the number of residential units to be inspected, based on the initial inspection findings. Follow-up inspections will also be conducted to evidence the progress of works, levels of compliance with formal notices, or potentially gather evidence to support enforcement action.
- **Stage 3 – Post-Inspection**
The High Rise Building Team will review the findings, highlighting key areas of responsibility for assessment/s, and agree a plan of action for completing hazard assessments, reviewing legislation and guidance. Once the assessments are completed a decision will be taken as to which is the most appropriate legislation to utilise to tackle significant deficiencies or hazards. In accordance with the relevant legislation, the post-inspection process will fulfil the statutory duty of consultation between local authority and fire rescue authority on enforcement matters. Periodic follow-up contacts will be made in respect of the buildings, and databases will be updated with outcomes for recording, or consideration of the requirement for additional action/s to be taken.
- **Stage 4 – Enforcement**
Enforcement Actions for non-compliance, taken by the local authority, will be carefully considered in conjunction with Plymouth City Council's, Housing Improvement (Housing Standards) Policy and Civil Penalty Policy. Our relevant Housing Enforcement policies can be found [here](#). Plymouth City Council's enforcement actions will be proposed through the completion of an Enforcement Action Proposal for HRBT Manager approval. Where appropriate, legal counsel will be sought in relation to the proposed action and contact will also be made with the corporate communications teams. Any Enforcement Actions undertaken by the local fire rescue service, will be undertaken in accordance with their policies and procedures.

Enforcement actions can include;

| <u>Local Authority</u> | <u>Fire Authority</u> |
|---|--|
| <p>Service of HA2004 Notice; i.e. Improvement Notice, Prohibition Order, Hazard Awareness Notice, etc.</p> <p>Caution</p> <p>Prosecution; with up to an unlimited fine in Magistrates' Court/Crown Court (dependent upon offence)</p> <p>Civil Penalty; the imposition of a financial penalty as an alternative to prosecution (max £30k per offence).</p> <p><i>Prosecution Example (i.e. public information): Landlord 'PB' prosecution April 2021 (Plymouth) fined and subsequently placed on the Rogue Landlord Database for 2 Years (Sep21-Sep23).</i></p> <p>Rogue Landlord Database: In specific circumstances the responsible person's details can be added to the database of rogue landlords and property agents. Entries must be made for a minimum of a 2 year period and are accessible by LA's.</p> <p>Banning Orders: In relation to specific offences, an application can be made to First-tier Tribunal for the responsible person to be subjected to a Banning Order. Preventing them from letting housing, engaging in letting agency work, property management work, or hold a HMO licence. Banning Orders, if granted, will last a minimum term of 1 year but there is no restriction on the maximum term.</p> | <p>Service of FSO2005 Notice; i.e. Prohibition Notice, Article 27 Notice, etc.</p> <p>Caution</p> <p>Prosecution; with an unlimited fine in Magistrates' Court or Crown Court. Under the Regulatory Reform (fire safety) Order 2005 any 'indictable offence' can come with a 2 year custodial sentence.</p> <p><i>Prosecution Example (i.e. public information): 'NL' (Oxford Street) £400k in 2007 for 2 breaches;</i></p> <p style="padding-left: 40px;"><i>(1) Insufficient Staff Training</i></p> <p style="padding-left: 40px;"><i>(2) Storage blocking escape route</i></p> |
| <p>In respect of both authorities, any enforcement for non-compliance will have consideration of the Crown Prosecutors Code to ensure both the Evidential and Public Interest Tests are met. Both authorities may also take the following actions as they are listed as 'interested persons' under the Building Safety Act 2022.</p> <p>Remediation Orders As one of the listed 'interested persons', the local authority and/or fire authority can make an application to the First-tier Tribunal to require a relevant landlord to remediate relevant defects in a relevant building.</p> <p>Remediation Contribution Orders As one of the listed 'interested persons', the local authority and/or fire authority can make an application to the First-tier Tribunal to require a specified corporate body or partnership to make payments for the purpose of meeting costs incurred in remediating relevant defects in a relevant building.</p> | |

4.0 Supporting the Building Safety Regulator

The Building Safety Regulator (BSR) is a new role brought about by the implementation of the Building Safety Act 2022 and sits in the Health and Safety Executive (HSE). The BSR has 3 main functions;

- I. Overseeing the safety and standards of all buildings,
- II. Helping and encouraging the built environment industry and building control professionals to improve their competence, and
- III. Leading implementation of the new regulatory framework for high-rise buildings.

From April 2023, the BSR is responsible for overseeing building work in existing higher-risk buildings as well as controlling the process for the development of new higher-risk buildings. To assist the BSR in their duties, they will be able to delegate key regulatory powers to the HSE, Fire Authority, and Local Authority to lead a team on higher-risk buildings. It is considered that the HRBT will be able to support the BSR in their duties and recover costs for doing so, whilst also minimising impact from this new work on our existing teams.

5.0 Reactive responses to 'Relevant Buildings' below 18m height.

There are c.10,000 buildings that are in Plymouth and indicated to be between 11-18m in height. The vast majority of these buildings are likely to not meet the 'relevant building' description as they will be commercial properties or non-self-contained buildings. However, there will be a proportion of these buildings that will meet the description of a 'relevant building'. The most effective use of the HRBT resource is to incorporate a proportionate reactive response to buildings in this category, where a significant risk has been highlighted to the authorities. This will allow the team to prioritise a proactive response to the 'higher-risk buildings' in the city.

Appendix A

Below is an anonymised example of the Desktop Risk Assessment for prioritisation ahead of conducting drive-by visits for essential properties to finalise the inspection programme order by priority.

HRB Desktop Risk Assessment Calculator 2022

| Assessed Building Name & Address | | | Date Conducted | | |
|--|----|-------------------------|---|-------------------------|--|
| Property Name Redacted For Appendix A | | | 09/08/2022 | | |
| Please type the building name and address in the box above | | | Format DD/MM/YYYY | | |
| How many storeys does the building have? | | Assessed Building Score | | | |
| 20+ | 26 | 12 | Please type in the adjacent box, the relative score for the number of storeys in the assessed building. | | |
| 18 to 19 | 24 | | | | |
| 16 to 17 | 22 | | | | |
| 14 to 15 | 20 | | | | |
| 12 to 13 | 18 | | | | |
| 10 to 11 | 16 | | | | |
| 9 | 14 | | | | |
| 8 | 12 | | | | |
| 7 | 10 | | | | |
| 6 | 8 | | | | |
| 5 | 6 | | | | |
| 4 | 4 | | | | |
| 3 | 2 | | | | |
| Is the building used for overnight accommodation? | | Yes | No | Assessed Building Score | Please type in the adjacent box 10 or 2 as appropriate to the assessed dwelling |
| | | 10 | 2 | 10 | |
| Does the building contain 150+ units of accommodation? | | | | 15 | Please type in the adjacent box, the relative score for the number of units of accommodation in the assessed building. |
| Does the building contain 100-149 units of accommodation? | | | | | |
| Does the building contain 80-99 units of accommodation? | | | | | |
| Does the building contain 60-79 units of accommodation? | | | | | |
| Does the building contain 40-59 units of accommodation? | | | | | |
| Does the building contain less than 40 units of accommodation? | | | | | |
| Is there commercial premises incorporated within the building? | | Yes | No | Assessed Building Score | Please type in the adjacent box 10 or 2 as appropriate to the assessed dwelling |
| | | 10 | 2 | 10 | |
| Leisure (i.e. Hotels, Pubs, Restaurants, Cafes etc) | | | | 10 | Please type in the adjacent box, the relative score for the type of commercial premises contained within the assessed building. |
| Industrial (i.e. Warehouses, Factories etc) | | | | | |
| Retail (i.e. Stores and Shops) | | | | | |
| Commercial Offices (24 hours) | | | | | |
| Commercial Offices (Daytime only) | | | | | |
| Does the building have potentially dangerous/combustible cladding? | | Yes | No | Assessed Building Score | Please type in the adjacent box 10 or 2 as appropriate to the assessed dwelling |
| | | 10 | 2 | 10 | |
| ACM Cladding present over 50% | | | | 4 | Please type in the adjacent box, the relative score for the perceived cladding type and coverage on the assessed building. |
| ACM Cladding present 25% to 50% | | | | | |
| ACM Cladding present 0% to 25% | | | | | |
| Non-ACM Combustible cladding present over 50% | | | | | |
| Non-ACM Combustible cladding present 25% to 50% | | | | | |
| Non-ACM Combustible cladding present 0% to 25% | | | | | |
| Is there a Building Safety Fund application for the building? | | Yes | No | Assessed Building Score | Please type in the adjacent box 10 or 2 as appropriate to the assessed dwelling |
| | | 2 | 10 | 2 | |
| Research Land Registry, Council Tax & Companies House to identify the owners & developers, and answer the following questions... | | | | Assessed Building Score | Please type in the adjacent boxes, the relative scores relative to the research findings for these questions in connection with the assessed building. |
| Does the developer still exist (i.e. the specific company/legal entity)? | | Yes | No | 10 | |
| Does the developer have a history of building issues (i.e. known to the authorities for this)? | | 10 | 2 | 10 | |
| Does the developer have significant financial resources (i.e. companies house information for company or group)? | | 2 | 10 | 10 | |
| Does the owner still exist (i.e. not an absent freeholder)? | | 2 | 10 | 2 | |
| Does the owner have a history of building issues (i.e. known to the authorities for this)? | | 10 | 2 | 2 | |
| Does the owner have significant financial resources (i.e. companies house information for owner or associates)? | | 2 | 10 | 2 | |
| Desktop Risk Assessment Score Total | | | | 109 | |