



# Overview and Scrutiny Committee

<b>Report for:</b>	Overview and Scrutiny Committee
<b>Title of report:</b>	Building Safety Policy
<b>Date:</b>	17 <sup>th</sup> January 2024
<b>Report on behalf of:</b>	Councillor Simy Dhyani, Portfolio Holder for Housing & Property Services
<b>Part:</b>	I
<b>If Part II, reason:</b>	N/A
<b>Appendices:</b>	<b>Appendix 1</b> – Draft Building Safety Policy December 23 V1
<b>Background papers:</b>	<ul style="list-style-type: none"><li>• Building Safety Act 2022</li><li>• Monthly Compliance Dashboard</li></ul>
<b>Glossary of acronyms and any other abbreviations used in this report:</b>	

## Report Author / Responsible Officer

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<b>Corporate Priorities</b>	A clean, safe and enjoyable environment Building strong and vibrant communities Ensuring economic growth and prosperity Providing good quality affordable homes, in particular for those most in need Ensuring efficient, effective and modern service delivery Climate and ecological emergency
<b>Wards affected</b>	All

<b>Purpose of the report:</b>	To introduce a draft Building Safety Policy and provide clarity on the role of the duty holder / Accountable person with regards to any building regulated by the Fire Safety Order amended by the Building Safety Act 2022.
<b>Recommendation (s) to the decision maker (s):</b>	To note the report and approve the draft building safety policy to move forward through the approval process.
<b>Period for post policy/project review:</b>	

## 1. Background

- 1.1. The principal fire safety legislation applicable to England comprises:
  - The Regulatory Reform (Fire Safety) Order 2005 (the 'Fire Safety Order').
  - The Fire Safety (England) Regulations 2022.
  - The Fire Safety Act 2021.
- 1.2. The Fire Safety Order came into force in 2006. It replaced all previous fire safety legislation.
- 1.3. The Fire Safety Order applies to virtually all premises, other than single residential dwellings (bungalows, houses, flats, etc.) – in particular, with very rare exceptions, it applies to all premises used as a workplace.
- 1.4. The Fire Safety Order also applies to the common parts (communal corridors and stairways) of blocks of flats and houses in multiple occupation (HMOs).
- 1.5. The Fire Safety Order applies to the building's structure, external walls (including windows, balconies, and other attachments), and any common parts. The common parts include plant rooms, communal rooms, and doors (including doors between the dwelling and the common parts).
- 1.6. In multi-dwelling premises, it is only the dwellings (i.e. individual flats) themselves that fall outside the general scope of the Fire Safety Order.
- 1.7. The Fire Safety (England) Regulations make additional requirements for fire safety measures in blocks of flats, particularly those blocks over 18 metres in height.
- 1.8. The Fire Safety Order was amended by the Building Safety Act 2022 to ensure residents have relevant fire safety information that they can understand, co-operation is improved between people with responsibilities under fire safety legislation and that there is a continual record throughout the building's lifespan of fire safety information.
- 1.9. The broad scope of the Fire Safety Order means that very few premises in which people are employed to work fall outside the scope of the Order.

## 2. Background to Section 156 of the Building Safety Act 2022

- 2.1. The Building Safety Bill received Royal Assent in April 2022 and became the Building Safety Act 2022. The new legislation has the effect of amending the Fire Safety Order to:
  - require that all Accountable Persons (APs) must record their completed fire risk assessment, and in full (where previously only specific information was required to be recorded)
  - require that all APs must record the identity of any individual (their name), and/or if applicable, their organisation (name) engaged by them to undertake/review any or all of the fire risk assessment, and share this with residents of multi-residential unit premises where applicable;
  - require that all APs must record their fire safety arrangements (demonstrate how fire safety is managed in your premises)
  - require that all APs must record (and as necessary update) their contact information, including a UK-based address, and share this, along with the identified fire safety risks, preventative and protective

measures, any competent persons nominated to assist with fire-fighting and detection measures, with other Responsible Persons and residents of multi-domestic unit premises where applicable

- require that all APs must take reasonably practicable steps to ascertain the existence of other Responsible Persons who share, or have duties in respect of the same premises, and of APs (which are a new legal entity made under the Building Safety Act (BSA) in the case of higher-risk residential buildings) in relation to the premises – they must then identify themselves to said persons and cooperate with APs so that the duties imposed by the Building Safety Act 2022 can be completed;
- require APs of a Higher Risk Buildings (HRBs) containing two or more sets of domestic premises to provide residents with relevant fire safety information in a format that is easily understood by the residents
- increase the level of fines for some offences
- strengthen the status of statutory guidance issued under Article 50 of the Fire Safety Order

2.2. There is also a legislative requirement that, where the APs appoints a person to make or review the fire risk assessment, they must be competent. This legislative requirement will be brought into force at a later date, and it is expected that relevant guidance will be provided ahead of the commencement date.

2.3. In the meantime, it is a recommendation that associated staff are competent, in terms of having sufficient training and experience or knowledge. It remains the case that the Responsible Person has a duty to make sure that a suitable and sufficient fire risk assessment is completed.

### 3. Draft Building Safety Policy

3.1. **Appendix 1** – Draft Building Safety Policy articulates how DBC will meet the requirements of the Building Safety Act 2022 and also provides clarity of role and responsibilities.

### 4. Risks

4.1. Associated risks and mitigating actions are listed in table 1.

**Table 1**

	Risk	Impact	Mitigation
1	Failure to meet the requirements of the Building Safety Act (BSA) 2022	Reputational Financial Legal	Clear identification of the Principal Accountable Person (PAP) and subsequent Accountable Persons (APs)  Appropriate oversight and governance by the APs to ensure compliance with all elements of the BSA  Assurance reporting from APs to PAP (frequency to be approved)  Building and Resident Safety Management group meetings.
2	Failure to appoint to the post of Safe Homes Team Manager	Reputational Financial Legal	Aligned requirements with that of HTIP and the wider TOM work.  External recruitment campaign should standard approach fail to fill the post.  Regular check in with agency staff to ensure longevity and if/when applicable appropriate comprehensive handover  Building and Resident Safety Management group meetings.
3	Failure to provide sufficient funding	Reputational Legal	Regular financial planning to consider future requirements.

			Regular in year monitoring to review need against budget, taking appropriate actions as required.  Regular review of training needs assessments to prioritise training need.
4	Failure to promote strong partnerships to deliver BSA requirements	Reputational	Resident engagement strategy and promote awareness.  Building and Resident Safety Management group meetings.
5	Failure to consider the impact of the BSA on existing and revised policies and procedures	Reputational Legal Financial	Senior Leadership Team Meetings Housing Leadership Team Meetings Corporate Health and Safety Board  Building and Resident Safety Management group meetings.  Overview and Scrutiny Committee Meetings

## 5 Options and alternatives considered

This document is required for statutory and/or regulatory purposes.

## 6 Consultation

The Tenant and Leaseholder Committee will be consulted on the report and their feedback taken into account.

## 7 Financial and value for money implications:

There are no financial implications directly arising from this report as all management of Housing related building safety matters is met from within existing budgets.

## 8 Legal Implications

There are no direct legal implications arising from this report, however the failure to align with legislative requirements could result in legal implications against the Council.

## 9 Equalities, Community Impact and Human Rights:

The Community Impact of adopting this Policy will be positive.

There are no Human Rights Implications arising from this report.

## 10 Sustainability implications (including climate change, health and wellbeing, community safety)

There are no sustainability implications arising from this report.

## 11 Council infrastructure (including Health and Safety, HR/OD, assets and other resources)

There are no Council infrastructure implications arising from this report.

## 12 Conclusions:

Building Safety is a priority for the Council. The draft Building Safety Policy articulates how the Council will meet the requirements of the Building Safety Act 2022 and it also provides clarity on roles and responsibilities and ensures that there are strong and transparent governance arrangements in place.