

# LANCASHIRE COMBINED FIRE AUTHORITY

## PLANNING COMMITTEE

Meeting to be held on Monday 12 July 2021

## PROTECTION REFORM UPDATE

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### Executive Summary

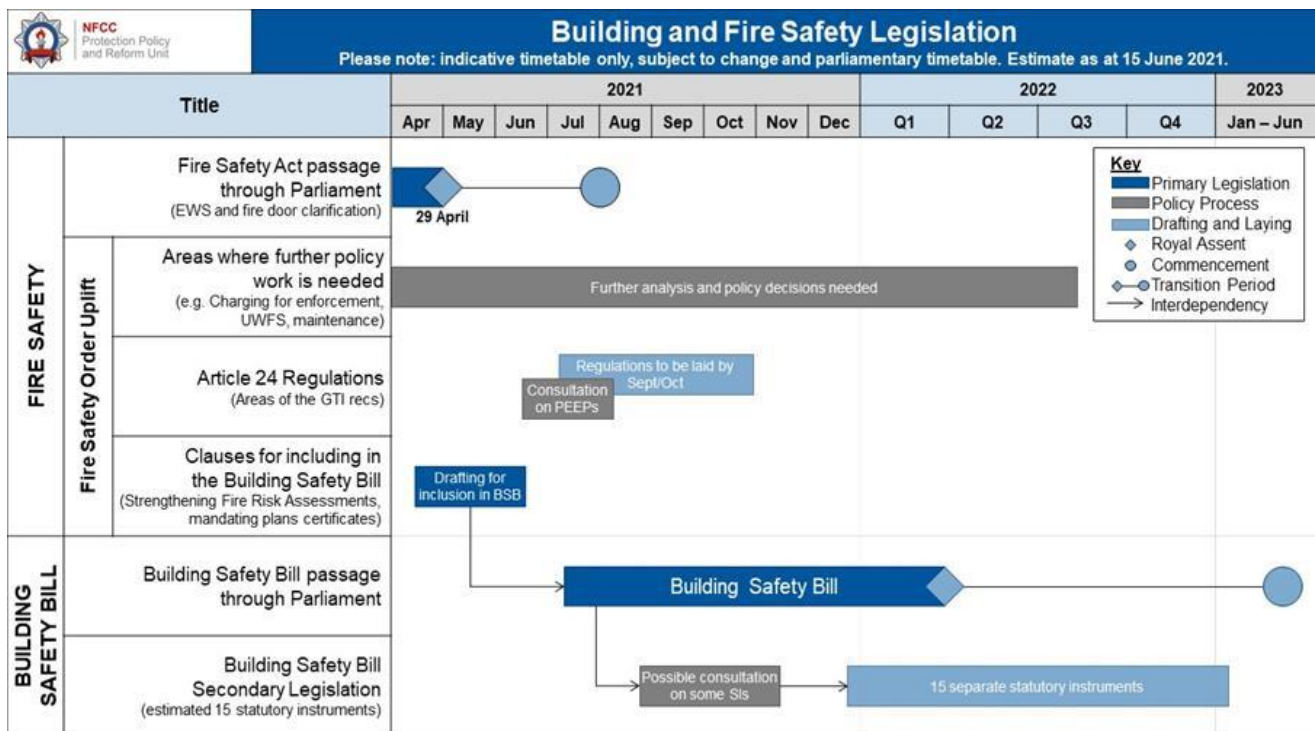
On 13 July 2020 Planning Committee approved a paper entitled 'Implementing Regulatory Change and Transforming Fire Protection Service'. The paper explained that the Grenfell tragedy of June 2017 had highlighted fundamental inadequacies in the way the built environment has been constructed and regulated over the past two decades and the increasingly rigorous planning and building control regulatory frameworks, standards and testing regimes that would now be introduced.

This paper updates Members on the changes to legislation that have already occurred and that which is upcoming. The update also includes the amendments to Protection workforce planning which have been required to keep pace with the change.

### Recommendation

Members are asked to note and endorse the update.

### Information: Regulatory Change



Based on current known estimates. A range of areas are subject to further consultation, analysis, and policy decisions. Timing of legislation is subject to the Parliamentary timetable and may change.

## Building Regulations

In December 2018 Building Regulations were amended to ban the use of combustible materials in the external walls of new buildings over 18 metres high. The ban means combustible materials are not permitted on the external walls of new buildings over 18 metres and those currently under construction. The new building regulations apply to all new residential housing, hospitals, residential care premises, boarding school dormitories and student accommodation as long as they are over 18 metres high. The ban also applies to balconies, which are often made from combustible materials and have helped spread fires across walls in the past.

Building Regulations are not retrospective. Approved Document B, the documents relating to fire safety in Building Regulations, were also updated on 26th November 2020 with some new requirements. A key part of these changes is the trigger height to fit sprinklers in tall buildings which has been reduced to 11m (typically four floors), from 30m (typically 10 floors). The changes also include signage for the fire service for floor identification and flat indication signage within blocks of flats with storeys over 11m.

## Fire Safety Act

The Fire Safety Act covers England and Wales and received Royal Assent on 29 April 2021; it is not yet in force. The Act will come into force over the Summer when the Government provides a risk prioritisation tool for social landlords. Its prime purpose was to address a potential legal ambiguity in the Regulatory Reform (Fire Safety) Order 2005 (the Fire Safety Order).

The Fire Safety Order imposes duties on “Responsible Persons” to take appropriate fire safety measures for premises other than private domestic premises. The Order does not cover individual flats in apartment blocks, but it does cover the common parts. The new Act amends the Fire Safety Order to make it clear that Responsible Persons for multi-occupied residential buildings, which are likely to be building owners, freeholders and managers, will be under a duty to risk assess the structure and external walls (including windows, doors and balconies) of buildings and entrance doors and take general fire precautions to ensure those areas are safe.

The new Act does not deal with the question of who pays for the costs of making residential buildings fire safe. In February, the Government announced a levy for England on developers to fund cladding remediation costs, and a fund to pay for the cost of replacing unsafe cladding for all leaseholders in residential buildings 18 metres and over, and a new loan scheme for buildings between 11 and 18 metres. There are gaps in these schemes particularly where the defects extend beyond cladding.

## Article 24 Regulations

Article 24 of the Fire Safety Act allows secondary fire safety legislation to be added which addresses specific recommendations emanating from the Grenfell Tower Inquiry. A number of consultations will be undertaken over the summer of 2021 and additional legislation will be introduced soon after to enhance fire safety in High-Risk Residential Buildings (HRRBs) potentially including:

- Personal Emergency Evacuation Plans
- Premises Information Boxes

- Firefighting lift status updates
- Provision of plans to FRS

### Building Safety Bill

The draft Bill, which is likely to come into force in 2023, aims to both improve the existing building safety regime and introduce new measures aimed more specifically at high rise buildings. The Bill seeks to address long standing concerns around fire safety, quality and competence by ensuring that there is always someone responsible for keeping residents safe in high rise buildings, from the design and construction phase right through to occupancy.

The Bill establishes a new regulator, the Building Safety Regulator (BSR), who will operate as a division of the HSE with approval, enforcement and prosecutorial powers. The BSR will include Fire and Rescue Services and Building Controls. The BSR will oversee the safety and standards of all buildings, directly assure the safety of 'higher-risk' buildings and improve the competence of people responsible for managing and overseeing building work. This centralises the operation of the regulator and moves away from the current framework where developers/contractors can choose a local authority or approved inspector for higher-risk buildings.

Assuming that the Bill is enacted in its current form, the law will differentiate between buildings and 'higher-risk buildings', which are subject to higher safety and reporting obligations. Higher-risk buildings are likely to include those that are 18 meters or 6 storeys or more in height. The Bill also establishes a gateway regime which is intended to ensure that safety is considered by all parties involved in the lifetime of a building's construction from planning to occupation.

An 'Accountable Person' (be it an individual such as a building owner or a corporate entity such as a management company) will need to be appointed to bear the responsibility for the safety risks relating to their building. This includes taking all reasonable steps to prevent the occurrence, and control the impact of, a major incident resulting from those building safety risks. The Accountable Person will need to record these risks and steps by conducting and maintaining a 'safety case risk assessment' for the building. This document is required to be produced to the regulator when applying for the Building Assurance Certificate, but the regulator will also have the power to request sight of this document should they so wish.

The Accountable Person will also need to appoint a suitably competent Building Safety Manager, whose function will be to manage the building on a day-to-day basis in accordance with the safety case risk assessment. The Building Safety Manager will also liaise with residents to ensure the building is safe.

The Bill extends the existing time limits for prosecution under sections 35 and 36 of the Building Act 1983 in relation to non-compliance with building regulations from two years to ten years. The new regulator will also have new enforcement powers to prosecute all new offences under the draft Bill, and will have powers to issue compliance and stop notices, powers of entry and powers to replace an Accountable Person or Building Safety manager with a Special Measures Manager where they find serious failures endangering the safety of residents in the building.

## Information: Protection Workforce Change

As a part of the Protection Reform a number of resourcing and competency priorities were identified and these included the following recommendations:

1. Establish a temporary Protection Transformation Team (PTT)  
Initial PTT to be x1 SMB and x2 WMB and a dedicated Project Support Officer
2. Establish an Area Manager, Head of Prevention and Protection
3. Redefine CPM Central to the role of Group Manager Prevention, this includes all youth engagement, road safety and fire investigation/ IIO line management.
4. Redefine Group Manager Prevention, Protection and Road Safety to GM Protection
5. Increase Watch Manager establishment by 4 posts, staggered over 2 years in order to meet the demand and complexity of HRRB's and generate capacity to deliver in-house training.
6. Increase cohort of Fire Engineer qualified staff from 2 to 4
7. Protection activity to be linked and embedded into all relevant roles, both at point of entry and in-career development. This includes W/T Ops FF, CM, WM, CSA, CSTL, SDM, CPM.  
Ops & Command awareness to continue to be embedded in Grey Book BSA, FSI, FSTL
8. Protection Transformation Team deliverables to be governed by CPB, prioritised and fully integrated into the Protection Support & Delivery Teams
9. Review Green Book Development pathway to include WMB SHQ / Training roles

Despite Covid and other organisational challenges, all recommendations have progressed as anticipated.

In addition to the above new staff have been recruited into the function via a refreshed 'Functional Pathway' and developed in accordance with the NFCC Competency Framework for Regulators.

The Protection Transformation Team have developed a new Business Fire Safety Check App and an associated system to allocate premises [based on risk] to the operational crews who will soon undertake them. The process is being piloted in Northern and Western from July to Sept '21 and thereafter will be rolled out to all wholtime operational stations. The training process included additional learning objectives to satisfy item 7 above. Initially the type of premises 'checked' will be simple low risk e.g. offices, shops, light industry etc however as the training and experience of the crews grows the scope will be increased to include simple high risk premises e.g. houses in multiple occupation and hotels.

Qualified Fire Safety Inspectors continue to inspect complex and higher risk premises based on the Risk Based Inspection Program. Training providers have now started to provide training on external wall systems and the Service is utilising Protection uplift funding to source this specialist training.

Lancashire has 70 high rise residential premises which have all been audited under the Government's Building Risk Review process. In addition to reporting back to the NFCC on the make-up of the external wall systems the process has allowed inspectors to identify other aspects on non-compliance. To date Lancashire has 6 premises which have been identified as having non-compliant external wall systems, all have interim measures in place. A further 3 premises also have interim measures, not due to external wall systems, but instead due to other serious fire safety concerns such as internal compartmentation or smoke management.

## Financial Implications (included on cost and at pro-rata rate for Year 1)

Year 1 (July to Mar 21 unless otherwise stated)

x1 AMB from Oct @ £50 = £50k  
x3 BEAT SMB for 6 months @£37 = £111k  
SMB @ £50k = £50k  
x2 WMB @ £35K = £70k  
x1 Project Admin @ £20k = £20k  
OVERALL = £301k

Year 2 (April 21 to Mar 22)

x1 AMB @ £100 = £100k  
SMB @ £75k = £75k  
X2 WMB @ £54k = £108k  
x1 Project Admin @ £20k = £20k  
OVERALL = £303k

Year 3 (April 22 to Mar 23)

x1 AMB @ £100 = £100k  
X4 WMB @ £54k = £216k  
OVERALL = £316k

## Distribution to FRAs of Fire Protection Board and Protection Uplift funding

FRA	Fire Protection Board Funding (£6m)	Protection Uplift Funding (£10m)	Total
Lancashire	£60,000.00	£250,300.74	<b>£310,300.74</b>

The above revenue funding has been allocated from an initial £10 million government grant fund, enabling both NFCC and individual FRS' to swiftly respond to the initial requirements. Initially this was in the form of grant allocation for the financial year 2020/21. The initial scope and scale of the remediation related work is focused upon high rise (18m +) residential buildings and subsequent work is anticipated to focus upon buildings under 18 metres fitted with cladding type materials.

The expectation of this surge funding is to assist building further capacity to support the transformation required as a result of current and proposed changes to legislation that will further grow the requirements of protection activities and subsequent inspection officer resourcing. Revenue funds were allocated by the Home Office for 2020/21 were repeated with a second grant in 2021/22 and subsequently it is expected that they will be built into base funding thereafter.

## Sustainability or Environmental Impact

N/A

## Equality and Diversity Implications

Low

**Human Resource Implications**

Low

**Business Risk Implications**

High – should the Service not be able to adapt to new legislation.

**Local Government (Access to Information) Act 1985**

**List of Background Papers**

Paper	Date	Contact
Reason for inclusion in Part II, if appropriate:		