

# Buckinghamshire & Milton Keynes Fire Authority



<b>MEETING</b>	Extraordinary Fire Authority Meeting
<b>DATE OF MEETING</b>	23 January 2020
<b>OFFICER</b>	Graham Britten, Director of Legal and Governance
<b>LEAD MEMBER</b>	Councillor Lesley Clarke OBE, Chairman
<b>SUBJECT OF THE REPORT</b>	<b>Fire Protection Board</b>
<b>EXECUTIVE SUMMARY</b>	<p>The purpose of this report is to apprise the Authority, in its role as the governance body for Buckinghamshire Fire and Rescue Service, of recent correspondence received by its Chairman and Chief Fire Officer about the establishment of a Fire Protection Board ('FPB').</p> <p>The Fire Protection Board has established itself at the direction of the, then, Minister of State for Policing and the Fire Service, the Rt Hon Nick Hurd to address issues relating to the safety of residential premises in England, 18 metres or above in height, which are clad in Aluminium Composite Material ('ACM').</p> <p>The attached correspondence sets out the purpose and intent of the FPB and requirements that it has imposed on fire and rescue services to provide assurances to fire and rescue authorities and to the FPB as to the fire safety risk of specified premises in their areas and as to the effectiveness of their pre-planned responses to these specified premises in the event of a fire.</p> <p>The details of this 'assurance framework' and 'underpinning assurance' are set out in the letter dated 21 November 2019 addressed to CFO Thelwell and cc'd to the Chairman (<b>Annex A</b>) from the FPB Chairman. The response to this letter from the Chairman of the Authority is at <b>Annex B</b>.</p> <p>A further letter from the FPB Chairman is at <b>Annex C</b>. This letter included details of the membership of the FPB and its Terms of Reference (marked as 'Draft').</p> <p>It is not intended via this report to detail the practical difficulties that Buckinghamshire Fire and Rescue Service would face in attempting to properly answer the questions which comprise the underpinning assurance. These difficulties were aired in a telephone conference convened by the FPB Chairman on 19 December 2019 referenced in his letter dated 23 December 2019 (<b>Annex D</b>) and were factors taken into account in extending the deadline for responses</p>

	from 31 December 2019 to 31 January 2020.
<b>ACTION</b>	Noting
<b>RECOMMENDATIONS</b>	<p>It is recommended that:</p> <ol style="list-style-type: none"> <li>1. the establishment of the Fire Protection Board (FPB), its membership and its current terms of reference be noted;</li> <li>2. the exchange of correspondence between the Chairman of the Authority and the Chairman of the FPB be noted;</li> <li>3. the content of the assurance questions (i.e. question 1 and question 2) required to be answered by the Chief Fire Officer and returned to the FPB be noted; and</li> <li>4. it be noted that any responses made to the assurance questions by the Chief Fire Officer will be caveated and be dependent on the actions taken by the 'responsible person' in relation to the Improvement Notice served by AVDC.</li> </ol>
<b>RISK MANAGEMENT</b>	<p>The Authority has responsibilities under the Fire and Rescue Services Act 2004 to promote fire safety and to give advice about how to prevent fires, how to restrict their spread and about means of escape. However, it is also the enforcing authority for dealing with breaches by any 'Responsible Person' of fire safety requirements imposed by the Regulatory Reform (Fire Safety) Order 2005 ('RRO'). The RRO does not apply to most domestic premises but it does apply to the 'common parts' of residential properties, such as blocks of flats, where typically the 'Responsible Person' will be the owner of the freehold or leasehold.</p> <p>Under the RRO it is the responsibility of the 'Responsible Person', not the Authority, to carry out an assessment of the risks from fire, to identify what general fire precautions are required for those particular premises, and to put in place appropriate fire safety arrangements.</p> <p>Legal uncertainty has arisen to the extent to which, if at all, external cladding constitutes 'common parts' of a residential building within the meaning of the RRO. In the <a href="#">Queen's Speech 2019</a> the Government has proposed a Fire Safety Bill through which it states, "the main elements of the Bill are:</p> <ul style="list-style-type: none"> <li>• Clarifying that the scope of the [RRO] includes the external walls of the building, including cladding, and fire doors for domestic premises of multiple occupancy.</li> </ul>

	<ul style="list-style-type: none"> <li>• Strengthening the relevant enforcement powers to hold building owners and managers to account.</li> <li>• Providing a transitional period for building owners and managers (the “responsible person”) and Fire and Rescue Services to put in place the infrastructure for these changes.”</li> </ul> <p>In the interim in November 2018 the previous Government had already issued an <a href="#">amendment to the operating guidance</a> on the Housing Health and Safety Rating System which made clear that housing authorities (eg the Buckinghamshire district councils and Milton Keynes Council) have powers under the Housing Act 2004 to assess the outside of buildings for fire hazards. The accompanying statement said that housing authorities could carry out emergency work themselves if necessary and recover the costs from building owners, adding that ‘local authorities will get the Government’s full backing, including financial support if necessary, to enable them to carry out emergency work’.</p> <p>There is only one premises within scope of the FPB’s ‘assurance framework’ for the Authority: Friars House, 4 Great Western Street, Aylesbury (per <b>Annex A</b>). An Improvement Notice was served on the premises’ owner by AVDC on 19 December 2019 which set out a schedule of required works to remediate fire hazards including the following:</p> <ul style="list-style-type: none"> <li>• An external survey of the building cladding and associated works;</li> <li>• Internal compartmentation survey and associated works;</li> <li>• Installation of a fire detection and alarm system within each flat and replacement of any damaged fire doors; and</li> <li>• Inspection and test of the automatic opening vents, passenger lift, wet riser and dry riser systems.</li> </ul> <p>The Improvement Notice can be appealed by the recipient to the Cambridge County Court offices before 4 pm on 10 January 2020.</p> <p>The Improvement Notice specifies deadlines for compliance for the different remedial works by certain dates ranging from 6 weeks to 12 months.</p> <p>A copy of the notice is appended as <b>Annex E</b></p>
<p><b>FINANCIAL IMPLICATIONS</b></p>	<p>None arising from the recommendations and the proposed course of action.</p>
<p><b>LEGAL IMPLICATIONS</b></p>	<p>None arising from the recommendations. The Fire Protection Board is an ad hoc body with no powers of</p>

	compulsion requiring the Authority to respond to its requests.
<b>CONSISTENCY WITH THE PRINCIPLES OF THE DUTY TO COLLABORATE</b>	The <a href="#">Policing and Crime Act 2017</a> requires the Authority to keep opportunities for collaboration with the police and ambulance services under review. The obligations under the 'assurance framework' fall solely on a relevant fire and rescue authority.
<b>HEALTH AND SAFETY</b>	None arising from the recommendations.
<b>EQUALITY AND DIVERSITY</b>	No implications arising from the recommendations.
<b>USE OF RESOURCES</b>	To provide the level of assurance required by the Fire Protection Board in its 'underpinning assurance' questionnaire would have significant resource implications for the Authority. It does not have the capabilities to undertake the engineering and design testing of ACM cladding or other external wall systems on high rise buildings. These are matters for the 'responsible person' (the premises owner). The Terms of Reference of the Fire Protection Board provide that the Board 'consider extending this regime to other categories of high risk buildings...', which could multiply the demand on the Authority's resources if it were required to 'assure'.
<b>PROVENANCE SECTION &amp; BACKGROUND PAPERS</b>	
<b>APPENDICES</b>	<p>Annex A: Letter from the Chairman of the Fire Protection Board/Chairman of the National Fire Chiefs Council, 21 November 2019, with enclosed 'Assurance Framework Appendix A- Assurance Guidance'.</p> <p>Annex B: Letter from the Chairman of the Authority, 10 December 2019.</p> <p>Annex C: Letter from the Chairman of the Fire Protection Board/Chairman of the National Fire Chiefs Council, 18 December 2019, with three enclosures.</p> <p>Annex D: Letter from the Chairman of the Fire Protection Board/Chairman of the National Fire Chiefs Council, 23 December 2019, with enclosure.</p> <p>Annex E: AVDC Improvement Notice.</p>
<b>TIME REQUIRED</b>	15 Minutes
<b>REPORT ORIGINATOR AND CONTACT</b>	Graham Britten <a href="mailto:gbritten@bucksfire.gov.uk">gbritten@bucksfire.gov.uk</a> 01296 744441



**Mr Jason Thelwell**  
**Chief Fire Officer**  
**Buckinghamshire Fire & Rescue Service**  
**Aylesbury, Buckinghamshire, HP20 1BD**  
[jthelwell@bucksfire.gov.uk](mailto:jthelwell@bucksfire.gov.uk)

21<sup>st</sup> November 2019

Dear Jason,

I am writing to you today to outline the next steps of the Protection Board's assurance framework following the successful completion of the pilots in early October. I would like to express my sincere thanks to the four pilot Fire and Rescue Services (FRSs) and the staff involved for their participation in this process under tight deadlines.

As you may know, I accepted the Government's invitation to chair the Protection Board and it met for the second time on 28<sup>th</sup> October. The Board consists of senior representatives from the Home Office, the Ministry of Housing, Communities and Local Government (MHCLG), the National Fire Chiefs Council (NFCC) and the Local Government Association (LGA). The Board is continuing to work towards a recommended standardised approach that can support FRSs in monitoring the measures in the following buildings in scope:

**High-rise residential buildings in England 18m or above in height which are clad in unsafe ACM and are currently awaiting remediation.**

This includes a particular focus on buildings that have moved from 'stay put' to a simultaneous evacuation strategy and waking watch due to the level of risk. A list of the known buildings in scope according to data for your area can be found at the end of this letter.

The Board recognise that the building owner and/or responsible person has ultimate accountability for implementing mitigation measures for these buildings in the event of a fire. The objective of the exercise is to ensure that all FRSs have appropriate operational arrangements in place, in line with their existing functions and duties, for managing the specific risks these buildings present prior to remediation and provide that assurance to your Fire and Rescue Authority (FRA) and the Protection Board. The Board also acknowledges that the assurance response you provide will be a snapshot and based on an assessment made by the information you have available on the building. Should you raise concerns on any of the buildings in scope, the Board will work with you and your FRA to advise on the appropriate steps.

The feedback from the assurance framework pilots has now been analysed and, following consultation between myself, the Home Office, MHCLG, LGA and NFCC's Building Safety

Programme Team, the Board have agreed a revised set of questions to seek assurance on all known buildings in scope. You are therefore being asked to provide a response to the following questions:

- 1. In the context of your functions and duties under the Fire and Rescue Services Act 2004 or other relevant legislation and guidance, as far as you can reasonably assess given your role and expertise, has the building owner/responsible person mitigated the risks posed by the ACM cladding to a sufficient level so that residents can occupy the building (pending remediation)?** YES/NO
- 2. As far as you can reasonably assess, have you got an effective pre-planned response in place for this building to protect life and property in the event of a fire?** YES/NO

You are being asked to provide assurance on the buildings in scope in your service area via an online form which can be accessed [here](#). A copy of the form should be completed and submitted for each building in scope within your jurisdiction. This will allow responses to be submitted one by one as and when each building is assured, rather than information on all buildings being submitted at once.

In order to help you complete the online assurance form, attached with this letter is a guidance document *Appendix A – Assurance Guidance*. This guidance has been refined following feedback received during the pilot exercise and includes a list of questions to assist FRSs in completing the assurance form. **Please note that this document does not need to be completed or returned.**

The Board would appreciate returns to the assurance form on all buildings in scope within your jurisdiction, as listed at the end of this letter *Appendix B – List of Buildings*, by **31<sup>st</sup> December 2019** unless alternative arrangements are agreed. Please ensure that you send your responses to the Chair of your FRA as well as to the Board.

I hope this letter, combined with the assurance guidance attached, provides you with sufficient information about this exercise and we look forward to working with you further on making buildings safer. If you have any questions, I am of course happy to discuss this with you further and if you have any issues concerning the Protection Board please contact NFCC's BSP Team at [BuildingSafetyTeam@nationalfirechiefs.org.uk](mailto:BuildingSafetyTeam@nationalfirechiefs.org.uk).

I am copying this letter to the Head of your Protection Department as well as your relevant governance body.

Yours sincerely,



**Roy Wilsher**  
**Chair of National Fire Chiefs Council**  
**Chair of the Protection Board**

Appendix Glossary:

- A. Assurance Guidance
- B. List of Buildings

**APPENDIX B – List of Buildings**

If you have any difficulties completing the assurance form, or if current records are incorrect and your FRS is aware of additional buildings in scope within your jurisdiction which are not included in the table below, please advise the Protection Board and NFCC's Building Safety Programme Team of this as soon as possible by emailing [BuildingSafetyTeam@nationalfirechiefs.org.uk](mailto:BuildingSafetyTeam@nationalfirechiefs.org.uk).

<b>Buckinghamshire Fire &amp; Rescue Service</b>		
<b>Building UPRN</b>	<b>Premises Name / Site Address</b>	<b>Postcode</b>
766252759	Friars House, 4 Great Western Street, Aylesbury Bucks	HP20 2PL



## **Assurance Framework Appendix A – Assurance Guidance**

### Purpose

The Protection Board was announced on 5<sup>th</sup> September with the aim of supporting the Government's programme to accelerate the pace of inspection activity across high-rise residential buildings. This is in line with the Secretary of State for Housing, Communities and Local Government's commitment to ensure all buildings in scope have been inspected or assured no later than 2021.

NFCC's Building Safety Programme Team have been working with the other members of the Board from the Home Office, MHCLG and the Local Government Association (LGA) to design the new assurance framework for Fire and Rescue Services (FRSs). The guidance issued by the Board is designed to enable FRSs to provide assurance that the Responsible Person/s (RP) has effectively implemented changes to the fire safety arrangements in order to manage the risk in their buildings.

**The Grenfell Phase One report has been issued and, along with other organisations, NFCC is considering the recommendations and guidance will be changed in future if appropriate. FRSs are encouraged to work with NFCC on any changes that are made.**

This guidance is to be used for the following reasons:

- To assess whether the interim measures introduced by the RP/s are being properly maintained.
- To ensure any operational risk database specific to each FRS has been updated and that relevant operational information about the building is available to responding crews.
- To ensure an appropriate operational tactical plan has been developed for the building.
- To assist each FRS in providing assurance to the Protection Board and Fire and Rescue Authority as applicable.

### Introduction

Since June 2017, FRSs have been notified of high-rise residential buildings (HRRBs) over 18m that have been identified as having Aluminium Composite Material (ACM) type cladding of the type that has, or may have, failed the fire tests carried out by the Building Research Establishment (BRE).

Those FRSs have then, through the provision of a range of information, provided a degree of assurance that the risk in those buildings has been assessed by the RP/s and where necessary interim measures have been established to allow occupants to remain in the building.

The Protection Board is now seeking further assurance on a 'building by building' basis for those c430 notified HRRBs. This assurance will be through the provision of a Yes/No response to the following assurance questions:

1. **In the context of your functions and duties under the Fire and Rescue Services Act 2004 or other relevant legislation and guidance, as far as you can reasonably assess given your role and expertise, has the building owner/responsible person mitigated the risks posed by the ACM cladding to a sufficient level so that residents can occupy the building (pending remediation)?** YES/NO
2. **As far as you can reasonably assess, have you got an effective pre-planned response in place for this building to protect life and property in the event of a fire?** YES/NO

This guidance provides FRSs with a framework to collate information against which Chief Fire Officers (CFOs) can underpin the assurance that they are providing. The guidance is not exhaustive, many CFOs will already have these underpinning assurances in place alongside additional context or assurance that your FRS has already established over and above that suggested. For others the guidance can provide a framework to 'check and balance' the arrangements in place to support your assurance and is a means to provide additional consistency across FRSs.

The guidance has been agreed through the Protection Board, chaired by the NFCC Chair, albeit the guidance itself has largely been produced by the NFCC.

The LGA also sit on the Protection Board and the guidance has been developed on the basis that CFOs are likely to want to engage their Authority, whatever governance the FRS has in place, about the assurance being provided for notified buildings, and this guidance supports such an approach. Clearly that will be a matter for each individual FRS to decide.

Q1 does not absolve the owner or RP of any of their duties under any relevant legislation. The FRS are only providing assurance that, where practical, they are assured that the owner or RP have mitigated the effects of the ACM.

*The following underpinning assurance does not have to be completed or returned. It outlines some areas you may want to consider when providing answers to the assurance questions.*

### Underpinning Assurance

1. **Notified building (name, address, details of the building).**
2. **Type/classification of ACM cladding on the building.**
3. **Extent of the ACM cladding on the building, for example:**
  - a) What is the approximate percentage of ACM cladding on the building?
  - b) What is the location of that cladding on the building?
  - c) What other external wall system is on the building alongside the ACM cladding?
  - d) What risk does that present?

*All questions below need to be aligned to a date.*

4. **Is the current fire risk assessment suitable and sufficient in the circumstances?**
5. **What interim measures are in place?**
6. **Under 'normal' circumstances what is the evacuation strategy for the building?**
7. **Has the evacuation strategy been changed?**  
If yes, what has it been changed from and to? For example, from 'stay put' to simultaneous evacuation.
8. **Is there a common fire alarm and or waking watch?**  
If yes, is it suitable to provide simultaneous evacuation?
9. **Are adequate systems in place to notify residents/occupants of the following:**
  - a) An evacuation strategy?
  - b) What to do in the event of a fire?
  - c) An escape plan?
10. **Is there adequate information/signage on site as appropriate?**
11. **Is there evidence, such as records, that a suitable system of maintenance for fire safety provisions is being undertaken?**  
For example, smoke control, firefighting lifts etc.
12. **Is there evidence that a suitable system is in place to ensure that firefighting facilities are accessible and maintained in good working order?**
13. **Where possible, is there an available list of residents/occupants who have been identified who may need assistance to escape in the event of a fire and/or evacuation?**  
Please note, the above question is referencing those who may not be able to self-evacuate and not a list of vulnerable persons. In the event of a fire, the waking watch staff should be assisting with evacuating the people on the list first and informing the FRS on arrival if they are all accounted for.
14. **What ongoing monitoring has been put in place by the FRS to ensure that the fire safety arrangements, including interim measures, continue to be appropriate until remediation is completed?**
15. **What ongoing monitoring has been put in place by the FRS to ensure the operational risk information/tactical plan is maintained and up to date for operational crews in the event there is a fire in the building?**  
When answering this question, FRS want to consider some of the following. Have they easy access to:
  - Floor plan layouts of the building indicating isolation valves for FRSs?
  - Keys for ventilation controls with instructions?

- Access fobs or keys for staircases, lobby areas and plant rooms?
- Information on those who may not be able to self-evacuate?
- Early attendance of a fire safety officer?

Other issues they may want to consider are:

- How control staff will deal with fire survival guidance calls in these buildings.
- Access for high-rise appliances and effective water supplies.
- Plans for dealing with rapid and or abnormal fire spread.
- Managing mass rescue and evacuation versus firefighting.

**16. What substantive work has taken place, is ongoing, or is planned, and when, to reduce the risk in the building?**

For example, retrofit sprinklers, address compartmentation issues, partial or complete removal of ACM cladding etc.

**17. Any additional information that is relevant to the assurance you are providing.**

Additional Notes

Based on the pilots the Protection Board believes that responses to the assurance questions should be based on information gathered from a new site visit and audit or one carried out within the last 3 months. However, FRSs should base their inspections on a criteria that matches their understanding of the premises.

The Board request that a copy of any formal or informal enforcement notices served, as part of this current inspection, or any future enforcement notice served be sent in separate to your returns. This should also outline what further action is being taken and timescales.

Ongoing monitoring visits should normally be unannounced to ensure that issues are as found. Below are some of the areas you may consider.

Responses to the assurance questions should be returned on a building by building basis when completed, not as a single return.

Waking watch staff are required to have a clear understanding of what to do in the event of a fire. They should be clearly identified and have access to all necessary areas to evacuate the premises, including fixed installations, communications and the method of raising the alarm and calling the FRS. A hard copy of the waking watch procedure, including shifts with breaks, should be available. NFCC has provided a guidance document, which is linked below.

A waking watch **must** be able to provide:

- Early detection of a fire and warning to occupants.
- Management of evacuation.
- A means by which they can call the FRS.

Some affected buildings have a combination of common fire alarm and waking watch. The fire alarm covering the common parts must be able to:

- Give a warning of fire throughout the building, including within all flats and the common parts.

Responses provided for Q2 should be based on FRS use of National Operational Guidance and also any additional measures that have been put in place. This could include:

- Changes to Pre-Determined Attendance
- Additional training and operational risk gathering
- Wider FRS understanding of premises in area
- Specific crew and flexi officer guidance
- Resident engagement events
- Frequency of site visits and inspections
- Site Specific Risk Information gathered
- Deviation from agreed procedure specific to the premises based on identified risk or specific operational concerns
- Frequency of site training and awareness visits
- Processes in place for testing and validating your plan

Should a NO response be given to either of the questions the Board would ask that you provide:

- Clear indication as to the reasons why assurance cannot be provided
- What measures are being taken to remedy the situation
- Time scales for the rectification of the situation and provision of a positive response
- Do you require NFCC support to help remedy the situation

## Guidance to Date

[Government – Guidance Note 12](#)

[NFCC – Simultaneous Evacuation Guidance](#)



**Buckinghamshire**  
**FIRE & RESCUE SERVICE**  
*we save lives*

To the Chairman of the NFCC

Our ref: KN/LMC  
Enquiries to: Katie Nellist  
Ext no:  
Direct line: 01296 744633  
Date: 10 December 2019  
Email: [knellist@bucksfire.gov.uk](mailto:knellist@bucksfire.gov.uk)

By email only – Chair@nationalfirechiefs.org.uk

Dear Roy

### **Fire and Rescue Authorities and the Fire Protection Board**

I write to you as Chairman of Buckinghamshire and Milton Keynes Fire Authority.

On 20 September 2019 the LGA Fire Commission received a report from the LGA's Mark Norris informing the Commission about the LGA's building safety work.

The report informed Fire Commission members as follows (at paragraph 7).

*'A new Fire Protection Board is being established, chaired by the NFCC, with Home Office, MHCLG and LGA representation. The Board's Terms of Reference are yet to be agreed, but its initial priority will be to provide assurance around the interim fire safety measures in place in buildings with dangerous ACM cladding. Fire and Rescue Authorities (FRAs) can expect to hear directly from the Home Office about this later this year following a pilot process which is due to commence shortly, but FRAs and Chiefs should begin to ensure preparations are in place for joined-up reporting arrangements.'*

In light of the impending responsibilities mentioned in the final sentence, I naturally expected my fire and rescue authority to hear from the Home Office in line with the above-mentioned briefing, in order that my fire and rescue authority could learn more about this 'assurance' and of the above-mentioned reporting arrangements; and how, and to whom, this assurance would be supplied.

I was therefore astonished to receive a communication out of the blue direct from you via a cc email letter dated 21 November 2019, together with appendices including an 'Assurance Guidance', addressed to my Chief Fire Officer.



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Whilst somewhat taken aback to receive such a letter I wholeheartedly agree with the proposition in the Assurance Guidance *'that CFOs are likely to want to engage their Authority, whatever the governance the FRS has in place, about the assurance being provided for notified buildings.'*

Regrettably such engagement with my Authority is incompatible with the deadline of 31 December 2019 for returns stated in your letter. Please note that your letter of 21 November appears to erroneously conflate my role as being the 'governance body' for the Chief Fire Officer.

Your letter also informs my CFO that the assurance framework requires him to provide assurance to his fire and rescue authority (as well as to the Fire Protection Board). This reinforces the point that before such assurance can be given my Authority will need prior knowledge of the context and parameters as it is currently oblivious to the existence of your proposals.

In order for my Chief Fire Officer to engage with my Authority, a report will need to be considered by them at the next available meeting. This will not be able to be convened before January 2020.

In order for my Authority to be fully informed when they consider the matter, I would expect a report to them to contain a full exposition of the reasons for your letter being sent, the implications for the fire and rescue authority, the legal background and any other relevant risks and considerations.

In the absence of any information from the Home Office, I would be keen to receive from you the details of the Fire Protection Board's composition and terms of reference; and the basis on which fire and rescue authorities and/or their Chief Fire Officers can be required to provide (or receive as the case may be for the former) such assurance.

May I also prevail on you to provide details of what consultation has taken place in respect of the 'assurance framework'; the rationale for the Fire Protection Board adopting a binary approach to the two assurance questions; and the reason why this assurance framework and Fire Protection Board have been set up without the Secretary of State first having revised the National Framework.

Yours sincerely

Councillor Lesley Clarke OBE  
Chairman of the Buckinghamshire and Milton Keynes Fire Authority

cc: by email to Cllr Ian Stephens, Chairman of the Fire Services Management Committee [ian.stephens@iow.gov.uk](mailto:ian.stephens@iow.gov.uk)



**Councillor Lesley Clarke OBE**  
**Chair of Buckinghamshire and Milton Keynes FRA**  
**Buckinghamshire Fire & Rescue Service**  
**Aylesbury, Buckinghamshire, HP20 1BD**  
[lmclarke@bucksc.gov.uk](mailto:lmclarke@bucksc.gov.uk)

18<sup>th</sup> December 2019

Dear Councillor,

Thank you for your correspondence regarding the Protection Board assurance exercise dated 10<sup>th</sup> December 2019 which I received via the Local Government Association.

I am sorry to hear that you believe there has been insufficient communication from the Board and its partners in Government in the run up to the launch of the current assurance exercise. I have been assured by the Home Office that a letter was emailed to you and copied to Chief Fire Officer Jason Thelwell from the Director of Fire and Resilience, Luke Edwards, on 5<sup>th</sup> November 2019. This letter concerned the upcoming requests for assurance being made by the Board on Fire and Rescue Services (FRSs) and has been attached alongside this correspondence for your information.

In the interest of improving communication between yourself and the Board, could you please confirm that the email address above is correct and is the best way of contacting you, and please send any further correspondence to me directly at [roy.wilsher@nationalfirechiefs.org.uk](mailto:roy.wilsher@nationalfirechiefs.org.uk).

For your information I have attached the invitation for me to chair the Board from the previous Minister for Policing and the Fire Service and the Protection Board's Terms of Reference. Hopefully this will give you additional background on the Board and its purpose, but, in short, the Board's work is to provide an overview on the continued assurance of buildings with ACM 3 cladding systems. We are aware that the best way to assure these buildings is remediation but in the meantime we all need to ensure the risk for residents and firefighters is as low as reasonably practicable. The board is also designed to deliver the previous Secretary of State for Housing, Communities and Local Government's commitment to increase the pace of inspection and assurance activity across high-rise residential buildings and assure the safety of these buildings no later than 2021. The current assurance exercise is one of the first steps in achieving this aim.

The current assurance questions and the format of the assurance framework are the result of pilots with four fire and rescue services including London and Greater Manchester who have the greatest number of ACM3 clad buildings. In addition, there were extensive discussions with representatives and lawyers from the Board's constituent governance bodies: the Home Office; the Ministry of Housing, Communities and Local Government; the Local Government Association; and National Fire Chiefs Council (NFCC) about the two assurance questions. NFCC's Operations

Committee were also consulted, and the Board agreed on the binary nature of the assurance questions based on the fact that FRSs would either be satisfied with the arrangements in the building or not when they conduct a visit. If FRSs are not satisfied, I am sure some action would have been taken by now.

I note your reference to the Board requiring action of FRSs and Fire and Rescue Authorities, however, neither the attached letter from Luke Edwards, nor my own correspondence, nor the assurance framework itself require a response as the Board cannot compel FRSs to complete the current exercise. Nevertheless, given the types of buildings in the scope of the assurance exercise, I am sure that Buckinghamshire FRS will wish to continue to provide these assurances as they have done since the Grenfell Tower fire.

The Board is requesting assurance from Chief Fire Officers and the Board recommends that this assurance should also be provided to associated Fire and Rescue Authorities. However, the Board does not require Fire and Rescue Authorities to sign off on this assurance before it is sent to the Board via the online assurance form by FRSs.

On related matters, I am not entirely sure why the National Framework would need to be amended to accommodate the Board's request for assurance. As per my letter to Chief Fire Officer Jason Thelwell on 21<sup>st</sup> November 2019, there is opportunity for providing FRSs with additional time to complete the assurance exercise. If you believe that Buckinghamshire FRS will need an extension of the deadline to assure the building in scope within your area, please have officers contact NFCC's Building Safety Programme Team at [BuildingSafetyTeam@nationalfirechiefs.org.uk](mailto:BuildingSafetyTeam@nationalfirechiefs.org.uk).

I trust that this correspondence and the attached documents will address your concerns, but I would be happy to correspond further regarding any other issues.

Yours sincerely,



**Roy Wilsher**  
**Chair of the National Fire Chiefs Council**  
**Chair of the Protection Board**



Home Office

Rt Hon Nick Hurd MP  
Minister of State for Policing and the Fire  
Service  
2 Marsham Street  
London SW1P 4DF  
[www.gov.uk/home-office](http://www.gov.uk/home-office)

**BY EMAIL ONLY**

Roy Wilsher  
Chair  
National Fire Chiefs Council

22 July 2019

Dear Roy

**Protection Board**

As you are aware, HMICFRS has identified the protection capability of FRSs as an area of concern in its tranche 1 and 2 reports. Yet this capability will also be critical to successful delivery of the Government's reforms to building safety. I am encouraged by the steps already taken by the NFCC and Fire and Rescue Services to address some of these concerns.

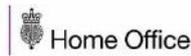
To ensure that Fire and Rescue Services are prepared to implement the new building safety regime, I believe it is important that there is a strengthened assurance regime to oversee protection activity. I am therefore of the view that a new Protection Board should be established which will focus on, but not limited to:

- designing a new assurance process for high risk buildings, including high-rise buildings with ACM cladding that have interim measures in place;
- leading work on improving overall standards of protection work; and
- improving the information on protection and designing the longer-term protection model

I would like you to chair this new Protection Board and propose that it would have trilateral governance between the NFCC, Home Office and MHCLG. My officials stand ready to support you in establishing the Protection Board and will work with the NFCC Building Safety Team in developing detailed terms of reference over the next couple of weeks.

I welcome your continued leadership and commitment to delivering our important reforms to fire safety and look forward to receiving your response to my request.

**RT HON NICK HURD MP**  
**Minister of State for Policing and the Fire Service**



## **Fire Protection Board – Draft Terms of Reference**

### **Aims**

The Board will focus on FRS protection activity in England.

The initial priority for the Protection Board is the creation and agreement of a new assurance regime focused on protection activities of FRSs.

Starting with all residential ACM-clad buildings of 18m and above, with a particular focus on those that have moved from a ‘Stay Put’ strategy to simultaneous evacuation and waking watch due to the level of risk, this standardised regime will support the Board to gain assurance of measures in place in these buildings across England.

Additional priorities will be agreed by the Board to provide a national forum for key Fire and Rescue Service operational related protection and building safety issues to be considered.

### **Initial responsibilities**

1. The Board will design a new assurance regime focused on protection activities of FRS. It will:

- Focus initially on residential ACM-clad buildings of 18m and above, with a particular focus on those which have changed from a ‘Stay Put’ strategy to simultaneous evacuation and waking watch.
- Consider extending this regime to other categories of high risk building including other identified dangerous cladding systems if the need arises.
- Monitor the status of these buildings, including the interim measures in place and the extent to which the FRS has undertaken response planning in the event of a fire. FRSs will not be asked to confirm whether a building is safe as that is the responsibility of the Responsible Person / Building Owner.
- Agree a new outcomes-based assurance framework for FRSs. This standardised regime will require Chief Fire Officers (irrespective of the specific governance arrangements under which they work) to provide assurance to the Board and FRA (or equivalent body) that:

- their FRS is satisfied that the building owner/responsible person has mitigated the risks posed by ACM clad buildings in its area to a sufficient level so that residents can occupy the building (pending remediation), and
  - an effective pre-planned response is in place for these buildings to protect life and property in the event of a fire.
- Review assurance returns annually with quarterly reporting by exception. Timescales may be adjusted if necessary and agreed at Board
  - Support FRAs/FRSs to escalate any critical issues, such as any building which poses an unacceptable fire risk, to central government so that risk mitigation, enforcement and/or remediation work can be prioritised accordingly.
- 2 The Board will also develop a programme of work that is designed to deliver the Secretary of State for Housing, Communities and Local Government's commitment to increase the pace of inspection activity across high-rise residential buildings that have been inspected or assured no later than 2021. This includes the Board:
- Advising the Secretary of State for Housing, Communities and Local Government and the Minister of State for Policing, Crime and Fire on a work programme on how the additional £10m will be spent to deliver his commitment
  - Overseeing the delivery of that programme
  - Defining assurance and inspection for the purposes of this programme
  - Providing ongoing advice to the Secretary of State for Housing, Communities and Local Government and the Minister of State for Policing, Crime and Fire on the delivery of the work programme and any actions that needs to be taken to ensure successful delivery of the programme.
3. The Board will also focus on other strategic protection activities that it considers to be a priority.

### **Membership**

The Board will consist of:

**Board Chair:** Roy Wilsher, Chair, NFCC

Mark Hardingham, Chief Fire Officer, Suffolk FRS and NFCC Protection Committee Chair

Dan Daly, Assistant Commissioner, London Fire Brigade

Tony Hunter, Assistant Chief Fire Officer, Greater Manchester FRS

Nick Coombe, NFCC lead on the Building Safety Programme and NFCC Protection Vice Chair

Charles Loft, Advisor, Local Government Association

Neil O'Connor, Building Safety Programme Director, MHCLG

Luke Edwards, Fire and Resilience Director, Home Office

Rod McLean, Head of the Fire Safety Unit, Home Office

### **Meetings**

1. All meetings of the Board will be called by the Chair with appropriate notice to the members concerned.
2. The frequency of meetings will be agreed at the first Board meeting. The frequency can be varied with agreement from the Board.
3. The Board will operate with joint governance between the Home Office, MHCLG, the LGA and the NFCC.

OFFICIAL



Home Office

Home Office  
2 Marsham Street  
London  
SW1P 4DF

[Luke.Edwards1@homeoffice.gov.uk](mailto:Luke.Edwards1@homeoffice.gov.uk)  
[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

**F.A.O:**

- **Chairs of Fire and Rescue Authorities**
- **Police, Fire and Crime Commissioners**
- **Elected Mayors**

**Bcc: Chief Fire Officers & Protection Board Members**

5 November 2019

Dear Colleagues,

**Assurance Framework for unsafe ACM clad high-rise residential buildings**

The Government has made clear that nothing is more important than residents feeling safe in their homes. The Government's priority remains remediating all high-rise residential buildings with ACM cladding and, as you are aware, a number of steps have been taken to ensure this happens as quickly as possible. I am writing to inform you of an additional step we have asked all fire and rescue services to take regarding these buildings.

At the request of Nick Hurd, the previous Policing, Crime and Fire Minister, Roy Wilsher, the Chair of the National Fire Chiefs Council (NFCC), has agreed to establish and chair a new Protection Board. The Board includes representatives from the Home Office, Ministry for Housing Communities and Local Government (MHCLG), the NFCC and the Local Government Association (LGA). Ministers identified that the Protection Board's initial objective was to develop an assurance regime for all high-rise residential buildings with unsafe ACM cladding. The objective of the exercise is to ensure that all fire and rescue services have appropriate operational arrangements in place for managing the specific risks these buildings present prior to remediation and provide that assurance to Government.

The assurance regime has now been piloted by the NFCC on 10 high-rise residential buildings with unsafe ACM cladding in London, Greater Manchester, West Yorkshire and Merseyside. The pilot Fire and Rescue Services were also asked to provide feedback on the overall exercise. The Board considered the results of the pilot and have determined to extend it to all high-rise residential buildings with unsafe ACM cladding. Details of the assurance regime, accompanying framework and those buildings that are in scope for the exercise will be shared with your Chief Fire Officer, if relevant, by the NFCC.

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Responses will be sought **by or before the 31<sup>st</sup> December 2019** unless alternative arrangements are agreed. Your Chief Fire Officer will also be asked to send their assurance response to you.

The Protection Board will consider the responses and the NFCC will provide support to your Chief Fire Officer should they have any follow up questions with respect to the operational arrangements in place.

In the coming months the Protection Board will also be overseeing proposals for developing the sector's wider work on protection, particularly in the light of shortcomings identified with regard to the Grenfell Tower tragedy. This includes developing proposals for strengthening the approach to all high-rise residential buildings.

I hope you find this letter a helpful update on the new assurance framework. If you have any questions or wish to discuss further, please do get in touch.

A copy of this letter also goes to all Protection Board members and to all Chief Fire Officers.

A handwritten signature in black ink, appearing to read 'L. Edwards', is centered on the page.

**LUKE EDWARDS**  
**DIRECTOR OF FIRE AND RESILIENCE**



23<sup>rd</sup> December 2019

Dear Chief,

I am writing to you following my earlier correspondence on 21<sup>st</sup> November 2019 regarding the Protection Board's assurance framework.

On 19<sup>th</sup> December 2019, Chief Fire Officers from all FRSs with buildings in scope of the current assurance exercise were invited to take part in a teleconference alongside myself and other colleagues from NFCC to discuss feedback and coordination between FRSs. This gave myself and other Board members from NFCC, London Fire Brigade and Greater Manchester FRS the opportunity to provide further information on the formation of the Board, its purpose and how the Board have developed the current exercise.

I am glad to say that this meeting was well attended, with over 20 CFOs or their designated representatives dialling in to take part in the discussion, and I would like to thank all those who participated for taking time out of their busy schedules at such short notice.

After briefing the group, discussion mainly centred around approaches to completing returns to the assurance exercise before moving onto concerns about the word 'assurance' and how this may extend liability to FRSs and FRAs, thereby increasing the risk of them being subject to legal action. Also discussed were proposed changes to the Regulatory Reform (Fire Safety) Order 2005 to include front doors and external wall systems, joint working with Local Authorities, and how to limit FRS exposure to freedom of information requests.

As a result of the dialogue, I have written to the Home Office and the Ministry for Housing, Communities and Local Government informing them that, as Chair of the Protection Board, I have taken the decision to extend the deadline for returns to the current assurance exercise to **31<sup>st</sup> January 2020**. This does not mean that the work of checking these buildings should cease or slow down, but this will give the Board time to discuss feedback from FRSs, to review the wording of the questions and guidance, and allow FRSs to make any changes to their approaches following discussion during the teleconference.

In addition, as set out at the teleconference, attached is a draft letter from the Protection and Business Safety Committee and Protection Board that FRS may choose to use for their ACM-clad high-rise residential buildings being addressed through the Protection Board. The letter has

been adjusted following the teleconference but does still include some reference to inspection/assurance. It is for FRS to decide if they want to adjust the wording still further or wait until further legal advice has been provided on associated wording.

The purpose of the letter is to ensure the responsible persons for buildings are aware of the questions being asked of FRSs by the Fire Minister, and their responsibilities within that environment. FRSs will of course decide if they use the letter, or not, or if they choose to amend for their own circumstances.

I trust this is helpful in the on-going work to reduce risk as far as reasonably practicable, and I continue to appreciate your engagement and support.

Yours sincerely,



**Roy Wilsher**  
**Chair of the National Fire Chiefs Council**  
**Chair of the Protection Board**

Responsible Person  
Jane Doe  
2nd Floor, Responsible Building  
2 Responsible Street  
Responsible City  
Postcode  
United Kingdom

Sent via email to: [Jane.Doe@isresponsible.co.uk](mailto:Jane.Doe@isresponsible.co.uk)

10 January 2019

Dear Ms Doe,

I am writing to you as the Chief Fire Officer for XXXX Fire and Rescue Service. I have been requested by the Secretary of State's newly commissioned Protection Board to respond to questions on the current safety arrangements of high-rise residential buildings with known Aluminium Composite Materials (ACM) in my fire service area.

The Protection Board was announced on 5th September 2019 with the aim of supporting the Government's programme to accelerate the pace of inspection activity across high-rise residential buildings. This is in line with the Secretary of State for Housing, Communities and Local Government's (MHCLG) commitment to ensure all buildings that are 'in scope' have been inspected or assured by the end of 2021. The Board consists of senior representatives from the Home Office, MHCLG, the National Fire Chiefs Council (NFCC), Fire and Rescue Services, and the Local Government Association (LGA).

It is my understanding from previous dealings between you and my officers, that (insert premise address) has been identified as a high-rise residential building that has ACM cladding and that you are the identified Responsible Person for the premises.

The Protection Board have required me, in my role as Chief Fire Officer, to respond to the following two questions for your building.

- In the context of your functions and duties under the Fire and Rescue Services Act 2004 or other relevant legislation and guidance, as far as you can reasonably assess given your role and expertise, has the building owner/responsible person mitigated the risks posed by the ACM cladding to a sufficient level so that residents can occupy the building (pending remediation)? YES/NO
- As far as you can reasonably assess, have you got an effective pre-planned response in place for this building to protect life and property in the event of a fire? YES/NO

I have responded with a Yes/No to these questions for your premises. This is based on the fire service's most recent inspection, the interim measures that have been put in place and the information that you have provided to my officers.

In providing my response to the Board, it is important that you are aware that this does not absolve you, as the owner or Responsible Person, for the building, of your duties under the relevant legislation. It is important for you to be clear that the assessment that has been made of the premises is based on the information that was obtained at the time of our inspection and cannot provide continued assurance of the measures in place, the responsibility for which lies with you as the Responsible Person. On this basis it is essential that you continue to monitor the risk at your building, alongside all interim measures that are in place to mitigate that risk. This should form part of your responsibility to maintain a suitable and sufficient fire risk assessment and ultimately move rapidly towards the remediation of the ACM cladding and any other identified issues as soon as possible.

If your building is currently operating a waking watch as part of your interim measures, then I must remind you that this is only intended as a temporary measure. For many, these measures have been in place for an extended period and if you are unable to remediate the ACM soon, then you should consider installing a fire alarm to assist with the evacuation of residents.

I have included links to both the government guidance for building owners and the most recent NFCC evacuation guidance to help you with the continued monitoring of your premises.

Should you wish to discuss this further or need assistance with fire safety arrangements in your premises, please feel free to contact one of my Fire Safety team on XXXX

Thank you for your cooperation and understanding and helping to keep the community in which we live and work a safer place to be.

Regards.

Government – Guidance Note 12

<https://www.gov.uk/government/publications/updated-interim-safety-advice-for-building-owners>

NFCC – Simultaneous Evacuation Guidance

[https://www.nationalfirechiefs.org.uk/write/MediaUploads/NFCC%20Guidance%20publications/Protection/01052018NFCC\\_simultaneous\\_Evacuation\\_guidance\\_final\\_doc.pdf](https://www.nationalfirechiefs.org.uk/write/MediaUploads/NFCC%20Guidance%20publications/Protection/01052018NFCC_simultaneous_Evacuation_guidance_final_doc.pdf)



Reference

PR201911-225207

Notice

Housing Act 2004 Part 1 – [Section 11]  
**Improvement Notice**

Recipient

Name  
Friars House (Aylesbury) Ltd

Address  
5 Sentinel Square, Hendon, London. NW4 2EL

Relating to

Relating to: Friars House, 4 Great Western Street, Aylesbury Bucks. HP20 2PL

Person Responsible

You are the person having control of the dwelling and common parts of a building containing one or more flats detailed above ('the premises').

Hazards

The Aylesbury Vale District Council ('the Council') is satisfied that a Category 1 Fire hazard exists on the premises and is further satisfied that no Management Order is in force in relation to the premises under Chapter 1 or 2 of Part 4 of the Housing Act 2004. There is a significant fire hazard existing at Friars house, HP20 2PL, which affects all flats above the ground floor and the common parts.

The hazard(s) and the deficiencies that give rise to them are specified in Schedule 1 to this notice.

The operative date of this Notice is 19 day of December 2019

Works Required

Under Section [11(2)] of the Housing Act 2004 the Council requires you to carry out the works specified in **Schedule 2** to this Notice. This is the remedial action which the council considers would, if taken in relation to the hazard, result in their revoking the notice under Section 16 of the Housing Act 2004.

Time scales are as follows;

**External survey of building cladding and associated works**

- To start within 31 days from the date of issue of this notice.
- The report(s) should be provided to the council within 4 months.
- Any works identified to be agreed with the council and carried out within 12 months.

**Internal compartmentation survey and associated works**

- To start within 31 days from the date of issue of this notice.
- The report(s) should be provided to the council within 4 months.
- Any works identified to be agreed with the council and carried out within 12 months.

**Installation of LD1 detection system and replacement of damaged fire doors**

- To start work within 6 weeks from the date of issue of this notice.
- Works to be completed within 4 months.

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**Replace damaged fire doors**

- To start work within 6 weeks of the date of issue of this notice
- To complete the works within 3 months.

**Arrange inspection and test of automatic opening vents (AOVs), passenger lift, wet riser and dry riser systems, Carry out works required as identified by this inspection and provide certificates that demonstrate that the work has been satisfactorily carried out.**

- To start works within 31 days from the date of issue of this notice.
- Works to be completed within 8 weeks.

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**Most Appropriate Course of Action**

The Council considers the service of this Improvement Notice as the most appropriate course of action under Section [5(2)] of the Housing Act 2004 for the reasons stated in the attached statement of reasons.

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## SCHEDULE 1

### NOTIFICATION OF HAZARDS

<b>1.0 DESCRIPTION OF HAZARD – FIRE</b>	
<b>All items below refer to the inspection carried out on 22<sup>nd</sup> and 23<sup>rd</sup> July 2019 by officers from Aylesbury Vale District Council and the Fire Safety Joint Inspection Team (JIT) unless otherwise stated.</b>	
<b>Item No.</b>	<b>External façade</b>
1.1	There are Aluminium Composite Material panels in grey and gold finish covering approximately 30% of the external façade from floors 3-7. The floor plans submitted as part of the planning application indicate that up to 20 flats (40%) are clad with this material. A sample of ACM has been tested by the Building Research Establishment (BRE) (sample number D0085-01 and found to be category 3 ACM.
1.2	The ACM was noted to be within 1.5m of the glazed windows within the lift lobby areas on the east façade of the building. The lift lobby windows are adjacent to the glass atrium containing the single staircase from level 3 down to ground level.
1.3	Some of the window mouldings appear to be of the same material construction as the ACM cladding.
1.4	The type and combustibility of the façade insulation is unknown although from the detailed plan submitted at the planning stage it appears that it was the intention to use Kingspan K15 rainscreen board. A photograph taken by Aylesbury Vale District Council appears to show this product being used in the construction of the 7th floor penthouses. According to the technical specification document for the product it does not achieve a rating of Euroclass A2-s2, d0 or A1.
1.5	There is a render covering around 30% of the external façade of the building. No documentation has been provided regarding the combustibility of the render or any associated insulation although there is a plan from the planning stage showing that expanded polystyrene insulation was to be used behind the render.
1.6	During the visual inspection it was not possible to confirm the presence of cavity barriers or fire stopping within the external cladding system. No documentation has been provided to support the presence of cavity barriers or fire stopping either.
1.7	There are 5 penthouse flats within the building which are provided with terraces. All of the penthouse flats which were inspected had ACM cladding adjacent to the terrace area. A BBQ was seen on a terrace during the inspection. There are 24 flats which are provided with balconies. Of these 24 balconies, 9 are located within the ACM clad area of the building.
1.8	Extract outlets with what appeared to be plastic covers were noted to be protruding through the external cladding of the building on the west and east façade. During the visual inspection it was not possible to confirm the presence of suitable fire stopping associated with the outlets where they penetrate the façade system.
	<b>Other external observations</b>
1.9	There were numerous cigarette butts within close proximity to Friars House on the flat roof at the west side on level 3, which may have been discarded by residents from their windows or persons accessing the flat roof beneath the ACM clad areas beginning at level 4.
1.10	There were air conditioning units and electrical cables located on the flat roof at the north west corner of the flat roof on level 3 which were not well maintained. The units are located directly underneath the ACM clad section of the building and could be a potential source of ignition.
1.11	The cupboard providing access to the dry-riser was located to the right of the main entrance door. The door to the cupboard was damaged and could not be closed, allowing easy unauthorised access to the dry riser.
	<b>Fire alarm and detection system</b>

1.12	There is a Grade A fire alarm system provided within the common parts, although it is unclear as to which devices are sounders only, which devices are detectors only and which devices are combined sounders/detectors. There are also break-glass call points situated throughout the communal areas. No certification or documentation has been provided to confirm the satisfactory inspection/testing and operation of the Automatic Fire Detection (AFD) system. Residents in some flats advised that they heard the fire alarm when tested whilst others advised that they did not.
1.13	All of the flats which were inspected had been provided with stand-alone mains wired AFD consisting of a heat detector within the kitchen area and a smoke detector in the entrance lobby. The heat detector in flat 35 was tested during the inspection and found to be linked to the smoke detector in the flat. The smoke detector in flat 21 was tested but it could not be concluded whether it was linked to the heat detector. No detection was seen in bedrooms within flats that were inspected.
	<b>Compartmentation</b>
1.14	Access was gained to two cupboards opening onto the common areas.
1.15	<p>The electrical riser cupboard in the lift lobby on level 3 was not locked or secured shut during our inspection on the 22/07/2019. During our inspection on the 23/07/2019 the cupboard was found to be locked and access could not be gained, however. The following observations were made on the 22/07/2019:</p> <ol style="list-style-type: none"> <li>It could be seen that there was no vertical separation at the floor and ceiling level within the cupboard, which would allow any fire to spread between levels within the riser.</li> <li>The partition between the riser cupboard and the lift lobby on level 3 is plasterboard attached to the outside of a metal frame. If a fire were to start within the cupboard this would not provide the necessary fire separation to protect the lobby, which is on the means of escape for all flats on this level.</li> <li>Electrical cables were seen passing through the partition wall of the riser cupboard to the void above the false ceiling in the lift lobby on level 3. The penetrations were filled with an excessive amount of pink expanding foam which would not provide the necessary fire separation to protect the lobby. The use of pink foam in this manner is inappropriate because it has been used to fill large gaps, therefore has not been used in accordance with manufacturer's guidelines and will not provide the required level of protection from fire.</li> <li>There is a cavity between the brick wall of the lobby and the plasterboard lining to the lobby wall, which is open to the inside of the electrical cupboard. This would allow fire to spread from the riser cupboard into the cavity.</li> </ol>
1.16	The riser cupboard on level 7 outside flat 46 was also not locked or secured shut. There was no intumescent collar visible on the soil pipe passing through the floor or ceiling of the cupboard. An excessive amount of pink foam had been used to seal the penetrations for a soil pipe at both floor and ceiling level. Pink foam had also been used to fill in gaps between the wall and door frame within the cupboard.
1.17	Inspection hatches were opened within the false ceilings at either end of the communal corridor on level 3 (outside of flat 5 and flat 9). Services and cables were seen passing through partition walls from the void above the false ceiling of the corridor into the flats. The penetrations were either sealed with pink foam or with an incomplete or excessive use of white mastic. There was a hole within the previous office 'true' ceiling which had been filled in using pink foam.
1.18	Locked cupboard in corridor near flat 10 on level 3 shows signs of having been flooded, with damp staining evident to the adjacent plasterboard and carpet. Flooded plasterboard does not perform well in a fire and may compromise the ability of the cupboard to provide the necessary resistance to the spread of fire.
	<b>Fire doors on common parts</b>
1.19	Fire doors were provided throughout the common parts and to flat entrance doors and cupboards that were accessed during the inspection. All of the fire doors inspected were fitted with cold smoke seals and intumescent strips. All flat front doors inspected and doors along the means of escape were also fitted with self-closing devices.
1.20	The front doors and frames to flats 1 and 4 had been damaged from what appeared to be impact by a ramming device. The flat metal plate to the door handle and key hole (escutcheon plate) of flat 9 was damaged exposing a large hole around the barrel of the lock. Several doors which were inspected within the building would not be classed as compliant fire doors due to the presence of non-fire resistant fixings e.g. locking mechanisms, handles, door furniture, etc. However the doors are generally of a reasonable standard with respect to fire.

1.21	Fire doors within the lift lobby areas are sub-optimal in that they have been fitted with U-shaped handles with bolts that pass through the door and a hole cut in them for mortice locks and mechanical code locks. These doors serve riser and service cupboard and pose a medium risk.
	<b>Means of escape</b>
1.22	There is only one route of escape for the entire block of flats.
1.23	For a building of this height the stairs should be a minimum width of 110cm. The stairs have a width of 90cm.
1.24	A building of this height should have a full size firefighting lift with two power supplies. No evidence has been seen that the lift is a firefighting lift.
	<b>Smoke ventilation</b>
1.25	There is a mechanical ventilation smoke control system provided within the corridors to levels 3, 4, 5 and 6 consisting of a fan at one end of the corridor and an opening inlet at the other. No evidence was provided demonstrating suitable and sufficient inspection, testing and operation of the system.
	<b>Dry and wet riser systems</b>
1.26	No evidence was provided demonstrating suitable and sufficient maintenance of the dry riser system, and an out of date certificate was provided for the wet riser system.
	<b>Individual flats</b>
1.27	The majority of the flats inspected had open plan kitchen/lounges with windows opening onto balconies or the external façade. Within flat 21 the kitchen area was adjacent to the external wall of the building, which was clad with ACM. Both of these factors increase the risk of a fire spreading to the external façade.
	<b>Fire risk assessment</b>
1.28	The most recent fire risk assessment for the block of flats is a non-intrusive Type 1 FRA. It identified issues with compartmentation within the internal common parts, for which no evidence was provided to demonstrate these defects have been addressed e.g. breaches in compartmentation where pipes and wires pass through walls and ceilings in riser cupboards. No intrusive surveys to establish the current integrity of fire compartmentation and stopping in the building, such as Type 2 or 4 fire risk assessments have been made available.
1.29	A fire safety report commissioned on behalf of Aylesbury Vale District Council by Freya Comprehensive Fire Solutions on 26th April 2019 states that there is ACM cladding in the same locations as confirmed during the inspection, and found there to be several issues with compartmentation within the block which have yet to be addressed e.g. penetrations to compartment walls within risers incorrectly sealed with expanding foam.

## SCHEDULE 2

### SCHEDULE OF REMEDIAL WORKS

<b>2.0 PRELIMINARIES</b>	
<b>Item No.</b>	<b>Works</b>
2.1	<p>All works to be carried out by competent persons in accordance with the requirements of the Local Planning Authority, Building Regulations, Gas (Safety) Regulations, latest edition of the Institute of Electrical Engineer's Regulations, the Statutory Water Undertaker's Byelaws, any Codes of Practice, British Standards Specification or manufacturer's instructions, directions, specification of good practice as appropriate and the requirements of any other relevant body.</p> <p>If you are unable to obtain the necessary planning permissions and comply with current building regulations this Notice will remain until such time when planning permission is sought and compliance with Building Regulations is met.</p> <p>If in the course of the works the fire and smoke resisting capabilities of any structural elements are compromised, then the appropriate work must be carried out to re-establish their integrity.</p>
2.2	'Left' and 'right' and 'front' and 'rear' are stated throughout as though standing in the street facing the entrance door of the property.
2.3	All works to be completed in a workman like manner.
2.4	Make good all works disturbed or otherwise damaged during execution of works.
2.5	Clear away all debris from site and leave premises clean and tidy on completion.
2.6	Supply, deliver, erect and dismantle on completion all scaffolding, screening and/or temporary support as necessary to ensure the proper execution of the work.
2.7	You are reminded of your obligation under Section 11 of the Landlord and Tenant Act 1985 to make good any damages to decorations which occur as a consequence of the following works.
2.8	You are reminded of your duties under the Health & Safety At Work Act 1976 and associated regulations to protect both your employees and other persons not in your employment.
2.9	If asbestos is found during the course of the works, care should be taken when removing it and the Principal Enforcement officer should be contacted for advice and guidance.
2.10	You are advised that nothing contained in this notice gives any power for you to require the occupier(s) to leave the dwelling on a permanent basis and the security of the tenure(s) remain(s).
2.11	Your attention is drawn to the problems of working in occupied property. Allowance must be made to maintain services and security. Due regard must be given to the occupiers welfare. In particular, works are to be so arranged that at all times washing, sanitary and cooking facilities are reasonable available and suitable for use. Where works are of such a nature that alternative accommodation is required for the occupier as a temporary measure, this is to be arranged by the landlord. You must bring to the attention of all persons exposed to hazards which could cause harm due to activities undertaken in the work being carried out.
2.12	Proper advance notification of works is to be given to the Occupiers and all necessary aid given for moving furniture and fittings, protecting possessions, providing alternative services and temporary re-housing as appropriate.
2.13	Remove all fixtures and fittings as necessary for the proper execution of works and re-fix/re-install upon completion.
2.14	Information and any specialist advice on problems encountered regarding this schedule may be obtained from Environmental Health, The Gateway, Gatehouse Road, Aylesbury, Bucks. HP19 8FF. You must consider The Construction (Design and Management) Regulations 2007 (CDM) for construction work if:

	<p>a. It Is notifiable work i.e. lasts more than 30 days or will involve more than 500 person days of work, or;</p> <p>b. It Is non-notifiable works which involves five people or more on site at any one time.</p> <p>These regulations are enforced by the Health &amp; Safety Executive (HSE). See, <a href="http://www.hse.gov.uk/contact">www.hse.gov.uk/contact</a> for more information.</p>
2.15	<p>Alternative works of equivalent effect may be agreed by the council, please contact the authorised officer with your proposals.</p> <p>If you are considering any type of alternative use or building work alterations you are advised to consult with both Building Control and the Planning Department to comply with relevant legislation and guidance or planning issues that may be relevant.</p>
2.16	<p>You are requested to inform the authorised officer when you start each of the works required.</p>

### 3.0 SPECIFICATION OF WORKS

3.1	<p>Commission an intrusive survey/appraisal of the external cladding system (including the insulation material behind the cladding and the insulation behind the render) The Survey should determine what the wall construction is, what materials were used and what their fire rating is. It is also to determine whether there are appropriate cavity barriers in place to support proper compartmentation.</p> <ul style="list-style-type: none"><li>• The survey is to be conducted by a competent person such as a chartered engineer registered with the UK Engineering Council by the Institution of Fire Engineers or someone with relevant knowledge and experience. Professional advice may be obtained from a qualified chartered professional with relevant experience in fire safety, including fire testing of building products and systems, such as a chartered engineer registered with the Engineering Council by the Institution of Fire Engineers, or a chartered professional from another built environment profession specialising in fire safety consultancy, such as the Chartered Institute of Architectural Technologists (CIAT), Chartered Institution of Building Services Engineers (CIBSE), Fellows of the Institution of Structural Engineers (IStructE), Royal Institution of Chartered Surveyors (RICS), the Chartered Institute of Building (CIOB), and the Society of Façade Engineers.</li><li>• A copy of the report is to be provided to the Local Authority.</li></ul> <p>Commission an intrusive survey/appraisal of the internal compartmentation. The survey must check what fire protection measures are installed within the building and where they are fitted as well as whether they continue to provide appropriate protection and their performance is satisfactory.</p> <ul style="list-style-type: none"><li>• The survey is to be conducted by a competent person such as a chartered engineer registered with the UK Engineering Council by the Institution of Fire Engineers or someone with relevant knowledge and experience. Professional advice may be obtained from a qualified chartered professional with relevant experience in fire safety, including fire testing of building products and systems, such as a chartered engineer registered with the Engineering Council by the Institution of Fire Engineers, or a chartered professional from another built environment profession specialising in fire safety consultancy, such as the Chartered Institute of Architectural Technologists (CIAT), Chartered Institution of Building Services Engineers (CIBSE), Fellows of the Institution of Structural Engineers (IStructE), Royal Institution of Chartered Surveyors (RICS), the Chartered Institute of Building (CIOB), and the Society of Façade Engineers.</li><li>• A copy of the report is to be provided to the Local Authority.</li></ul>
3.2	<p>Complete the works identified by the above surveys/appraisals, sufficient to remove the ACM cladding and to put right the internal compartmentation such that the required level of fire resistance is provided, Works are to be carried out with the agreement of the local authority and must be based on the findings of the surveys; works to include but not limited to:</p> <ul style="list-style-type: none"><li>• Remove ACM cladding and any combustible materials from the external façade of the building and replace with material complying with Euro Class A1 or Euro Class A2-s1, d0. Ensure associated cavity barriers and fire breaks have been provided in accordance with current Building Regulations. Cavity barriers should be provided to close the edges of cavities, around openings, and in line with every compartment floor and compartment wall.</li><li>• Any re-cladding work must comply with all relevant Building Regulations/requirements. In particular requirements on structural safety, resistance to moisture penetration and build up, and energy efficiency need to be considered – as well as ensuring that the fire safety requirements are met.</li></ul>
3.3	<p>Provide in each flat an LD1 fire alarm and detection system complying with BS5839-6:2019 with smoke detectors fitted in bedrooms linked to smoke detectors in flat entrance lobbies and heat detectors in flat kitchens/living rooms. NB, These systems do not have to be linked to the communal detection system.</p>

3.4	<p>Replace any damaged fire doors within the building.</p> <p>Fire door sets to comply with the requirements of BS 476: Part 22: 1987 or BS EN 1634-1. The door sets must also satisfy the requirements of BS 476-31.1 or EN 1634-3: 2004 in relation to smoke control. Door sets must be installed to satisfy the requirements of BS 8214: 2016 as set out below:</p> <ul style="list-style-type: none"> <li>• Fitted with three plain steel butt hinges of not less than 100mm x 75mm.</li> <li>• Fitted with heat activated intumescent seals and cold smoke seals.</li> <li>• Fitted with a self-closing device (preferably of the overhead hydraulic type) manufactured to satisfy the requirements of BS EN 1154:1997.</li> <li>• The self-closing device must be capable of closing the door positively onto the latch, or, where a latch is not required, of holding the door closed for not less than 30 minutes.</li> <li>• The gap between the door edge and door lining (or frame) must be not more than 3mm (+/- 1mm).</li> <li>• All hinges and latch parts necessary for holding the door in place during a fire shall comply with BS 8214: 2016 and BS EN 12209: 2003.</li> <li>• Where there are gaps between the door lining and the surrounding construction all voids must be properly filled using suitable fire stopping material applied under the manufacturer's specifications.</li> <li>• Where glazing is incorporated into fire doors, 6mm Georgian-wired glass or fire resistant glazing is to be used. The glazing must be fixed according to BS 476 Parts 20-23.</li> </ul>
3.5	<ul style="list-style-type: none"> <li>• Arrange for the Automatic Opening Vents (AOVs) to be inspected/tested by a competent person, carry out any necessary works identified and provide a certificate of completion.</li> <li>• Arrange for the passenger lift to be inspected/Tested by a competent person, carry out any necessary works identified and provide a certificate of completion</li> <li>• Arrange for the wet riser to be inspected/Tested by a competent person, carry out any necessary works identified and provide a certificate of completion.</li> <li>• Arrange for the dry riser to be inspected/Tested by a competent person, carry out any necessary works identified and provide a certificate of completion.</li> </ul>

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**Officer**

Signature:

Name: Mr Paul Harrington

Title: Principal Enforcement officer

Date: 19<sup>th</sup> December 2019

Contact address: The Gateway, Gatehouse Road, Aylesbury Bucks. HP19 8FF

Email: envhealth@aylesburyvaledc.gov.uk

Telephone: 01296 585858

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**Notes**

Copies of this notice will be served on every other person who, to the knowledge of the local authority, is an occupier of the premises or has a relevant interest, that is an interest as freeholder, mortgagee or lessee.

**Meaning of 'category 1 hazard' and 'category 2 hazard'**

'Category 1 hazard' means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score of or above a prescribed amount.

'Category 2 hazard' means a hazard of a prescribed description which falls within a prescribed band as a result of achieving, under a prescribed method for calculating the seriousness of hazards of that description, a numerical score below the minimum amount prescribed for a category 1 hazard of that description.

'Hazard' means any risk of harm to the health or safety of an actual or potential occupier of a dwelling or HMO which arises from a deficiency in the dwelling or HMO or in any building or land in the vicinity (whether the deficiency arises as a result of the construction of any building, an absence of maintenance or repair, or otherwise).

'Prescribed' means prescribed by regulations made by the appropriate national authority (see section 261(1)).

'Prescribed band' means a band so prescribed for a category 1 hazard or a category 2 hazard, as the case may be.

**Right of appeal (under Schedule 1, Part 3 of the Housing Act 2004)**

If you do not agree with this notice you may appeal against it to the Property Chamber of the First Tier Tribunal (PC), but you must do this within 21 days after this notice is served on you.

The office of the First Tier Tribunal (Property Chamber) for the region in which Aylesbury Vale District Council is located and to which appeals should be made is Cambridge County Court, 197 East Road, Cambridge, CB1 1BA. Tel: 01223 841 524.

Email [rpeastern@justice.gov.uk](mailto:rpeastern@justice.gov.uk). More information can be provided directly by that office.

More information can be found at <http://www.justice.gov.uk/tribunals/residential-property> where it is also possible to download the appropriate forms.

**These notes are intended as general information to the recipient(s) of this as a broad summary of their rights of appeal against the Notice. They are not intended to be definitive, and persons considering an appeal are advised to seek independent legal advice and/or refer to the full version of Schedule 1 to the Housing Act 2004. Further advice can be obtained from the Property Chamber of the First Tier Tribunal (PC) [www.rpts.gov.uk](http://www.rpts.gov.uk)**

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### **Appeal against Improvement Notice (under Part 3 of schedule 1 of the Housing Act 2004)**

10. The person on whom this Notice is served may appeal to a Property Chamber of the First Tier Tribunal (PC) formerly the Residential Property Tribunal against the Notice. The person must appeal using a Notice of Appeal, which you can obtain from the Property Chamber of the First Tier Tribunal (PC) formerly the Residential Property Tribunal. Paragraphs 11 and 12 below set out two specific grounds for appeal but an appeal may equally be made on other general grounds.

11. An appeal may be made under paragraph 10 above on the ground that one or more other persons as owner(s) of the premises ought to take the action specified in this notice or pay all or part of the cost of that action. If you appeal on this ground you must serve a copy of your Notice of Appeal on the person(s) concerned.

12. An appeal may be made under paragraph 10 above on the ground that rather than service of this Improvement Notice, one of the alternative courses of action below is the best course of action in relation to the hazard in respect of which this notice was served:

- (a) The making of a prohibition order under Section 20 or 21 of the Housing Act 2004
- (b) The service of a hazard awareness notice under Section 28 or 29 of the Housing Act 2004
- (c) The making of a demolition order under Section 265 of the Housing Act 1985

#### **Time limit for appeal**

13. Any appeal under paragraph 10 above must be made within 21 days of the correct service of this Notice. A Property Chamber of the First Tier Tribunal (PC), formerly the Residential Property Tribunal, may allow an appeal to be made after the expiry of the 21 day period if it is satisfied there is a good reason for the failure to appeal within that period (and for any delay since then in applying for permission to appeal outside the 21 day period).

#### **Powers of the Property Chamber of the First Tier Tribunal (PC) formerly the Residential Property Tribunal**

14. The appeal will be heard by the Property Chamber of the First Tier Tribunal (PC), formerly the Residential Property Tribunal, by way of a re-hearing but may take into account matters raised that the Local Authority were unaware of. The tribunal may confirm, quash or vary the Improvement Notice.

15. Where the appeal is made on the ground specified in paragraph 11 above the tribunal may:

- Vary the Improvement Notice so as to require the person(s) specified in the Notice of appeal to take the required action
- It may make an order as it considers appropriate requiring the payment of all or part of the costs of the action to be taken under the Notice by the person(s) specified in the Notice of Appeal or to the Local Authority

16. Where the appeal is made on the ground specified in paragraph 12 above (alternative courses of action), the tribunal must have regard to guidance issued to the Local Authority by the Government under Section 9 of the Housing Act 2004. If the tribunal finds that an alternative course of action was the best course of action it must, if requested by the appellant or the Local Authority, identify that course of action.

#### **Operative time for the Notice following appeal**

17. If the tribunal upholds the Notice, and the Notice was not suspended, it becomes operative at the end of the allowable period for further appeal to the Lands Tribunal, if such further appeal is not lodged. If the Notice was suspended for a period longer than this, it becomes operative at the end of the suspension period.

#### **Power to take action without agreement (under Part 2 and 3 of schedule 3 of the Housing Act 2004)**

If you do not comply with the Notice, the Local Authority may do the works themselves and charge you with the cost.

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If, during the period in which the works are to be carried out, the Local Authority think that reasonable progress is not being made, they may, after giving notice in writing of their intention to do so, do the work themselves and charge you with the cost.

Until recovered, the expenses recoverable by the Local Authority, together with any accrued interest on them, are a charge on the premises to which the Improvement Notice related.

Power to take action with agreement (under Part 1 of schedule 3 of the Housing Act 2004).

If you have difficulty in finding a builder to do the works or have any other problems in arranging the works, you can ask the Local Authority if they will do the work themselves and charge you with the cost.

#### **Application for revocation or variation of the Notice**

If you are satisfied that the requirements of the Notice have been complied with in full, or where the Notice relates to a number of different hazards and the requirements of the Notice relating to some of these have been complied with, you may apply to the Local Authority for revocation or variation of the notice as appropriate (Section 16).

#### **Changes in person(s) liable to comply with the Notice after service**

If, after the service of the Notice, the person(s) on whom it was served cease(s) to be a 'person of the relevant category' (e.g. licence holder, person managing, person having control etc.) i.e. the interest in the property is disposed of or the licence holder/persons managing change, then that person's liability to comply with the Notice may cease and transfer to the new person(s) of the relevant category. Changes in ownership, management or licence holder should therefore be notified to the Local Authority at an early stage and clarification of liability for compliance should be sought (Section 19).

#### **Penalty: offence of failing to comply with Improvement Notice**

If you, without reasonable excuse, fail to comply with the Notice you commit an offence punishable in the Magistrates' Court by a fine.

The obligation to take any remedial action specified in the Notice in relation to a hazard continues despite the fact that the period for completion of the action has expired. (Section 30).

#### **Land Charge**

When the Notice becomes operative, it will be a local land charge on the premises to which it relates. This means that it will be recorded in the register of local land charges kept by the Local Authority. This register is public and anyone may search for entries in it upon payment of a fee. Purchasers will normally search this register (Section 37).

#### **Grant**

You may be entitled, under Part I of the 1996 Act, to a discretionary grant from the Local Authority towards the cost of the works. The premises will have to satisfy the preliminary conditions of grant in each case. You should contact the Local Authority about the possibility of obtaining grant and submit a formal application for grant before appointing contractors or starting the works.

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#### **Advice**

If you do not understand the contents of this Notice or would like to know more about it, please contact the Local Authority. If you would like to receive independent advice about the contents of this notice, your rights and obligations then please contact The Citizens Advice Bureau, Housing Aid Centre, Law Centre or solicitor. Please be aware that you may qualify for legal aid or otherwise free independent advice from a solicitor or legal advisor for up to half an hour.

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