

MERSEYSIDE FIRE AND RESCUE AUTHORITY

MEETING OF THE

SCRUTINY RAPID REVIEW – COMMUNITY RISK MANAGEMENT

15 NOVEMBER 2019

MINUTES

Present: Councillors Anthony Boyle, Coleman, Janet Grace, Knight, Andrew Makinson and Paul Tweed

Also Present:

Apologies of absence were received from: Cllr Arnall, Cllr Barrington, Cllr Berry and Cllr Lisa Preston

1. Community Risk Management - Rapid Review Presentation

Members considered a detailed presentation, concerning a scrutiny review of the building planning process and involvement of MFRA in planning decisions; and the regulation of HMO's.

The Area Manager for Community Risk Management – Guy Keen, provided Members with an introduction and a brief overview of his Directorate, which consists of 3 main Departments: Protection; Prevention; and Community Safety.

Members were advised that the presentation will aim to answer the specific questions that have been raised, however Members were invited to ask any further questions that they may have, throughout the presentation.

Group Manager Chris Head informed Members that the presentation would provide an overview of the relevant legislation; and the duties that officers discharge on behalf of the Authority. It was stressed to Members that MFRA Officers can only act against the legislation that applies to us as a FRA; and they were informed that this can sometimes be frustrating when our powers are so limited within particular areas.

Members were informed that with regards to some of the questions that were submitted around our involvement in planning applications, they are likely to be quite shocked as to how limited that can be; and that the presentation will also demonstrate how other pieces of legislation can impact on us as a FRS, when we enter a building.

They were also advised that FRS's work on a number of assumptions when entering certain premises, such as high rise buildings; and if everything works as it should, there shouldn't be any issues. However, when things have not

been done properly, this can create significant problems, as was the case with the Grenfell Tower tragedy.

Members were informed that the aim of the Community Risk Management Directorate, is to provide excellent Prevention and Protection by “*Working with our partners and our communities to protect the most vulnerable, through targeted local risk reduction interventions and the robust application of our legal powers*”. They were advised that the Fire Safety Regulations are applied by the Protection Department; and that where firefighters aim to make premises safe when they attend incidents and are going in when things have gone wrong, the Protection Department are trying to protect premises and prevent things going wrong in the first place.

Members were informed that a large proportion of the Protection Department have been operational staff previously, which enables them to comprehend what is likely to happen; and what firefighters are likely to face, if something does go wrong within a premises. They were informed that with regards to HMO's and other such premises where there are shared communal areas, as these areas are not owned by one particular person, there is a tendency for them to not be maintained as well as people's individual space, which can therefore increase the risk within them. For example, doors within HMO's are fire doors and are quite different to those within other premises or individual homes. Where these are damaged, or not fit properly, it can create issues, particularly for firefighters should they have to attend an incident in that premises, as it can create a difficult environment when trying to fight a fire or undertake a rescue. As such, having operational experience can be valuable, as it enables officers to recognise potential issues.

Members were informed that unfortunately, fire does discriminate and it picks on the poor, elderly; and those with other lifestyle issues. It was highlighted that such individuals also tend to live in HMO's, meaning that you often have the most vulnerable people within a community, living in the most high risk premises. They were advised that it is our responsibility as a fire and rescue service to ensure that we use our regulatory powers as well as possible, to keep everyone within our communities as safe as possible.

It was also highlighted to Members that Courts are now starting to recognise this, which is evidenced by the fact that custodial sentences are starting to be issued for breaches of Fire Safety Regulations. Also, particularly since Grenfell, there has been an increase in the number of cases going to the Crown Court, which further highlights a change in attitude.

Members queried whether Grenfell had had an impact on the number of successful prosecutions; and were informed that it definitely had. They were advised that attitude by the courts and magistrates was starting to change before, however Grenfell did make people stand up and pay more attention to fire safety; and Judges to look at breaches in Fire Safety Regulations more seriously.

A further question was raised by Members regarding the input of the Fire Service into planning applications; and if their input had been greater in the past.

Members were informed that under the Fire Precautions Act (which was replaced by the Fire Safety Order in 2005), Fire and Rescue Services did have more teeth. However, that Act was considered to be too much of a regulatory burden; and the introduction of the Fire Safety Order 2005, saw a shift towards businesses and premises taking responsibility for managing fire safety within their buildings themselves.

Members also asked if officers felt it would make their job easier if they were to get back the powers that they previously had. Members were informed that officers agree with Dame Hackett, that the current process is broken; and stated that FRS's do need more powers to address fire safety issues. They were informed that the current process is very fragmented; and despite FRS's having very limited powers, when something does go wrong, it is the FRS that everyone looks to.

Members were informed that the concept of a Joint Competent Authority is currently under consideration; and is something that MFRS are heavily involved with.

A further question was raised by Members regarding previous requirements for there to be 2 unblocked staircases in certain premises, such as office blocks; and whether this is still a requirement.

Members were advised that when the Building Regulations 2010 came into force, certain standards around fire safety, were laid down in Approved Document B, which states how many exits are required within buildings. Although generally, there should be two provided, often there is only one, as many buildings will have been built before the Regulations came into force; and it is impossible to go around installing additional staircases retrospectively.

Members were informed that it is highly likely that new legislation will be brought in following Grenfell.

With regards to cladding issues, Members were advised that ACM cladding has now been banned. They were informed that most of the local authority stock containing ACM cladding across Merseyside, was social housing; and that two such premises within Merseyside had their cladding removed overnight, immediately following the Grenfell tragedy. It was highlighted to Members that there are three properties across Merseyside that still contain ACM cladding, however powers are not available to MFRS to force the cladding to be removed. Members were advised that this can be difficult because as an organisation, we face a risk that we have no control over.

Members were advised that MFRS work closely with partners; and the way in which local social housing providers have engaged with MFRS is very reassuring. However, it was also highlighted that in other premises that are privately owned and rented out, it can be rather more difficult trying to identify who is the responsible person that officers need to speak to.

Members were also informed that the Government have now responded by providing direct funding to assist with the removal of cladding, which is likely to have a positive impact on the removal of cladding within private sector buildings.

A comment was made by Members around the fact that Grenfell Tower only had one stairwell, which they found concerning.

Members were informed that the stairwell at Grenfell would have needed to be enormous to enable mass evacuation, given the number of people living within the building. They were informed that the staircases within football stadiums and the like, are designed specifically to enable a vast amount of people to get out all at once, however such designs are not economical within accommodation premises. Members were advised that high rise accommodation is specifically designed so that not everyone is required to evacuate all at once. They were informed that such buildings are designed so that each individual unit or compartment, has 60 minutes protection against fire, which should provide plenty time for the fire service to attend and extinguish any fire; and remove the need to evacuate people. They were informed that problems occur when what we assume and rely on being built, is not what was actually built in reality. Members were informed that in the case of Grenfell Tower, the building was never designed to have more than one staircase; and what FRS's want to ensure, is that compartmentalisation works in the way it is designed to do, rather than have additional staircases installed. They were also advised that retrospective changes to buildings, can result in compartmentalisation being breached and the principles giving way, for example by adding flammable cladding to the exterior of buildings.

A question was raised by Members around whether the Fire Service is changing how they potentially deal with incidents in high rise buildings moving forward, now that the stay put policy is under scrutiny, as it is likely to lead to people behaving more unpredictably.

Members were advised that is absolutely something which they are aware of. It was clarified to Members that incidents occur in high rise premises regularly; and the stay put policy generally works well and helps to keep people safe. They were informed that if you were to try and evacuate a large number of often vulnerable people, this could have serious consequences and have a serious impact on the health of those individuals. They were informed that the National Fire Chiefs Council (NFCC) are currently looking at advice. They were also informed that officers do not wish to discredit the stay put advice, as this is often still the safest action, however it can no longer just be assumed as the best course of action. There will need to be a constant dynamic risk assessment undertaken during incidents; and there may be a point during an incident at which the stay put policy becomes void.

Discussion took place around how it would have been possible to evacuate a large number of people safely; and it was stated that in the case of Grenfell, it wouldn't have been possible to do so. Members were advised that if the decision had been made to evacuate the premises, it is highly likely that the staircase would have become blocked and many people are likely to have been

killed. In that situation, it is likely that the fire service would have been criticised for moving away from national policy.

It was stated that in reality, FRS's can no longer rely on buildings to be have been built in the way in which they were designed to mitigate any risks.

A question was raised by Members regarding providing reassurance to occupants, once a building has been inspected. Members were informed that following Grenfell, this is exactly what MFRS did. They were advised that a number of high rise campaigns took place in the aftermath of Grenfell, involving Protection staff checking compliance with Fire Safety, Operational Crews, checking dry risers etc.; and Prevention staff, providing fire safety advice to residents.

Members were also informed that when Marwood Towers was built, it did include a sprinkler system, however MFRS had also wanted a communication system to be installed as well, which would enable the Fire Service to communicate directly with residents during an incident. They were informed that such systems are common in the USA, however they are not recognised under UK Regulations. As such, it was not possible to get one installed. Officers advised Members that this is clearly something which would be of great benefit and something which FRS's are pushing to be included within Regulations.

The presentation highlighted the applicable legislation to Members.

They were informed that the Town and Country Planning Act 1990 is applicable at the very start of a planning application. At this stage, FRS's are consulted and provided with an opportunity to provide input and opinions around issues such as the installation of sprinklers etc., prior to the application being submitted to the relevant Planning Committee for consideration.

Members were advised that the Building Regulations 2010, come next, once the building process is underway. They were informed that FRS's do have some involvement at this stage, along with other organisations.

Members were informed that the key piece of legislation for FRS's is the Fire Safety Order 2005, which is effective once the premises are built and occupied.

It was highlighted to Members that there are therefore 3 key pieces of legislation, with a different organisation responsible for each.

Members were advised that the Fire Safety Order 2005, doesn't cover any materials, or the way in which the building has been constructed. Therefore, the Fire Service are only really involved once the premises are built and occupied. They were informed that the Fire Safety Order 2005, does not apply to single private dwellings, but it does apply to some areas of HMO's/ flats.

With regards to the Planning process, Members were advised that the legislation allows for consultation and other non-statutory involvement with the FRS, with the Fire Safety Order stating that:

"The Local Authority must consult with the Fire and Rescue Servicers, before passing plans for new buildings or alternations to existing buildings"

Members were informed that the Planning and Building Regulations Team (PBRT) complete that process on behalf of MFRA; and that within the last reporting period 2018-19, a total of 2367 consultations were completed by the PBRT, which consists of 4 members of staff. They were advised that some of those consultations were very simple, whilst some were extremely complex; and that they consist of a mix of commercial, retail and residential developments.

With regards to planning consultations, Members were informed that they are very much limited to specific areas; access for fire appliances, water supplies for firefighting; and hazards to neighbouring premises. It was noted that issues such as staircases, as discussed earlier, are not areas that FRS's are consulted on.

In relation to building regulations applications, Members were advised that the application will be made to either the Local Authority or an Approved Inspector, following which, further consultation with the Fire Service is undertaken. They were advised that at this stage, the Fire Service can comment on access and facilities for the Fire Service, with the Regulations stating that:

“(1) The building shall be so constructed as to provide reasonable facilities to assist firefighters in the protection of life.
(2) Reasonable provision shall be made within the site of the building to enable fire appliances to gain access to the building.”

Members were informed that the standards for (1) and (2) are as laid down in Approved Document B Fire Safety. They were advised that at this stage of the process, FRS's are starting to get a bit more of a say, but not on issues such as the installation of sprinklers. It was highlighted to Members that as a FRS, we also assume that developers actually build to the exact plans approved.

Members were informed that in relation to facilities for firefighters, this includes ventilation and ensuring that there are smoke vents on stairs to remove smoke and ensure that the staircases remain safe for firefighters to use. It also includes the installation of firefighting lifts, which are critically important for the FRS as they provide a way of getting from the ground floor to the top of a building. As high rise buildings such as Grenfell can have over 20 floors, if a building does not have a firefighting lift, it would mean there are a substantial number of stairs that firefighters would have to climb with all the necessary equipment, before they can even start to fight the fire. Members were informed that there are still some older buildings that do not have a firefighting lift.

Clarification was requested by Members regarding the difference between a firefighting lift and a normal lift. Members were advised that firefighting lifts have 2 power supplies and are designed to provide 1 hour fire protection. They can only be controlled, operated and accessed by FRS's; and have a communication system within them. Members were advised that they also include an escape hatch in the roof of the lift car, which would enable firefighters to climb through and climb up the lift shaft; and are designed to work under the worst circumstances.

Members were shown diagrams detailing the components of a firefighting lift shaft, to highlight how they are located and protected.

The presentation went on to highlight to the Members, the complex building and fire safety regulation system, within which the 3 key pieces of legislation detailed sit. It was noted that in the case of Grenfell, something within that hugely complicated regulatory system, did not work in the way in which it should have.

At this point, a crew from Aintree Community Fire Station joined the meeting in their full Personal Protective Equipment (PPE) and equipment bag, to demonstrate to Members what they would be wearing and carrying when they arrived at a fire within a high rise building. They were provided with an overview of all of the equipment that they would be expected to carry, and highlighted the significant weight of such equipment. It was explained to Members, that if the fire crews had to get to a fire several floors up, and there was no firefighting lift available for them to use, it would be extremely arduous for them to get to the fire, before they even start to fight the fire.

It was explained to Members that it is assumed that there will be a firefighting lift available for use, however if there is not, and the equipment has to be carried up the stairs, firefighters will only have around 40 minutes air supply. Therefore, the situation can start to become very difficult for them.

Discussion took place around the Planning Committee process and if information became available from the fire service expressing concerns regarding a proposed development, the Planning Committee could withhold planning consent. It was noted that the Planning Committee would be within their right to withhold planning consent should they see fit, however it is likely that any such concerns would have been considered by officers before any planning application came before the Planning Committee.

Members were informed that officers are involved in some pre-planning work, for example for the Royal Liverpool Hospital, however they are hamstrung when it comes down to planning decisions. They were informed that officers will often comment on areas that are not within our statutory areas of responsibility, where it is considered appropriate to do so, but often the developers submitting the application will push back.

In terms of fire safety, Members were informed that Grenfell changes everything. They were informed that some tough questions were asked during the inquiry regarding the incident, particularly of the initial watch manager; which will have an impact across all FRS's.

With regards to the Hackett Report published in May 2018, concerning an independent review of Building Regulations and Fire Safety, Members were informed that the report states that:

"The current system of building regulations and fire safety is not fit for purpose and that a culture change is required to support the delivery of buildings that are safe, both now and in the future. The system failure identified in the interim report, has allowed a culture of indifference to perpetuate."

Members were also informed that the recommendations contained within the report, received full Government support when presented to Parliament in September 2018.

The presentation went on to highlight the 10 key recommendations contained within the Hackett report, which are as follows:

- 1. A new regulatory framework, focused in the first instance on multi-occupancy higher risk residential buildings (HRRB's) that are 10 storeys or more in height. Achieved through a Joint Competent Authority (JCA).*
- 2. Improving the focus on building safety during the design, construction and refurbishment phases. Rigorous and demanding duty holder roles and responsibilities to ensure a stronger focus on building safety. Wider enforcement powers.*
- 3. Improving the focus on building safety during the occupation phase, with a clear and identifiable duty holder with responsibility for building safety of the whole building.*
- 4. Giving residents a voice by providing reassurance and recourse including a no-risk route for residents to escalate concerns on fire safety, to an independent statutory body that can provide support where service providers have failed to take action.*
- 5. Setting out demanding expectations around improved levels of competence. Through an overarching body to provide oversight and competence requirements for the construction and fire safety sector(s).*
- 6. Creating a more effective balance between government ownership of building standards and industry ownership of technical guidance.*
- 7. A more robust and transparent construction products regime, a more effective testing regime with clearer labelling and product traceability.*
- 8. Creating a golden thread of information about each HRRB by creating a digital record for new premises from initial design through to construction and including any changes that occur throughout occupations.*
- 9. Tackling poor procurement practices to drive the right behaviours to make sure that high-safety, low-risk options are prioritised and full life cycle cost is considered when a building is procured.*
- 10. Ensuring continuous improvement and best-practice learning through membership of an international body.*

In relation to recommendation 7, Members stated that when planning applications come in, they specify what the building will be made of, but questioned who would make a decision regarding refurbishments, such as the installation of cladding on Grenfell.

Members were informed that if the planning application went to the Local Authority, it would be their responsibility to ensure that the refurbishment complied with building regulations. However, it could also go to an approved inspector.

Further comments were made by Members regarding the type of materials used, and it was noted that as a member of a Planning Committee, there have been occasions on which the Committee has been provided with a sample of materials that are to be used, so that there is a record of the specific material to refer back to.

It was also commented that as members of a Planning Committee, they may be told that materials are a specific grade, however they are only lay persons and are not experts. As such, it was noted that they are reliant on officers to provide the Committee members with effective advice.

Members commented that it was wrong that Planning Committee members are not aware of things right at the start of the planning process; and that perhaps as a Fire Authority, they should be communicating that with Government and making their own recommendations.

Members were informed that officers have provided some technical responses to public consultations, around issues such as the fire retardancy of bricks; and that officers within the Fire Protection Team provided the information for that response, as they have the specialist knowledge to do so. It was noted that we live in a democracy, and it is right that Members have an involvement in such decisions. However, Members should be able to rely on the system that sits behind the decision making, but Grenfell highlights that unfortunately, we cannot do so on every occasion.

Members were then advised of the Public Inquiry into Grenfell, which was established to examine the circumstances leading up to and surrounding the incident. Members were informed that the key areas of inquiry are as follows:

- (a) The immediate cause or causes of the fire and the means by which it spread.*
- (b) The design and construction of the building and its modification, refurbishment and management.*
- (c) The scope and adequacy of building regulations, fire regulations and other legislation, guidance and the design, construction, equipping and management of high-rise residential buildings.*
- (d) Whether such regulations, legislation, guidance and industry practice were complied with.*
- (e) The arrangements made by the local authority or other responsible bodies for receiving and acting upon information relating to the risk of fire at Grenfell Tower; and the action taken in response to such information.*

The presentation then highlighted to Members, some of the conclusions drawn from the Grenfell inquiry Phase 1 Report. Members were informed that these have been around how the fire started; why the fire developed so quickly; why the fire spread throughout the tower block; the planning and

preparation of London Fire Brigade for such an incident; and the response of London Fire Brigade.

Members were informed that there is no outcome of the Police investigation into Grenfell as yet.

Discussion took place around the possibility of input being provided to members of Local Authority Planning Committees around fire safety; and it was requested that Officers consider how this might be facilitated.

Further comments were made by Members regarding the host of failures that contributed towards Grenfell; and how it would be extremely difficult for any organisation to prepare for something like that.

Members were informed that the report identifies a number of personal acts of bravery; and that no individual has been criticised for their actions. However, they were advised that how London Fire Brigade were prepared for it, will be questioned in terms of their organisational policies and learning. They were also informed that some of the wider questions, are likely to have implications that will be felt by all FRS's.

Members Resolved that:

- a) The content of the presentation, be noted.
- b) Their thanks be recorded to officers for such an informative presentation.
- c) Consideration be given by officers, into how information regarding fire safety, could be disseminated to members of Local Authority Planning Committees.

Close