

CHESHIRE EAST COUNCIL

Cabinet Member for Safer & Stronger Communities

Date of Meeting: 13th September 2010
Report of: Strategic Director - Places
Subject/Title: Housing Fire Safety Protocol

1.0 Report Summary

- 1.1 This report outlines the local authority's duty to enforce fire safety in residential properties and recommends that a protocol be agreed between Cheshire East and Cheshire Fire and Rescue Service to aid co-ordination of the actions of both bodies and promote fire safety.

2.0 Recommendation

- 2.1 That the Housing Fire Safety Protocol appended to this report be agreed between Cheshire East Council and Cheshire Fire and Rescue Service to aid co-ordination of the actions of both bodies and promote fire safety.

3.0 Reasons for Recommendations

- 3.1 Cheshire East has a legal duty to take enforcement action where a Category 1 hazard assessed under the Housing Act 2004 is present in a residential property, including hazards related to fire. Cheshire Fire and Rescue Service also have a legal duty to ensure fire safety in common areas of multiple-occupied housing. The protocol sets out the lead responsibilities of each authority and joint working arrangements. Failure to agree joint working arrangements could lead to tenants of privately-rented properties and their neighbours being vulnerable to fire risks.

4.0 Wards Affected

- 4.1 All wards.

5.0 Local Ward Members

- 5.1 All local ward members.

6.0 Policy Implications including - Climate change - Health

- 6.1 There is a greater risk of fire in a house in multiple occupation or a flat. The health risks of fires is well documented, with a high risk of fire leading to death. The reduction of fire risks will lead to reduced pressure on accident and emergency departments and the risk of fatality.

7.0 Financial Implications

7.1 There are no financial implications.

8.0 Legal Implications (Authorised by the Borough Solicitor)

8.1 The Council has the statutory duties in relation to fire safety which are referred to in this report, and the Cheshire Fire and Rescue Service has its own statutory duties. Whilst there is no statutory duty to enter into a protocol with another statutory body to improve fire safety, the power to do so is outlined below, and it is good practice to have a protocol between the Council and the Cheshire Fire and Rescue Service to promote co-ordination of the way in which their respective duties are carried out.

8.2 The power to enter into a protocol is contained within section 111 of the Local Government Act 1972 which states: *“Without prejudice to any powers exercisable apart from this section but subject to the provisions of this Act and any other enactment passed before or after this Act, a local authority shall have power to do any thing (whether or not involving the expenditure, borrowing or lending of money or the acquisition or disposal of any property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of any of their functions.”*

9.0 Risk Management

9.1 Without a protocol in place, there is a risk that the two authorities may not be able to optimise co-ordination of their statutory duties, potentially placing tenants at risk. Putting the proposed protocol in place mitigates that risk.

10.0 Background and Options

10.1 The Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005 imposed an analogous duty on local authorities and fire and rescue authorities to enforce fire safety provisions within houses in multiple occupation.

10.2 A house in multiple occupation is defined as:

- An entire house or flat, which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet.
- A house or flats which have been converted entirely into bed-sits or other non-self contained accommodation and which are let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet facilities.
- A converted house, which contains one or more, flats which are not wholly self-contained (i.e. the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by three or more tenants who form two or more households occupy.

- A building, which has been converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one third of the flats, are on short-term tenancies.
- 10.3 There are 25 licensed houses in multiple occupation in Cheshire East, and approximately 150 non-licensable houses in multiple occupation.
- 10.4 Local authorities have a legal duty to enforce minimum housing standards under the Housing Act 2004 utilising the Housing Health and Safety Rating System, and licence certain houses in multiple occupation under Part 2 of the Housing Act 2004. The statutory licensing scheme applies to houses in multiple occupation of 3 or more storeys where 5 or more tenants form at least 2 households, and share a kitchen, bathroom or toilet facilities.
- 10.5 Fire and rescue authorities have a legal duty to enforce the Fire Safety Order in the common areas of all residential accommodation not forming a single private dwelling, including houses in multiple occupation.
- 10.6 Because responsibility for enforcing fire safety legislation overlaps between the authorities, the Chartered Institute of Environmental Health and the Chief Fire Officers Association recommend that a protocol is established at a local level to clarify authorities' lead roles.
- 10.7 Cheshire Fire and Rescue Service have worked with Cheshire East Council and the three other local authorities in Cheshire to develop a protocol to ensure the efficient use of resources, appropriate review and monitoring arrangements, and to identify separate areas of inspection and enforcement and provide for urgent or complex requests for assistance from either party. It seeks to provide all parties, as far as practical, with a measure of confidence that they are discharging their respective duties under their respective legislation.
- 10.8 The protocol clarifies which authority has the lead role for enforcement in different types of properties, and establishes arrangements for consultation between authorities on fire risks and enforcement action to be taken against owners of non-compliant residential properties.
- 10.9 The local authority has the lead role for inspecting and enforcing the Housing Act 2004 in single-occupied residential properties, shared housing, houses in multiple occupation, and all self contained flats in its boundaries.
- 10.10 The fire and rescue authority has the lead role for inspecting and enforcing the Fire Safety Order in hostels, bed and breakfast accommodation, hotels and all multiple-occupied accommodation owned by the local authority.
- 10.11 The lead role for inspecting and enforcing fire safety legislation in premises with mixed commercial and residential provision and sheltered housing will be determined based on the individual nature of the property and by agreement between the authorities.

10.12 The local authority has a duty under section 10 of the Housing Act 2004 to consult the fire and rescue authority, wherever practicable, before issuing a licence for a house in multiple occupation or taking enforcement action where a fire hazard is identified in any house in multiple occupation. The protocol clarifies how that consultation will be carried out.

11.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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