

Subject:	Housing Health & Safety Update - Leaseholder fire doors		
Date of Meeting:	September 28th 2022		
Report of:	Executive Director for Neighbourhoods, Communities & Housing		
Contact Officer:	Name:	Geof Gage	Tel: 01273 293235
	Email:	Geoffrey.gage@brighton-hove.gov.uk	
Ward(s) affected:	(All Wards);		

FOR GENERAL RELEASE**1. PURPOSE OF REPORT AND POLICY CONTEXT**

- 1.1 Our highest priority is the safety of our residents and those visiting or working on Council homes.
- 1.2 Key aims of the Housing Committee Work Plan 2019-23 in relation to the Housing Revenue Account (HRA) Budget & Capital Investment Programme 2022/23 include, continuing to meet the council's landlord obligations with regards to health and safety and continuing to review and enhance fire safety measures for residents.
- 1.3 The HRA Budget Strategy anticipates the significant legal and regulatory changes we expect to follow from the post Grenfell tragedy review of building safety through the Building Safety Act and the proposals that will change how social landlords operate encompassed in the Social Housing White Paper. The obligations arising and investment required from these changes is still evolving and will be subject to future reports to Housing Committee. Investment in compliant front entrance doors has been a particular area of priority work identified.
- 1.4 The purpose of this report is to advise Housing Committee of the present position of our programme to replace non-complaint Manse Masterdors to flat entrance doors across the City.
- 1.5 The report gives consideration as to the replacement of the Manse Masterdor to leasehold flats.

2. RECOMMENDATIONS:

- 2.1 That the Housing Committee note the progress on the programme of works for the replacement of non-complaint (Manse Masterdors) front entrance doors and frames.
- 2.2 That the Housing Committee approve the recommended approach with regard to charging of leaseholders for replacement of non-compliant front entrance doors and frames.

3. CONTEXT/ BACKGROUND INFORMATION

- 3.1 Emerging building and fire safety legislation, regulation and potential investment requirements with regard to Council homes has been reflected in the Housing Revenue Account (HRA) Budget & Capital Investment Programme 2022/23 and will be the subject of future reports to Housing Committee.
- 3.2 During the period up to 2010 we undertook a programme of replacement flat entrance doors to upgrade to a fire door that was suitably certified. The product selected at the time was Manse Masterdor, which was of a suitable certification to meet the requirements.
- 3.3 Following the Grenfell tragedy Manse Masterdors were tested as part of the rigorous investigation and failed the classification regime and hence we now have a requirement to replace these to all properties where previously installed.
- 3.4 Following the appointment of our planned works contractors in April 2021 we commenced a process of identifying and approving a door and frame set that met the new standard and requirements and met the rigorous certification necessary under the new regulations, we concluded the certification process in August 2021 and suppliers were appointed.
- 3.5 Our contractor for the replacement doors programme is A D Construction Group.
- 3.6 Our replacement programme commenced October 2021. We have 1,980 Manse Masterdors to replace, this is made up of 1,888 front doors and 92 rear doors, we have treated the replacement of these as priority within our programmes and we anticipate completing the upgrades in 2024.
- 3.7 The 2022/23 budget for the replacement door programme which will incorporate Manse Master doors is £1.20m, the estimated cost to replace the Manse Masterdors is £2.97m over 3 financial years.
- 3.8 As this programme is over a number of years we have carried out additional fire risk assessments on all of our high-rise buildings where Masterdors are installed. We have specifically looked at the potential impacts of the door failing within 30 minutes and the assessments have confirmed that the risk is low.
- 3.9 Our priority for the replacement programme has been to high rise blocks above 18 metres in height and the completion of these will be complete by March 2023. The latter part of the programme will address the low-rise blocks.

4. ANALYSIS & CONSIDERATION OF ANY ALTERNATIVE OPTIONS

- 4.1 The consideration and decision required is as to if we recharge leaseholders for the replacement or whether we cover the costs ourselves.
- 4.2 Under the requirements of the Building Safety Act 2022, the presumption for the responsibility for replacement of non-compliant elements of the building sits with the freeholder with no charges to be levied on leaseholders. In view of this but subject to the caveats set out in paragraph 7.4, it is the responsibility of the

Council to replace the now non-compliant doors at our cost therefore we are obligated in most cases to undertake the replacement and bring to Committee for noting.

- 4.3 There is one exemption to this, which is where the leasehold property is not the main or principal home, or the leaseholder has other properties. However, it is believed that the number of properties to which this might apply will be small and on a cost benefit analysis little or no savings would be made. In addition to the substantial checks that would be needed, there is a formal notification process and the potential for tribunal litigation. We will make some spot checks, but at this time and for the purpose of this reports consideration we do not intend to pursue private landlords for recovery of costs unless we find a significant number of leaseholders with multiple properties.
- 4.4 From July 28th 2022, the Government have extended the Building Safety Fund. We have investigated as to where we are able to apply to the Fund for some recovery of our costs for the replacement of doors. However, the Building Safety Fund is clear in its requirements and only covers the replacement of non-complaint cladding to the external fabric of the building and is not therefore relevant to this work.
- 4.5 The risk of not undertaking a full replacement programme to the relevant blocks and / or that the potential that leaseholders refuse replacement doors, is that we do not have a fully compliant building in respect of fire safety. As we progress to enhanced Type 4 fire risk assessments and respond to the requirements of the Building Safety Act, this potential for the blocks concerned not meeting post Grenfell legislative requirements will be further increased and hence render the blocks concerned non-compliant.
- 4.6 Of the 1,980 doors with a Manse Masterdor we have identified that there are 92 leasehold properties within the stock that have a Manse Masterdor installed as a front entrance door, the replacement costs for these properties would be £0.177m.
- 4.7 Consultation with the leaseholders would be undertaken and the 92 properties would be included within the 2023/24 budget for replacement doors and commenced in April 2023.

5. COMMUNITY ENGAGEMENT & CONSULTATION

- 5.1 Leaseholders have raised the issue of charging for replacement of doors which do not meet post-Grenfell fire safety compliance testing. Specifically, concerns that leaseholders may be subject to additional charging for replacement of non-compliant doors when they had already been charged for doors recommended / provided by the council that were subsequently found to be non-compliant. Engagement with relevant leaseholders will be undertaken directly by the leasehold services team of Housing Investment & Asset Management.

6. CONCLUSION

- 6.1 Our recommendation to Committee is that we carry out the replacement of doors to leasehold properties at cost to the Council.

- 6.2 The basis of this recommendation is to ensure full fire safety compliance to our blocks to meet our statutory requirements under the Building Safety Act 2022.

7. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 7.1 The 2022/23 HRA Capital Investment Programme includes a budget line of £1.2m including provision to replace Manse Masterdors, the 2022/23 budget report outlined an estimated budget of £0.990m over the next two financial years.
- 7.2 The work on leaseholders' doors is not anticipated to commence until April 2023 and as such there will be no associated cost implication to report in the financial year 2022/23. All revenue and capital implications associated with the replacement of the Manse Masterdors will be included in the 2023/24 HRA budget paper and profiled accordingly over the medium term ensuring the £0.177m replacement cost is accounted for and reported through the 2023 January Housing Committee meeting and subsequently Full Budget Council in February 2023.
- 7.3 If recommendation 2.2 is approved and the costs of the replacement doors are not recharged to leaseholders they will need to be funded from within current HRA resources either via Direct Revenue Funding or through the financing costs associated with any borrowing undertaken to fund the capital programme. Any income which is available to be recovered following the subsequent review of leases will be included within the funding of the 2023/24 capital programme.

Finance Officer Consulted: Craig Garoghan

Date: 15/09/2022

Legal Implications:

- 7.4 Under the terms of their Right to Buy leases, leaseholders can be recharged the costs of replacing Fire Doors. However, the legislation which came into force in February 2022 starts from the position that if works are replacement of in this case 'defective' fire doors this is not to be charged to leaseholders. That is the starting presumption. Where leaseholders are not occupying or can be proven to have other properties, there is an exemption to that presumption. However, the position is that we then have to look at the leases. There are multiple types of leases which have different responsibilities attached to them. So, in addition to the process and considerations set out above, even if the Council has the ability to charge, it can only do so in line with the lease provisions. This is open to legal challenge, although we believe these are unlikely to succeed in most cases. We support the adoption of a practical approach as to whether to charge landlords or not. Further work should be undertaken to assess the numbers involved, but if they are deemed to be few, then recovery action may in fact be greater than the value involved. It is within the Council's discretion to not recover costs from leaseholders on this occasion, any decision not to charge must be taken in the full understanding of the implications for the council's wider tenant body, including the potential need to delay other programmes of work elsewhere.

We would also note that insurance provision might be compromised if there was undue delay in the works being completed (in addition to safety risks), early resolution of the replacement of doors is important. We do not believe insurance is compromised currently as there is a clear programme of works within a reasonable time frame. If, however a leaseholder would for unknown reason refuse works we would advise legal action by way of injunction. This would in our view be a recoverable cost against the leaseholder.

We also note that this is a situation very specific to the circumstances of the defective doors. Clearly the Council was installing doors which it felt to be fit for purpose. The fact they were not, was neither the fault of the Council nor that of the leaseholder, nonetheless they were defective. That is why the provisions of the 2022 act apply in relation to the doors. This does not set a precedent for other works or improvements going forward.

Lawyer Consulted: *Name Simon Court* *Date: 14.09.22*

Equalities Implications:

- 7.5 There are no equalities implications arising directly from this report. Our major and planned capital works programmes and budget proposals are subject to equalities impact assessments.

Sustainability Implications:

- 7.6 There are no sustainability implications arising directly from this report other than those already considered as part of our wider HRA Asset Management Strategy previously reported to Committee.

Any Other Significant Implications:

- 7.7 None other than those outlined in the report or the wider HRA Asset Management Strategy previously reported to Committee.

SUPPORTING DOCUMENTATION

Appendices:

1. None.

Documents in Members' Rooms

1. None.

Background Documents

1. None.

Appendix 1

Crime & Disorder Implications:

- 1.1 None arising directly from this report.

Risk and Opportunity Management Implications:

- 1.2 None arising directly from this report. Housing, Fire Health & Safety is subject to joint Council and East Sussex Fire & Rescue Service oversight through our Fire, Health & Safety Board.

Public Health Implications:

- 1.3 None arising directly from this report.

Corporate / Citywide Implications:

- 1.4 These are outlined in the body of the report.