



**CHILDREN AND FAMILIES OVERVIEW AND SCRUTINY COMMITTEE:**  
**5 MARCH 2018**

**FIRE SAFETY IN LEICESTERSHIRE MAINTAINED SCHOOLS**  
**AND ACADEMIES**

**REPORT OF THE DIRECTOR OF CHILDREN AND FAMILY SERVICES**

**Purpose of report**

1. The purpose of this report is to advise the Children and Families Overview and Scrutiny Committee of the actions taken to ensure the continued safety of pupils and other occupants of Leicestershire maintained schools and academies following the Grenfell Tower tragedy and to inform the Committee of the outcome of the Cabinet meeting on 9 February 2018.
2. The report sets out the findings of an evaluation of fire risk assessment information provided by maintained schools and academies, and members are also asked to note that work is taking place on a fire safety/sprinkler policy, to be the subject of a further report to the Cabinet.

**Policy Framework and Previous Decisions**

3. At present the County Council does not have a specific policy in relation to the installation of sprinkler systems in maintained schools and academies but follows statutory regulations and guidance relating to the design construction and management of buildings.
4. Schools must adhere to the Department for Education (DfE) guidance 'Building Bulletin 100: Design for Fire Safety in Schools' (2007) which provides direction for designers, fire engineers, building control officers (or equivalent) and fire safety officers and similarly advises Head teachers, governors, teaching staff and facilities and maintenance staff of their responsibilities as fire safety managers.
5. At its meeting on Friday 9 February 2018, the Cabinet considered a report on the matter where it welcomed the Council's work to ensure the counties schools and academies were compliant with current fire regulations, whilst raising concern in respect of the Department for Education's reluctance to share detailed information with the Council regarding fire risk assessment information gathered from Leicestershire academies. It resolved that the issue be brought to the attention of the Chairman of the Leicestershire and Rutland Safeguarding Children Board.

**Background**

6. The Grenfell Tower tragedy in June 2017 served to highlight concerns regarding buildings owned and managed by the Council. The Children and Family Services

department has carried out a fire risk assessment of school and academy buildings with particular regard to multi-storey buildings and those with residential accommodation.

7. In 2007 the DfE introduced Building Bulletin 100: Design for Fire Safety in Schools, a policy which favoured the use of sprinklers. In the policy's guidance, there was an expectation that all new schools would have sprinklers fitted and any exceptions would have to be justified by demonstrating that a school was low risk, in the sense that alternative fire preventative measures were in place and that the use of sprinklers would not represent good value for money.
8. Government figures show that between April 2007 and May 2010, 70% of new schools had sprinkler systems fitted but that since 2010 only 35% have done so. Whilst it is possible that this could be interpreted as new school buildings becoming much safer, it may also have resulted from some complacency about fire safety risk and an increased awareness of cost pressures.
9. The DfE released a draft of new fire safety guidance for schools in August 2016, but has yet to publish the outcome of the consultation that followed. At the time new wording in the guidance stated: "Building regulations do not require the installation of fire sprinkler suppression systems in school buildings for life safety", indicating that there was no longer an expectation that they would be fitted in most new school buildings. The suggested change to the guidance was regarded as an attempt to make it clearer that the expectation of fitting sprinklers was only in schools where a risk assessment identified they were necessary, rather than installing them as standard. Although the DfE has not issued final guidance it is worth noting that this consultation was conducted before the fire at Grenfell Tower and has received negative press comment since.
10. It is expected that the DfE will review its fire safety guidance once the final report of Dame Judith Hackitt concerning the Grenfell Tower tragedy is made public in the summer of 2018 (no date has been set for this yet). The interim report published in December concluded that the current regulatory system for ensuring fire safety in high-rise and complex buildings is not fit for purpose. The report has so far outlined six key areas for improvement, relating to regulation and guidance, roles and responsibilities, competence, process compliance and enforcement, residents' voice and raising concerns, and quality assurance.
11. Research by the Chief Fire Officers Association indicates that in the ten years from 2004 to 2014 there were 4,208 fires in schools which resulted in 129 casualties. Although sprinklers reduce risk to people being injured during a fire, they also have a key impact on helping to limit damage to property, and as a result, business continuity in the event of a fire.

### **Current Position in Leicestershire Schools**

12. There are 281 schools in Leicestershire including 224 primary schools, 48 secondary schools/colleges, 6 special schools, 2 SEND specialist nurseries and 1 Pupil Referral Unit (primary).
13. Of the above, 174 have now converted to academies. Of the remaining 107 establishments, the Council has direct responsibility for 95 of the properties (local

authority maintained schools), and the other 12 properties comprise voluntary aided schools directly controlled by the respective Diocese or independent Trusts.

14. Academies lease their school buildings (on 125-year leases) from the local authority, the County Council, in contrast to Diocese or Foundation Trust schools that normally will own their buildings. The Council has written to all academies twice, most recently in July 2017, to remind them of their responsibility to seek prior permission for any adaptations so the Council can keep its records up to date and issue a licence giving consent for work to be carried out – this requirement is also set out in the lease supporting the academy conversion process.

### **Local Authority Responsibilities for Academies**

15. Academies are directly responsible for their own buildings. This includes undertaking fire risk assessments, and carrying out remedial works or implementing practices to remove, reduce or protect from any identified risks. In consequence the Council has not previously kept a record of fire risk assessments undertaken by academies.
16. Where remedial works are necessary within an academy, Diocese, or Trust (Voluntary Aided or Foundation) school to ensure continued compliance with fire safety regulations, it is expected that having sought prior permission from the Council and obtaining a licence for the work (in both cases where appropriate to do so), any costs arising will be directly met by the academy or the respective Diocese, not the Council.
17. Where academy leases are in place for school buildings (which is not the case for Diocese or Foundation Trust schools), the County Council has powers to carry out inspections in particular for matters of safety, and there is a mechanism to require academies to carry out work if required. If the Academy fails to undertake the work, the Council may intervene and carry out the work and recover the cost – in practice this would be extremely difficult to do and it may be preferable to refer the matter to the DfE (via the Regional Schools Commissioner) for its intervention and direction.

### **Assessment of Fire Safety Risk**

18. The DfE made contact with all local authorities in July 2017 seeking information in relation to fire risk assessments in its maintained schools (for which the Council has direct responsibility), with a particular focus on buildings with residential facilities, multi storey design, and combustible cladding panels.
19. For maintained schools, the County Council operates a two-tier system of assessment for fire safety risk:
  - Type 1 assessments - these are a school governing body responsibility and deal with the safety of occupants, the safe evacuation of buildings, and good day to day management practices.
  - Type 2 assessment - these are a Council responsibility comprising structural and systems based assessments of school buildings covering issues such as compartmentation, type of fire alarm system, and travel distances to safe refuge.

20. The Type 1 fire risk assessments collated showed that whilst a small amount of concerns were identified from the first approach in July, which have now been resolved, all of the maintained schools are compliant with local management fire safety requirements.
21. The analysis of Type 2 assessments indicated that in general terms all relevant documentation continues to be updated every five years in keeping with the Council's expectations. All but three of the maintained schools were rated in the "tolerable" risk category where no major additional controls were required. In relation to the three schools which were considered to be in the higher "moderate" risk category, necessary remedial works have been undertaken to reduce the level of risk and visits are being undertaken to ensure these have been completed satisfactorily.
22. In July 2017 the DfE also made direct contact with all academies and the Diocese to seek similar information on fire risk. Academies and the Diocese were asked to respond directly to the DfE. The County Council has contacted the DfE to ascertain that the responses received were satisfactory. The DfE has given verbal confirmation but has declined to share the information provided by academies with the Council.
23. Whilst it is clear that the overall responsibility for fire safety compliance rests with the appropriate Academy Trust or Diocese, the Council nevertheless has a general duty, in relation to its role as the champion of children and families, to ensure the well-being and safety of all pupils. This duty is irrespective of the type of school or placement that pupils attend. With this duty in mind officers subsequently contacted each academy to confirm that they had undertaken Type 1 and Type 2 fire risk assessments in keeping with the expectation for maintained schools, or that they had completed an alternative assessment to similar standards, meeting all aspects of the appropriate national regulations and standards.
24. Very few of the 174 academies responded to the Council's letter of July 2017 outlining their responsibilities as tenants (referred to in paragraph 24 above). Further letters were sent subsequently on 28 September and 13 October 2017 specifically regarding fire safety compliance, and these were followed up with phone calls and emails from officers in the Children and Family Service and Property Services. This has resulted in the Council obtaining responses from all (100%) of Academy Trust or Diocese schools, which confirm that all have a current fire risk assessment in place.
25. At the time of writing three secondary academies are in the process of updating their fire risk documentation and this is expected to be received soon.

### **Analysis of information provided by Academies**

26. Officers have assessed the fire risk documentation provided by academies based upon answers to a set list of questions including the significance of fire risk issues identified at the school and the adequacy of the fire risk assessment reports themselves. For consistency, the same questions were asked of each academy.

From this assessment the schools have been grouped in the following categories;

- Green ⇒ no further action recommended.
- Amber ⇒ Follow up phone call to the designated responsible person for fire safety procedures to gain further clarification.
- Red ⇒ Documents provided but an inspection visit recommended seeking further assurance

This assessment of the documentation provided placed over half of the academies contacted in the green “low risk” category. However, 47 academies were categorised as amber “medium risk” and 34 academies as red “higher risk”.

27. It should be noted that assessments have been made solely on the information provided by the academies. Many schools identified as red (higher risk) have failed to provide up to date information to review or have not documented the actions taken as recommended in their latest fire risk assessment. Therefore, a higher risk assessment does not necessarily mean there is an immediate or significant fire safety risk, or that the school is unsafe to occupy. Those academy schools identified as higher risk are being asked for further information and reassurance as a priority.

### **Advice from Insurers**

28. The Council’s Insurers advise that all new build schools should be fully protected by an automatic sprinkler system. It should be noted that the Insurers’ advice extends further than current DfE guidance in Building Bulletin 100 as it suggests that in the event of any major extension, adaptation or renovation projects to existing schools, automatic sprinkler protection should be installed. Public buildings and schools in particular are considered as a high insurance risk, hence all maintained schools insured via the Council’s insurance programme carry a £500,000 excess in the event of a claim. The increasing challenge of insuring schools suggests that costs will continue to increase in future years.
29. At the point of conversion Academies have two choices, either to enter the DfE Risk Protection Arrangement (RPA) which, amongst other things, includes cover for buildings and contents based upon a per pupil fee. The RPA is an alternative to commercial insurance for academy trusts (and only requires a £500 excess) with the Government covering the losses instead of commercial insurance. There are no specific requirements within the RPA for the installation or requirement of sprinkler systems and it requires academies to make decisions on a minimum standard of risk management and compliance with various pieces of safety related legislation. Any new academy schools will be eligible for cover under this scheme. Alternatively, an academy can elect to insure commercially with a similar level of excess.
30. Clearly the availability of two different insurance schemes for academies, having different cover requirements and excesses, presents a potential source of confusion. Furthermore, the potential to exclude sprinklers through risk assessment from those buildings insured by the Council may introduce a further risk of its insurers being unwilling to provide cover.

## Development of Policy in Sprinkler Systems

31. Since early 2008 (following the DfE's Building Bulletin 100), the County Council has sought to install sprinkler systems in all new schools and major extensions or refurbishments save where the risk assessment had shown this to be unnecessary as adequate other fire safety measures were in place.
32. A formal policy on Sprinkler Systems installation is currently being developed. This will provide a clear approach to the installation of sprinklers in all new and existing Council buildings, including schools, and will include a new risk assessment tool to assist in the decision making process for refurbishment projects. The Policy will need to reflect and be able to adapt to the likely changes in statutory legislation which are expected following publication of the final report on the Grenfell Tower tragedy in the summer of 2018.

## New-build Schools

33. The table below indicates that the Council has built 9 new schools since the issue of Building Bulletin 100.

School	Status	Year Built	Sprinklers	Residential Accommodation
Forest Way Special School, Coalville	Academy	2009	✓	No
John Ferneley College, Melton Mowbray	Academy	2010	✓	No
Melton Vale Post-16 Centre	Academy	2010	✓	No
Richmond Primary, Hinckley	Academy	2011	✓	No
Ashmount Special School, Loughborough	Maintained	2013	✓	No
Fossebrook Primary, Braunstone	Academy	2016	X	No
Birkett House Community Special School, Wigston	Academy	2017	✓	No
Hallam Fields Primary, Birstall	Academy	2017	X	No

34. It should be noted that the design stage risk assessment of the Fossebrook and Hallam Fields new primary schools (both academies) confirmed that these buildings did not require sprinklers. However each building will be re-evaluated in accordance with the revised risk assessment arrangements being developed as outlined above.
35. In addition there are four special school buildings that do not have sprinkler systems fitted, which pre-date the 2007 DfE regulations. The need for retrofitting sprinklers in

these buildings will also be evaluated against the revised risk assessment process. These are:-

- Maplewell Hall School (maintained), built in 1857, and presently part residential.
- Dorothy Goodman Upper School (academy) built in 1961 and extended in 1971.
- Birchwood Special School, Melton Mowbray (maintained), built in 2004.
- Dorothy Goodman Lower School (academy), built in 2006.

36. There are no new schools planned within the 2018/19 Capital Programme but there are 3 schools which are due to have significant extensions or major refurbishment and each will have a sprinkler system fitted.
37. The next new school to open in Leicestershire is expected to be Lubbesthorpe Primary in September 2019. This is being built directly by the developers/landowners in keeping with their Section 106 obligations; officers have requested that the school incorporates a sprinkler system. It should be noted that in keeping with DfE regulations on the establishment of new schools, referred to as the 'Free Schools Presumption' process, all new schools to be built in the future by the Council, or developers/landowners acting on the Council's behalf under Section 106 obligations, will be academies.
38. Prior to this the DfE plans to commence re-building significant parts of four schools as part of the government funded Priority Schools Build Programme 2 (PSBP2). Discussions with DfE representatives have confirmed that the scheme for Bishop Ellis Catholic Primary in Thurmaston will include a sprinkler system, however the scheme for Highcliffe Primary in Birstall has been risk assessed by the DfE as not requiring sprinklers. At present the two remaining schemes for Cedars Academy in Birstall and Countesthorpe Leysland Academy are at the early design stage and information is awaited from the DfE regarding the installation of sprinklers.

## **Risks**

39. The main areas of concern expressed by the DfE in relation to fire risk relates to buildings with more than five storeys, those having residential accommodation, and any with combustible cladding. There are no Leicestershire schools over five storeys and only one maintained school (Maplewell Hall) now has a residential function. The residential boarding facilities at the Ashby School and the Charnwood College (Field House), both academies, are both located in buildings not owned by the County Council. However the appropriate fire risk documentation has also been reviewed for the residential facilities at these schools and found to be satisfactory.
40. Since the Grenfell Tower fire a combined Type 1 and 2 fire risk assessment has been carried out at Maplewell Hall and further added fire precautionary works have been undertaken. No aluminium cladding and insulation systems similar to that involved at Grenfell Tower have been identified at any Leicestershire school although checks are ongoing as the scope of the Government's testing programme continues to widen.

### **Resource Implications**

41. Provision has been made within the provisional 2018/19 capital programme for the installation of sprinkler systems within any significant expansion (extension and adaptation) of primary schools for existing schemes where a fire risk assessment concludes that they are necessary. Six schemes have therefore incorporated sprinkler installation at an overall cost to the capital programme of £784,000. Any additional costs over and above those already provided for in the capital programme for other new schemes will need to be considered as the schemes are developed for 2019/20 onwards, but is expected to place a further significant strain on the schools capital programme.
42. The DfE has not made clear its intentions to change national policy in the light of the Grenfell Tower tragedy; however it is expected that should it do so it would provide appropriate capital funding where this necessitates improvements to school buildings.
43. Funding will need to be identified in the event that it becomes necessary to retrofit sprinkler systems in County Council owned properties including schools deemed as high risk. This would be beyond the capacity of the capital programme (which is primarily provided for the development of additional school places). In the absence of central government grant this cost would need to be met by the County Council from the current capital grant and would therefore have significant impact on the requirement to provide additional school places.
44. The Director of Corporate Resources and the Director of Law and Governance have been consulted in the preparation of this report.

### **Timetable for Decisions**

45. A further report regarding the development of a fire safety/sprinkler policy will be presented to the Cabinet in summer 2018. This will be shared with the Children and Families Overview and Scrutiny Committee.

### **Conclusions**

46. The findings set out in this report confirm that, based on the information provided by Leicestershire maintained schools, all are compliant with local management fire safety requirements. Academies and Diocese schools are considered to be in a similar position although further work is being done to validate this using a revised risk assessment approach (paragraph 14 refers). Officers within the Children and Family Service and Property Services will continue to monitor the position and develop and apply a new policy in keeping with national regulations and guidance including any revisions made to the current advice produced by the DfE.

### **Background papers**

47. Cabinet report 9 February 2018  
<http://politics.leics.gov.uk/ieListDocuments.aspx?CId=135&MId=5177&Ver=4>



**Circulation under the Local Issues Alert Procedure**

48. None.

**Equality and Human Rights Implications**

49. There are no specific equality and human rights implications arising from the recommendations in this report. The development and consistent application of fire safety policy and procedures will ensure that in keeping with the Public Sector Equality Duty, to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not, all schools are treated fairly and operate to the same standards.

**Risk Assessment**

50. Any risks to the Council arising from the proposals will be kept under review by officers within the Children and Family Services and Corporate Resources, and the recently formed Property and Occupants Risk Management Group to help determine actions to mitigate.

**Officers to Contact**

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