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LAKANAL HOUSE INQUEST - RULE 43 FIRE SAFETY RECOMMENDATIONS

Summary

1. This submission seeks your views on the Coroner's Rule 43 recommendations in relation to fire safety in premises containing multiple domestic premises (Annex A).

Timing

2. Routine (response required within 5 days). DCLG is expected to respond to recommendations made by the Coroner by 23 May. We aim to collate responses from this and other related submissions and provide the Secretary of State with a draft DCLG response to the Coroner in w/c 6 May.

Recommendation

3. That you agree respond to the coroner's recommendations (set out in paragraph 6 below) in respect of the Regulatory Reform (Fire Safety) Order 2005 and fire safety in multiple domestic premises as follows:
 - highlight the availability of DCLG-funded national guidance ('Fire Safety in Purpose Built Blocks of Flats' - July 2011), owned by the Local Government Association on behalf of the housing and fire sectors; and, confirm that DCLG are working with the LGA to consider whether it remains fit for purpose; and
 - acknowledge that whilst the legislation (i.e., the Fire Safety Order, which applies to the common parts of such buildings and, the Housing Act 2004, which applies to individual dwellings and to the common parts) can be complex (Annex B), the guidance, which is well known within the sector, is designed to make its practical application simple. We have no plans to issue new guidance but we will, with the LGA and stakeholders, review and, if necessary, amend the existing guidance to ensure it adequately reflects issues raised by the Inquest.

Background

4. On 28 March, narrative verdicts were returned into the deaths at Lakanal House in July 2009. The fire, in a 1950's block owned by LB Southwark is widely regarded as the UK's worst tower block fire. It claimed six lives: Dayana Francisquini (26), her daughter Thais (6) and son Felipe (3); Helen Udoaka (34) and her 20-day-old daughter, Michelle; and Catherine Hickman (31).
5. The Coroner issued four Rule 43 letters at the same time as the verdicts were handed down. These were addressed to the London Borough of Southwark, the London Fire Brigade, the Fire Sector Federation and the Secretary of State for Communities and Local Government. All were made publicly available. The recommendations for DCLG address operational firefighting issues, and policy in relation to fire safety in multi-occupied residential buildings and Building Regulations.

Consideration

6. The Coroner's view that there is uncertainty about the scope of inspection for fire risk assessment purposes in high rise residential buildings. Although she acknowledges availability of the DCLG-funded LGA guidance on Fire Safety in Purpose Built Flats, she recommends that the Government provide clear guidance on the:
 - definition of "common parts" of buildings containing multiple domestic premises
 - inspection of a flat or maisonette which has been modified internally to determine whether compartmentation has been breached
 - inspection of a sample of flats or maisonettes to identify possible breaches of the compartment.
7. Guidance on fire safety in purpose built blocks of flats: The LGA published new national guidance specifically on fire safety in purpose built flats, including high rise in 2011. It addresses the issues that the Coroner has raised in some detail.
8. DCLG funded the project and worked with LGA to put together a Reference Group of key housing stakeholders from across the public and private sectors and with representatives from the enforcing authorities – local authority environmental health officers in respect of the Housing Act 2004 and fire and rescue authorities in respect of the Fire Safety Order. This group identified the areas where additional advice and guidance would be helpful.
8. The new guidance was well publicised by the sector in July 2011. It is available both on the LGA's website and on the fire safety pages of the DCLG website, fulfilling the FSO duty on the Secretary of State to ensure that such guidance, as he considers appropriate, is available to assist responsible persons discharge their duties under the FSO. In summer 2012, the LGA

evaluated the impact of the guidance in the sector, surveying views of the stakeholder Reference Group, as well as a range of organisations representing the enforcing authorities, local authorities, ALMOs, PRPs, private sector landlords, resident management companies, private resident's associations, managing agents and fire risk assessors. The evaluation reported that of the 53 respondents:

- **92.2%** believed the guidance was effective in overall terms in contributing to improving the fire safety of residents in purpose built flats
- **86.6%** said that the guidance helped them understand their legal responsibilities
- **76.9%** said that the document was easy to use.

9. The guidance was relied on and quoted without controversy by a number of the legal teams at the Inquests suggesting it is a valuable document, both in explaining the concept of risk assessment in these buildings and in providing practical solutions to addressing any fire safety concerns which arise. This includes identifying where and when housing providers should consider accessing individual flats for the purpose of comprehensively assessing fire risk.

10. Housing, Building Regulation and fire safety officials are, however, meeting the LGA on 24 April to discuss with them whether there may be any implications from the Coroner's recommendations for the guidance and to identify options for dealing with any amendments should these be required. We will provide further advice in the light of the outcome.

11. For the purposes of the response to the Coroner on the Rule 43 we consider it sufficient to say we are considering whether any revisions to the existing guidance would be helpful. This will include whether there is a need for further guidance on the definition of 'common parts'. Annex A sets out the scope of the Fire Safety Order and the Housing Act 2004.

Legal

12. We have developed this submission with colleagues in Legal (Fire and Housing). They are considering whether further clarity on the definition of 'common parts' used in housing legislation, could be made available for the purposes of fire safety, and further advice will be provided to Ministers in due course.

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Scope of the Fire Safety Order:

The fire safety regulations, which are enforced by fire and rescue authorities in most premises, apply to all workplaces and other premises to which the public have access. They require responsible persons to assess the risk from fire and implement and maintain adequate and appropriate fire safety measures to reduce the risk to life to as low as reasonably practicable.

The Order was introduced primarily to give effect to a number of European Council Directives designed to improve the health and safety of workers at work. It does not apply to domestic premises except, in cases (article 31) where it is necessary to prohibit or restrict the use of premises to ensure the safety of relevant persons (ie, those lawfully on the premises). DCLG wrote earlier this year to London Fire Brigade confirming our view was that the Fire Safety Order was not intended to apply generally to the structure of a block.

Scope of the Housing Act 2004:

The Housing Health and Safety Rating System provision, under the Housing Act 2004, requires local housing authorities to keep housing conditions in their area under review and to carry out inspections of residential premises with a view to determining whether any category 1 or 2 hazards (including fire) exist on the premises. If so, the housing authority has a suite of enforcement options available.

The definition of residential premises in the Housing Act ensures housing authorities may inspect the whole block – individual dwellings and common parts – if they considered it appropriate. Although housing authorities cannot take enforcement action against themselves, the enforcement guidance on the HHSRS makes clear the expectation that they will *'be expected to use the HHSRS to assess the condition of their stock and to ensure their housing meets the Decent Homes Standard* (i.e. be free from all category 1 and 2 hazards).

Other than the broad Housing Act provisions there do not appear to be additional housing or landlord and tenant legislation which imposes specific requirements on landlords or tenants in relation to fire safety.