

Thank you for your submission of 28 February in respect of fire enforcement responsibilities in respect of demised leasehold flat entrance doors. I apologise that it has taken some time for the Department to reply.

Your submission seeks the Secretary of State's guidance as to whether the Royal Borough of Kensington Chelsea (RBKC) or the London Fire Emergency Planning Authority (LFEPA) is the lead enforcement authority in respect of leasehold flat entrance doors and how the two authorities are to interact to cooperate in respect of enforcement.

As you know, the protocol between local housing authorities and fire and rescue authorities to improve fire safety (appendix 2 in the LACORs fire safety guidance) aims to promote collaborative arrangements between fire and rescue and housing authorities both of whom have fire safety enforcement responsibilities. There are a range of activities that can support the aim and delivery of consistency of approach to this important issue – from promoting awareness and good practice to enforcement action. There is, of course, no requirement on enforcing authorities to adopt the principles set out in the guidance. Where, however, they agree that a protocol in this area may be helpful to clarify or determine enforcement responsibility, they are entirely free to develop one which reflects local circumstances and priorities.

Under these circumstances, we do not consider that this is an issue on which it would be appropriate for the Secretary of State to intervene.

The LGID guidance was developed with input from a Reference Group which included a wide variety of housing stakeholders. Your submission references the guidance including that "residents might be regarded as persons having control of the premises (as defined by Article 5(3) of the Fire Safety Order) with a duty to ensure the adequacy of the flat entrance doors. However, use of powers under the Housing Act may be a more appropriate and better defined route to achieving compliance with the FSO".

It is our understanding that a non fire-resisting entrance door could lead to an assessment of the existence of a category 1 (or possibly category 2) hazard. Whilst a local Housing Authority clearly cannot take action to enforce against itself, the Decent Homes standard which seeks to ensure that where such hazards are identified they are addressed effectively to maintain an acceptable level of safety both for the residents and for other occupants, does apply to them and the legislative expectation is, of course, that local authorities will take action to meet the standard in its own buildings. Schedules 1-3 of the Housing Act 2004 set out the procedures under which local housing authorities can take action against the owners of individual flats within blocks of flats.

Where a landlord or freeholder is aware that a significant fire risk exists within a building for which it is responsible, both the Housing Act 2004 and the Fire Safety Order require it to take action to remove or mitigate that risk. In the case of council-owned residential buildings, failure to do so could result in enforcement action by the fire and rescue authority under the FSO. Our view, however, is that adequate risk management and measures should be in place within these organisations to ensure that enforcement action by one public authority against another unnecessary.