



Department for  
Communities and  
Local Government

Steve Turek  
Assistant Commissioner - Fire Safety Regulation  
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Our Ref:  
Your Ref:

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*Dear Steve*

Thank you for making the time to discuss with us last month some of the detailed issues London Fire Brigade are facing in respect of enforcing the Fire Safety Order in multi-occupied residential buildings, particularly purpose built blocks of flats. It was very helpful.

Our discussions indicated that, whilst only the Courts are able to determine whether the walls surrounding the public corridors etc, the front doors of flats and the roof may form part of the non-domestic premises for which the responsible person is responsible, there was general agreement between us that article 17 of the Fire Safety Order (maintenance) provides an effective mechanism to enable the responsible person to take action, and imposes a duty on the owner/leaseholder of the domestic premises to cooperate with them.

Although we have, as promised, looked again whether other structural elements, particularly walls and floors between flats, are likely to be considered part of the domestic or non-domestic premises, our view is that this appears more contentious. We have no evidence to suggest that the Fire Safety Order was intended to apply generally to the structure of blocks of flats. Our view remains that it would seem to be artificial to delineate the domestic premises, for the purposes of the Fire Safety Order, in such a way as to exclude the structure because of the variety and combinations of possible arrangements that might apply in any one building. Having looked again at this, we also consider a further complexity may lie in the nature of the duties under:

- 1) article 8 (general fire precautions) - which refers to keeping the premises safe, rather than to keeping domestic premises safe from fire risks in other domestic premises; and
- 2) article 5(5) (duties) - which limits the scope of the duties to taking general fire precautions in respect of relevant persons (defined as any person on, or in the immediate vicinity of the premises who is at risk of fire on the premises).

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These appear to focus the responsible person's duties in relation to fire from the non-domestic premises, rather than to fire from one domestic premises which might affect another.

How these structural elements are to be treated under the Fire Safety Order therefore seems to be arguable.

We consider the powers available to local authorities under the Housing Act 2004 are sufficient to ensure any fire related hazards identified in residential premises can be adequately addressed. The Government's enforcement expectations are clearly set out in both the Housing Health and Safety Rating System Enforcement Guidance (Feb 2006) and in the Local Government Association's guidance 'Fire Safety in Purpose Built Blocks of Flats'. We therefore have no plans to issue further guidance on this to fire and rescue authorities. The Government's principled expectation that local enforcement authorities work collaboratively with each other to ensure the safety of their communities is addressed effectively is, of course, set out clearly in the LACORS guidance.

Yours sincerely  
Louise Upton

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