

Sir Merrick Cockell, **Chairman**
Local Government Group
Local Government House
Smith Square
London SW1P 3HZ

23rd August 2011

Dear Sir

Re: Fire safety in purpose-built blocks of flats

As a fire safety consultant who has worked with disabled people for many years, I am writing to you as Chairman of the Local Government Group to request that the Guidance titled "Fire safety in purpose-built blocks of flats" is withdrawn and amended as the advice contained within is contrary to The Law.

Since the introduction of the Regulatory Reform (Fire Safety) Order (FSO) in 2005, The Law has included the legal requirement for a suitable and sufficient fire risk assessment which identifies people at risk in the premises; to establish and, where necessary, give effect to appropriate procedures, including safety drills, to be followed in the event of serious and imminent danger to relevant persons. There is no exemption from this requirement relating to disabled and vulnerable people or from blocks of flats.

LGG's 'Fire Safety in purpose-built blocks of flats' guidance, Clauses 79.9; 79.10 & 79.11, directly encourages readers to ignore the FSO and to break additional well-defined International and UK Domestic Law relating to equality and fire safety.

The advice given in these Clauses is effectively stating that responsible persons do not have to be equal in their fire safety planning; that Personal Emergency Evacuation Plans (PEEPs) are unrealistic and that responsible people are able to transfer their responsibilities to the Fire and Rescue Services:

- 79.9 In 'general needs' block of flats, it can equally be expected that a resident's physical and mental ability will vary. It is usually unrealistic to expect landlords and other responsible persons to plan for this or to have in place special arrangements, such as 'personal emergency evacuation plans'. Such plans rely on the presence of staff or others available to assist the person to escape in a fire.
- 79.10 Even in sheltered housing schemes, there will be reliance ultimately on rescue by the fire and rescue service in the event that residents cannot escape by themselves.....

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- 79.11 It is not realistic to expect such an approach to be adopted where there are disabled people and others requiring assistance in a 'general needs' block. Any attempts to keep information of this kind must be updated regularly as inaccurate information could potentially be more harmful than no information.

These Clauses reflect an outdated viewpoint which is highly discriminative and not in line with UK Legislation relating to Equality or Fire Safety. Furthermore, the wording is directly contradictory to the legal advice given in Department of Communities and Local Government's Fire Risk Assessment for Sleeping Accommodation and the Supplementary Guide "Means of Escape for Disabled People" ; LACORS Housing - Fire Safety Guidance and BS9999:2008.

If this Guidance is not amended, The LGG is also at risk of legal action as a result of publishing advice that is contrary to The Law.

Relevant Legal Background

International and UK Domestic Law enshrines in Law that disabled people must be treated equally (ie if means of escape is provided for non-disabled people in the form of exits to a place of ultimate safety then it must be provided for disabled people):

1) The UN Declaration of Human Rights:

Article 3

Everyone has the right to life, liberty and security of person.

Article 7

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

2) The UN Convention on the Rights of Disabled Persons:

Article 1 – Purpose

The purpose of the present Convention is to promote, protect and ensure the full and equal enjoyment of all human rights and fundamental freedoms by all persons with disabilities, and to promote respect for their inherent dignity.

Persons with disabilities include those who have long-term physical, mental, intellectual or sensory impairments which in interaction with various barriers may hinder their full and effective participation in society on an equal basis with others.

Article 5 - Equality and non-discrimination

- (a) States Parties recognize that all persons are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

- (b) States Parties shall prohibit all discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds.

3) The Regulatory Reform (Fire Safety) Order 2005 is unequivocal and non-discriminative in its legal statement and makes no caveats for disabled people:

Article 14 (c):

“the number, distribution and dimensions of emergency routes and exits must be adequate having regard to the use, equipment and dimensions of the premises and the maximum number of persons who may be present there at any one time;”

And

Article 15 (1):

(a) establish and, where necessary, give effect to appropriate procedures, including safety drills, to be followed in the event of serious and imminent danger to relevant persons;

(b) nominate a sufficient number of competent persons to implement those procedures in so far as they relate to the evacuation of relevant persons from the premises.

4) Clause 1.1 Legal View of The DCLG Supplementary Guide “Means of Escape for Disabled People” fully supports the legislation by stating:

“The Fire and Rescue Service’s role in fire evacuation is that of ensuring that the means of escape in case of fire and associated fire safety measures provided for all people who may be in a building are both adequate and reasonable, taking into account the circumstances of each particular case. Under current fire safety legislation it is the responsibility of the person(s) having responsibility for the building to provide a fire safety risk assessment that includes an emergency evacuation plan for all people likely to be in the premises, including disabled people, and how that plan will be implemented.

Such an evacuation plan should not rely upon the intervention of the Fire and Rescue service to make it work.....

The Disability Discrimination Act 1995 (DDA) does not make any change to these requirements: it underpins the current fire safety legislation in England and Wales – the Regulatory Reform (Fire safety) Order 2005 – by requiring that employers or organisation providing services to the public take responsibility for ensuring that all people, including disabled people, can leave the building they control safely in the event of a fire.

Where an employer or a service provider does not make provision for the safe evacuation of disabled people from its premises, this may be viewed as discrimination. It may also constitute a failure to comply with the requirements of the fire safety legislation mentioned above.....”

Conclusion

If this Guidance is not amended, building managers and landlords who follow this advice will continue to discriminate in the area of fire safety against disabled people (who represent one fifth of the population) and indeed will be open to criminal or civil prosecution.

Given the current approach to disabled evacuation and lack of enforcement in this area, it is of little surprise that the Fire and Rescue Service Equality & Diversity Strategy states:

"The impact of fire is grossly disproportionate on some communities (for example 39% of fatal fire deaths are people with disabilities)".

I hope that this letter has explained the issues and I look forward to your response before this Guidance leads to an unnecessary tragedy because plans were not in force.

Yours sincerely



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