

FSIGN 420**Purpose Built Blocks of Flats***Old Inst.: N/A**Issue date: June 2012**400 Series: Occupancy &
Hazards***Summary**

This Note is intended for internal use, providing information and guidance on how to deal with some of the common issues with regard to purpose built blocks of flats.

This Note is one of a series produced by Fire Safety Regulation HQ Policy Groups to provide additional advice and guidance to officers and Fire Safety Teams on various subjects related to their role.

Where appropriate this Note should be used for learning and staff development purposes.

Contents

Summary	1
1 Introduction	3
2 What Does 'Common Parts' Mean?	3
3 Issues for Inspecting Officers	3
4 The Front Door of Flats	3
5 Smoke Control Systems	4
6 Fire Lifts	5
7 Mobility Scooters	5
8 The Storage of Personal Possessions in Common Parts	6
9 Enforcing The Order	6
10 Maintenance and Cooperation and Coordination	7
11 How Can Local Housing Authorities (LHAS) Assist?	7
12 Powers of LHA Under The Housing Act and The Management of Houses in Multiple Occupation (England) Regulations 2006	8
13 How Does This Work in Practice?	8
14 Further Information	8

1 Introduction

- 1.1 Since the introduction of the Regulatory Reform (Fire Safety) Order 2005, known as the Order, there has been an overlap of the legislation applicable to residential buildings. The Housing Act 2004 is the primary piece of legislation for residential premises as it deals with the whole building, including the individual dwelling units. The Order only covers the common parts of such premises, apart from the use of Article 31(10).

2 What Does 'Common Parts' Mean?

- 2.1 The Order does not apply to domestic premises apart from Article 31 (10) and the term domestic premises means premises occupied as a private dwelling and any associated parts not used in common by occupants of more than one such dwelling. The term "Common Parts", unlike other words and phrases in the legislation, is not defined in the Order. The Fire Safety Regulation Department (FSR) of the Authority sought legal advice on the interpretation of the term "common parts" as applicable under the Order including front doors of flats but this proved not to be definitive.
- 2.2 Definitions of the term "common parts" appears in a variety of documents that support the Housing Act such as the "Management of House in Multiple Occupation (England) Regulations 2006", the "London Fire Safety Guidance for Houses in Multiple Occupation" produced by Housing Officers from the London Borough of Westminster, the London Borough of Ealing and the Authority, as well as in Section 1(5) of the Housing Act. These differ in their wording and may not be able to be used by the Authority as part the enforcement regime of the Order.
- 2.3 The difficulty with the term under the Order is that whilst doors are provided within the common parts of buildings some doors are not used in common by all users; issues then arise as to the suitability of door sets which are there for individual dwelling users and as protection to the common areas. It is the Authority position that dwelling entrance doors form part of the common areas of residential flats and as such are critical to the life safety of all the occupants of the building.

3 Issues for Inspecting Officers

- 3.1 In purpose built blocks of flats there are a number of common issues that require a consistency of approach by Authority officers as enforcers of the legislation. These include :
- The front doors of flats
 - Smoke control/ventilation systems
 - Fire Lifts
 - The use and storage of Mobility Scooters
 - The storage of personal possessions in common parts

4 The Front Door of Flats

- 4.1 It is the considered position of the FSR department that where the front door set is part of the fire safety measures to protect the means of escape then the Order applies to the front door and its surroundings including glazing or other partitioning above or to the side of the door set.
- 4.2 Where the front door belongs to a leaseholder, or on the rare occasion a freeholder, then due to the control they can exercise over the front door and its parameters, it is considered that under the Order they become a 5(3) person and those certain duties are placed upon them. In these

cases the Authority can serve notices on them but before doing so any notice must be referred to the FSR Enforcement Team as there may be issues with leases, contracts and where the leaseholder/freeholder is not resident in England and Wales and may be "offshore". In these circumstances, it is the preferred option of the Authority that the Housing Act is applied and that the Local Authority issue a Category 1 Notice or Order.

5 Smoke Control Systems

- 5.1 Smoke control systems are placed into buildings to protect the staircase enclosure so that stairways, and possibly lobbies and corridors are cleared of smoke to ease the egress of residents wishing to leave or being evacuated from the premises in a fire situation and to aid firefighters in firefighting operations.
- 5.2 There are a variety of differing smoke control systems that can be found in purpose built residential blocks including smoke dispersal systems which allows the ventilation of corridors. In these situations the corridors will have no cross corridor doors but will have vents to open air sited at each end of the corridor. In addition, there may be buildings which have openable vents in staircases and or lobbies and on occasion remotely operated openable vents with firefighter control switches at access level in yellow boxes. All of the vents, whether permanent or automatic openable vents should vent to open air or into a dedicated smoke shaft.
- 5.3 Some ventilation systems are operated by automatic fire detection which is not part of a fire alarm system but solely for use in opening the smoke control system to the building when smoke is detected in the areas where the detection has been installed. Also, natural smoke shafts such as the BRE shaft may be found as the smoke control system for the building. Residential BRE shafts rely on the natural passage of smoke into a smoke shaft from the lobby/corridor adjacent to the staircase enclosure with inlet air from the head of the staircase and/or ground floor access door.
- 5.4 The Colt and FDS systems of smoke control, are mechanical systems. Mechanical smoke ventilation systems are increasingly popular and rely upon an extract fan set at the head of a reduced dimension shaft (typically 0.6m²) to extract smoke from the lobby /corridor on the floor of fire origin. With a FDS mechanical smoke control system the door to the staircase opens against the direction of escape to allow inlet air to draw through from the staircase enclosure. When the system is operating the door will be ajar in order to allow inlet air to access the corridor. All types of smoke control system need to be provided with inlet air either through a ground floor access door and/or a vent at the head of the staircase, or in the case of some mechanical systems, a dedicated inlet air shaft (which can be naturally or mechanically driven).
- 5.5 Differing types of smoke control systems have been installed in residential buildings at design stage dependent on the year of build. Smoke dispersal systems were amongst the original smoke control systems to be utilised and were installed in buildings in the 60's and 70's. These types of systems have been discredited in recent years through greater testing but are still an acceptable system to the Authority providing the building is still as it was designed. In later years, more efficient systems such as smoke containment and smoke shafts were designed into building stock. These can be retrofitted to existing buildings where considered a priority but inspecting officers should be aware of the costs involved in this process. However, in all cases inlet air will need to be provided either through a ground floor access door and/or a vent at the head of the staircase, or in the case of some mechanical systems, a dedicated inlet air shaft.

6 Fire Lifts

- 6.1 The terms 'Fireman's Lift' and 'Firefighting Lift' are often misunderstood and misrepresented within and outside of the Authority. These two terms, whilst similar, refer to lifts that differ in their electronics and engineering, and are therefore not to be viewed as just a lead name alteration.

Fireman's lift

The term "fireman's lift" describes a normal lift, in which is fitted a "fireman's switch" at ground floor or at fire-fighter access level which is used to override the normal lift controls. These were normally installed in buildings prior to or around the 1980s. As a normal lift, it will not have all the structural protection, protected services and duplicate power services that a BS 5588 Part 5 or BS 9999 firefighting lift will have.

Firefighting lift

The term "Firefighting lift" describes a lift installed to BS 5588 part 5 or BS 9999 and is a lift fitted with additional protection and controls that enable it to be used under the direct control of the fire service when fighting a fire. The firefighting lift is a development of the type of lift known as a fireman's lift. Although existing fireman's lift installations may in some circumstances be refurbished, in new buildings and those under going significant changes, the aim should be to achieve lifts that comply with the current codes of practice. Further information can be sourced from BS EN 81-72 2003 –Lifts: Firefighters lifts.

- 6.2 When carrying out audits of buildings where these types of installations are Authority staff should have an awareness of the differences between the two lift types and should ensure that evacuation strategies and the fire risk assessment for the premises demonstrate an awareness of the use, and ability to use, a particular lift type.
- 6.3 In addition, maintenance regimes under Article 38 should be examined to ensure that the "functions for use" required by both types of lifts actually operate and that the lift will be available when called upon, either as part of the evacuation process from the building, or for fire-fighter access".

7 Mobility Scooters

- 7.1 There is an increase in use of mobility scooters throughout the United Kingdom and there are fire safety concerns and issues arising from this increased use. The Purpose Built Blocks of Flats Guide 2011 gives some guidance on this as does BS 9991 2011 (BS 9991 is the replacement document for BS 5588 Part 1 and was issued on 31 December 2011). Issues that can arise are with regard to storage of the scooter and the charging from the electricity supply of the scooter. Where possible, separate storage areas should be encouraged that provide a minimum of 30 minutes fire resistance but preferably 60 minutes away from the building. However, it is recognised that some users will want to store and charge the scooter in their own dwelling. This may be allowable provided that it is not stored within the access corridor to the habitable rooms so as not to create a fire hazard in, or block the means of escape from, the dwelling.
- 7.2 The charging of an electric mobility scooter should not be conducted within a means of escape area but should be completed in a controlled environment away from areas of ingress and egress so as not to create a fire hazard for dwelling uses and visitors. However, due to space and building restrictions in many buildings it is often the case that people will, out of necessity, leave mobility scooters in common areas and charge them through extension leads from their own flats.

In these cases, subject to a completed fire risk assessment that takes account of this need, the Authority will accept the following as compensatory features.

- (a) A marked storage area that does not impede the means of escape with no charging facilities, or
- (b) A 30 minute fire resistant store that does not obstruct the means of escape which incorporates a permanent charging point within the store area.

8 The Storage of Personal Possessions in Common Parts

- 8.1 With the space restriction for users in dwellings in residential blocks there is always the difficulty of where to store larger items of personal possessions such as bicycles, prams, pushchairs and toys. There is also the storage of refuse and waste to consider, particularly in areas where environmental and ecological concerns allow for separate collections of different items within different weekly cycles. Owners and managing agents may well have a zero tolerance policy to this but some agencies may well have a managed policy with regard to storage and Inspecting Officers will need to have an awareness of, and take cognisance of, the building policy before giving any sort of guidance, information or a Notice to the Responsible Person. The building policy must follow a risk based approach to safety, particularly life safety and any building policy should be noted in the premises fire risk assessment and should be communicated to all residents.

9 Enforcing The Order

- 9.1 The Housing Act and the Order have overlapping duties and the 'Housing Protocol' was designed to nominate who would be the lead agency on enforcement issues in certain types of premises. This information was included in the LACORS Guides and Authority Policy. Where possible the protocol included in the FRS policy note should be followed and any required inter agency liaison take place.
- 9.2 In rented premises the responsible person should be identified and any necessary enforcement action should be taken against the duty holder as required and not an individual tenant. However, where a leaseholder or freeholder is concerned the advice given in paragraph 4.2 above should be followed.
- 9.3 Inspecting Officers are expected to take heed of best practice guidance as detailed in the document "Fire Safety in Purpose Built Blocks of Flats" issued by the local government group and the 2011 design guide BS 9991. It should always be borne in mind that existing premises may well have been designed to standards such as BS CP3, BS 5588 Part 1, Approved Document B of the Building Regulations or to conform to local acts such as the London Building Acts. Many buildings in London have been and are designed to a variety of differing standards and this should be recognised when inspecting officers are auditing and taking enforcement action against these building types.
- 9.4 The type and provision of fire safety arrangements will therefore be different dependent on the age and design of the structure and any modifications or alterations that have been made. Where alterations have been made it should be ensured that they have not compromised the fire safety features included for the safety of people at design stage. The fire risk assessment for the premises should fully detail the measures required for fire safety to ensure that residents are protected from fire situations and firefighter access is not compromised.

10 Maintenance and Cooperation and Coordination

- 10.1 The Order is very clear on the maintenance of fire safety services and systems in Articles 17 and 38 whilst Article 22 deals with co-operation and co-ordination between those duty holders who have responsibility for different parts or different properties within the building. Articles 17 and 38 of the Order state that the Responsible Person must ensure that the premises facilities, equipment and devices are subject to a suitable system of maintenance and are maintained in an efficient state, in working order and in good repair. It also states that where the premises form part of a building the Responsible Person or Persons should make arrangements with the occupier of any other premises forming part of the building to ensure the maintenance requirements are met, this even applies to premises to which the Order does not apply.
- 10.2 Article 22 states where two or more Responsible Persons share or have duties in respect of premises they must co-operate with each other so far as necessary to comply with the provisions of the Order. It also states they must take all reasonable steps to co-ordinate the measures they take to comply with the provisions of the Order.

11 How Can Local Housing Authorities (LHAS) Assist?

- 11.1 LHAs enforce the Housing Act. However, they cannot enforce against properties they are the Responsible Person for, this is reflected in the protocol by other enforcing agencies having responsibility for those buildings falling into this category.
- 11.2 The Housing Act 2004 (the appropriate chapter and numbers have been included in bold if you require further reading) introduced a new hazard rating system based on conditions of housing and this would be the basis of enforcing the act with the LHAs as the enforcers. The Housing Act introduced category 1 and category 2 hazards and applies to residential premises. The methodology for assessing the hazard level and the outcome of whether an improvement or prohibition order is issued is the subject of guidance documents issued by the Government. (HHSRS Operating Guidance and HHSRS Guidance for Landlords and Property Related Professionals)
- 11.3 **Chapter 1 3(1)** states that local housing authority must keep housing conditions in their area under review to identify any action that may need to be taken.
- 11.4 **Chapter 1 4(1)** states if a local housing authority consider—(a) as a result of any matters of which they have become aware in carrying out their duty under section 3, or (b) for any other reason, that it would be appropriate for any residential premises in their district to be inspected with a view to determining whether any category 1 or 2 hazard exists on those premises, the authority must arrange for such an inspection to be carried out.
- 11.5 **Chapter 1 5 (1)** says that if a category 1 hazard exists that **they must take action** and there are a number of different sanctions they can take including improvement notice or prohibition order.
- 11.6 **Chapter 1 7** does not give any requirement for the LHA to act if a category 2 hazard is present but if they do they have a similar range of powers.
- 11.7 Improvement notices and prohibition orders have similar issues such as time limits, directions as how to comply and appeals as the Order and this is all detailed in **Chapter 2 paragraphs 11-30**

12 Powers of LHA Under The Housing Act and The Management of Houses in Multiple Occupation (England) Regulations 2006

12.1 **Chapter 2 paragraph 35** allows a court to order the occupier or owner to allow action to be taken on premises and this applies when a relevant person or representative is being prevented from carrying out works to comply with an improvement notice or prohibition order.

12.2 In this section—

"relevant person", in relation to any premises, means a person who is an owner of the premises, a person having control of or managing the premises, or the holder of any licence under Part 2 or 3 in respect of the premises;

"representative" in relation to a relevant person or a local housing authority, means any officer, employee, agent or contractor of that person or authority

12.3 In **Schedule 3 part 2** the act gives the LHA power to carry out the work if they have served a improvement notice that has not been complied with. It also states what the LHA have to do to use this power and if they meet any obstruction in carrying out the work.

Power to take action without agreement

12.4 **3 (1)** The LHA may themselves take the action required in relation to a hazard by an improvement notice if sub-paragraph (2) or (3) applies.

12.5 **(2)** This sub-paragraph applies if the notice is not complied with in relation to that hazard.

12.6 **(3)** This sub-paragraph applies if, before the end of the period which under section 30(2) is appropriate for completion of the action specified in the notice in relation to the hazard, they consider that reasonable progress is not being made towards compliance with the notice in relation to the hazard. The LHA have suitable powers of entry to domestic premises. **Schedule 3** Part 3 explains how they can recover their costs.

12.7 This basically gives LHA the powers to physically change the doors to fire doors and then recover the costs.

12.8 **MHMOR 2006 – The differing Regulations within this document enable LHA personnel to ensure the safety of people by applying the details to managers and in some instances occupiers.**

13 How Does This Work in Practice?

13.1 Although both the Authority and LHA have powers to deal with any fire safety issues, it is only by working in partnership that the best ways of achieving safe and compliant premises can be achieved. Working practices should be drawn up between local teams and LHA and where possible the Housing Protocol should be the framework for this.

14 Further Information

14.1 This briefing note should be read in conjunction with

- FSR PN 400 and FSIGN 402

Document History

Impact assessments

An Equality or Sustainability Impact Assessment was completed on:

Equality Impact Assessment	xx/mm/yyyy	Sustainability Impact Assessment	xx/mm/yyyy
----------------------------	------------	----------------------------------	------------

Audit trail

Listed below is a brief audit trail, detailing amendments made to this policy/procedure.

Page/para nos.	Brief description of change	Date