

Our Reference – Built Environment

Contact:- Gwynne Williams
williamsq@manchesterfire.gov.uk



**GREATER MANCHESTER
FIRE AND RESCUE SERVICE**

Date: 23 June 2020

Fire Safety Bill
Public Bill Committees Scrutiny Unit
House of Commons
London
SW1A 0AA

Chief Fire Officer: Jim Wallace
Greater Manchester Fire and Rescue
Service
146 Bolton Road
Swinton
Manchester M27 8US
Telephone 0161 736 5866
www.manchesterfire.gov.uk

Sent via email to: scrutiny@parliament.uk

Dear Sir / Madam,

Re: Fire Safety Bill Proposed Amendments

I am writing on behalf of Greater Manchester Fire and Rescue Service (GMFRS) in response to the call to provide evidence and propose amendments to the Fire Safety Bill.

GMFRS has extensive experience of enforcing the provisions of the Regulatory Reform (Fire Safety) Order 2005 (the Fire Safety Order) both previously on behalf of the Greater Manchester Fire and Rescue Authority and currently to discharge the powers of the Mayor of Greater Manchester through the Greater Manchester Combined Authority.

GMFRS has particular evidence and expertise in inspection and enforcement in high rise residential buildings and other purpose built blocks of flats. Following the fire at Grenfell Tower, GMFRS inspected all high rise residential buildings in Greater Manchester and has been working with housing providers and managing agents to ensure the risk of external fire spread from all external wall systems is considered and addressed. This approach has meant that GMFRS has been able to provide detailed and robust evidence in response to various consultation exercises undertaken by the Ministry of Housing, Communities and Local Government and most recently to the Housing, Communities and Local Government Committee Inquiry into Cladding Remediation.

Between April 2018 and the May 2020, GMFRS served 46 Enforcement Notices on purpose built blocks of flats of which 25 are on high rise residential buildings. To date one Enforcement Notice has been served in relation to the remediation of ACM cladding



and resulted in the necessary works being undertaken. The majority of the notices served on high rise residential buildings relate to the interim fire safety arrangements required to support a change in evacuation purpose built blocks of flats related to an identified risk of external fire spread. In addition to enforcement action GMFRS has worked extensively with housing providers and managing agents to ensure that external wall systems are identified and assessed as part of the fire risk assessment required by Article 9 of the Fire Safety Order.

The approach taken is underpinned by the view taken by GMFRS that the Fire Safety Order is applicable to the structure and external wall systems of high rise residential buildings and any doors which lead on to common corridors. This view was formed based on the existing definition of premises and the exemptions for single private dwellings contained in Article 31(10) of the Fire Safety Order. In addition GMFRS considered that the intent of the Fire Safety Order to apply to all common parts of premises was clear from the report of the Regulatory Reform Committee¹ in relation to the Fire Safety Order and correspondence between that committee and the then Office of the Deputy Prime Minister.

However, given the apparent confusion about the extent of the application of the Fire Safety Order to the external wall systems and other common parts, GMFRS welcomes the Fire Safety Bill as a mechanism of providing clarity on these issues. Having considered the provisions of the draft Bill it is the view of GMFRS that this clarity may be better provided with minor amendments to the wording.

In developing the proposed amendments, GMFRS has worked with the Greater Manchester High Rise Task Force Legal Cell which comprises professionals with experience of enforcement and litigation in relation to both fire safety and housing law including enforcement of the provisions of the Housing Act 2004.

Proposed Amendments

It is the view of GMFRS that the provisions of the Bill in relation to 1(A) should be amended as follows;

*“(1A) Where the premises comprises two or more domestic premises, the things to which this order applies include—
(a) the common parts of the premises including the structure and external walls; and
(b) all doors between the domestic premises and common parts (so far as not falling within sub-paragraph (a)).
(1B) The reference to external walls includes—
(a) doors or windows in those walls, and
(b) anything attached to the exterior of those walls (including balconies).”;*

¹ House of Commons Regulatory Reform Committee: Draft Regulatory Reform (Fire Safety) Order 2005; Ninth Report of Session 2004–05

This wording removes the word ‘building’ which is not currently defined within the Fire Safety Order and for which there is no obvious meaning in this context. The use of the word ‘building’ introduces a new concept to the Fire Safety Order and will inevitably lead in some cases to the need to seek an interpretation from other legislative provisions. This does not assist in providing clarity and may result in confusion.

Similarly, the use of the word ‘sets’ in the draft Bill is not helpful and is in our view unnecessary. Article 2 of the Fire Safety Order contains a definition of both ‘premises’ and ‘domestic premises’ and it is in our view beneficial to retain the focus on concepts which are adequately defined and established. The provisions of Article 31(10) already restrict the application of the Fire Safety Order to exclude *“premises consisting of or comprised in a house which is occupied as a single private dwelling”*. Therefore, the proposed amendment above would in our view better align to the existing provisions.

The current drafting in relation to the “structure **and** external wall systems **and** any common parts” may be interpreted as three separate elements. It is the view of GMFRS that the structure of a buildings including the external wall system is included within the ‘common parts’. In our experience, there has been little or no dispute that the structure and external wall systems of multi-occupied buildings are common parts as they are not demised under the terms of the individual leases but remain under the control of the Freeholder and in some cases the Head Leaseholder. It is therefore unhelpful to introduce wording that suggests that the Fire Safety Order applies to these elements in addition to ‘common parts’.

The wording proposed by GMFRS ensures that the common and long held view that the Fire Safety Order applies to the common parts of multi-occupied residential premises is preserved and the clarification is to explicitly include the structure and external wall system within this.

Proposed Insertion

Although it has been well established that the Fire Safety Order applies to the common parts of multi-occupied residential buildings and this has been included in the guidance for Purpose Built Blocks of Flats² and Houses in Multiple Occupation³ there is no definition of common parts. It is the view of GMFRS that the inclusion of a definition of common parts into Article 2 of the Fire Safety Order would assist in providing clarification across a range of regulated premises and the need for this is not restricted to multi-occupied residential buildings.

The Health & Safety Enforcing Authority Regulations 1998 contain an established definition of common parts in Regulation 2 as follows;

““common parts” means those parts of premises used in common by, or for providing common services to or common facilities for, the occupiers of the premises;”

² Local Government Association: Fire Safety in Purpose Built Blocks of Flats

³ LACoRS: Housing Fire Safety ‘Guidance on fire safety provisions for certain types of existing housing’

This definition is not restricted to any particular type of premises but does cover “domestic premises” which has the same definition as in the Fire Safety Order. This definition has a number of advantages; it is already established; it applies to a range of premises which are regulated under the Fire Safety Order by Fire and Rescue Authorities and the Health & Safety at Work Act by both Local Authorities and the Health and Safety Executive and there is existing guidance which could be amended or adopted in relation to enforcement including in relation to domestic premises.

It is the view of GMFRS therefore that the Bill should be amended to include a provision to insert a definition of ‘common parts’ into Article 2 of the Fire Safety Order. This should not be restricted to defining common parts in relation to the proposed wording relating to multi-occupied buildings as this would be restrictive and not include all premises to which the Fire Safety Order applies.

I trust that this submission is helpful to the Committee and if you require any further information, please do not hesitate to contact me or Jenni Seex ()
seexj@manchesterfire.gov.uk)

Yours faithfully,

Gwynne Williams

Gwynne Williams,
GMFRS Solicitor and Deputy Monitoring Officer of the Greater Manchester Combined Authority

cc Home Office Fire Safety Reform Team