"The Legal Framework in Practice"

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September 11th 2019

Case Study

- 20 metre high building – 6 storeys
- Residential flats in private ownership, mixture owner occupiers/short term tenants
- Well maintained and well managed building
- Compliant with Building Regs when built
- Cladding is Category 3 ACM

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Context in Bradford

- Concordat between 5 Local Authorities in West Yorkshire and West Yorkshire Fire & Rescue Service

- Outlined lead authority role based on type and size of premises

- Buildings >4 storeys or with complex or fire engineered layouts = WYFRS

- Within the Self contained flats = LA

Housing Act 2004

- Access to inspect – Section 239
- Housing Health and Safety Rating System (HHSRS) – assessment tool
- HHSRS – likelihood and harm
- HHSRS – worked examples
- Disregard interim measures when inspecting
- HHSRS score – Category 1 or 2 hazard

Housing Act 2004 (2)

- Enforcement options vary dependent on Category of hazard

- Category 1 (Duty); Category 2 (Power)

- Enforcement Policy in Bradford allows the Council to take enforcement action for a Category 2 hazard

- Must consult Fire service

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Case Study

- Presence of ACM would increase the scores for likelihood and harm but the hazard would still only score Category 2

- Category 2 restricts the enforcement options under the Housing Act. Emergency powers are not available

- Right of Appeal

Ownership

- Can be very complex
- Land Registry and company searches
- Take legal advice
- HA 2004 S262 definition - Who to serve improvement notice on ? 2 part test – objective and subjective
- Be prepared to justify decision – appeal highly likely

Interim measures

- Can become very expensive, very quickly

- Can quickly become unaffordable for leaseholders

- If interim measures are removed – Fire Service can prohibit occupation of the building

Practicalities

- Housing/Building Control/Fire Service and Legal need to work as a team

- Clear communications with residents vital

- Consider scenarios and plan accordingly

- Check your policies