

WEIGHING UP THE LAW

Hannah Eales examines the increased responsibilities around fire doors due to recent changes in legislation

THE FIRE Safety Act 2021, which came into force on 16 May 2022, brought doors between domestic premises and common parts (in premises containing two or more domestic premises) within the scope of the Regulatory Reform (Fire Safety) Order 2005 (FSO). This therefore increased the responsibilities placed on the responsible person under the FSO in assessing fire safety, undertaking a risk assessment, and taking general fire precautions to ensure the safety of relevant persons.

The first steps to be taken in respect of fire doors for the responsible person, are establishing that they meet the requisite standards to ensure the fire safety of the premises and the safety of relevant persons; replacing inadequate doors and providing a suitable system of maintenance.

Having satisfied themselves that the fire doors are suitable further to a fire risk assessment under article 9 of the FSO, the responsible person will then need to consider the Fire Safety (England) Regulations 2022 that came into force on 23 January 2023. These regulations imposed further new responsibilities on responsible persons in respect of fire doors. Any breach of the regulations is a criminal offence under article 32(1)(b) of the FSO if the breach places one or more relevant persons at risk of death or serious injury in the event of fire.

Regulation 10

Regulation 10 deals with fire doors and imposes a number of additional requirements on responsible persons. The responsibilities differ depending on the height of the building with additional responsibilities for buildings over 11 metres in height.

For any building which contains two or more sets of domestic premises and which contains common parts through which residents would need to evacuate

Regardless of the height of these types of premises, the responsible person must provide the following information about fire doors (this includes individual entrance doors) to residents of the building:

- Fire doors should be kept shut when not in use;
- Residents or their guests should not tamper with the self-closing devices; and
- Residents should report any faults or damages with doors immediately to the responsible person.



Hannah Eales is a Partner in the Regulatory team at Kingsley Napley LLP and heads up the firm's Fire Safety Law practice. She advises upon compliance with fire safety legislation and regulations and represents those facing enforcement action for fire safety breaches.

This information must be provided to a new resident as soon as reasonably practicable after they move in and to all residents on an annual basis.

For buildings containing two or more sets of domestic premises over 11 metres in height

Where a building is over 11 metres in height, additional responsibilities come into play. For the purposes of measuring 11 metres in height, the height is to be measured to the top storey in accordance with Appendix D of Approved Document B, so in effect, where the top storey is more than 11 metres above ground level.

The responsible person must undertake checks of fire doors in communal areas of these buildings at least every three months.

The regulations also state that the responsible person must use "best endeavours" (regulation 10(4)) to undertake checks of fire doors at the entrances of individual domestic premises in the building at least every 12 months. Checks on both communal fire doors and individual entrance doors must include ensuring that the self-closing devices for the doors are working.

Best endeavours

What does using 'best endeavours' mean in respect of regulation 10(4)? The government have not defined this, but they do say in guidance that it will be for responsible persons to determine the best approach to engage with residents in order to get access. A key concern for responsible persons is where residents refuse access. The government guidance suggests making arrangements with residents in advance of carrying out checks and offering a range of times to the resident for the checks to be undertaken. The government guidance also suggests that ultimately a responsible person may need to consider legal action if a resident persistently refuses to cooperate with the checks. Responsible persons might consider offering

information to residents as to what is required by the Regulations to educate them and highlight the importance of fire and life safety. This could be done as part of the required information the responsible person must provide to residents under regulation 10(1) and (2).

The regulations require a record to be kept of the steps taken to undertake these checks, including the steps taken by the responsible person to try and gain access where access to the domestic premises was not granted during any 12 month period. This record could include correspondence between the responsible person and resident and a record of attempts made to contact them and explain the need for undertaking checks. This record would assist any responsible person should the question of whether they used 'best endeavours' arise in any enforcement proceedings.

The Court's interpretation of 'best endeavours' would tie in with the question of whether a responsible person took

"all reasonable precautions and exercised all due diligence" under article 33 of the FSO as a defence to offences under article 32 (including a breach of the Regulations under article 32(1)(b)). Therefore, the more information a responsible person can gather to show they used 'best endeavours' in their defence, the better. ◀

Scan here to access
the government-issued
fact sheet on Fire doors
(regulation 10):

