

14 January 2022

Subject

Fire at Block D, New Providence Wharf (NPW), 1 Fairmont Avenue E14 9PB

Brief for: External Release

Author

Assistant Commissioner Fire Safety (Prevention and Protection)

Summary

Following a fire at NPW on 07/05/21, London Fire Brigade (LFB) as the enforcing authority of the Regulatory Reform (Fire Safety) Order 2005 (“RRO”) in London undertook an investigation to establish if there were prosecutable offences under the RRO. The investigation focused on why the premises fire alarm and Automatic Opening Vent (AOV) systems did not operate as required during the incident, which resulted in a number of residents not being able to leave their flats and requiring rescue from LFB operational crews.

Methodology

Block D at NPW has Fire Smoke detectors fitted within each flat and in the means of escape routes throughout the building. In the event of a fire these should have activated the AOV’s when smoke / fire were detected. This would have had 3 effects:-

- Cross corridor doors within the means of escape would have closed, containing the fire to one half of the corridor.
- The AOV’s on the floor of fire origin would have activated to remove smoke from this portion of the corridor.
- The AOV in the protected staircase would have opened to allow the removal of any smoke from the staircase.

As the above did not happen during the incident, the investigation focused on identifying the cause for this, and if any offence’s had been committed under the RRO relating to;

- Articles 9 - Responsible Person (RP) must make a suitable and sufficient assessment of risks to which relevant persons (e.g., residents) are exposed.
- Article 11 – RP must make arrangements for effective planning, organisation, control monitoring and review of the preventative and protective measures.
- Article 17 – RP must ensure that the fire precautions are maintained and in good working order.
- Article 23 – Every employee must take reasonable care of their own safety and other relevant persons who may be affected by their acts or omissions.

In each case, a breach of the provisions of the Article will constitute a criminal offence only if there is proof that the breach would cause a risk of death or serious injury to one or more occupier in the event of a fire.

Interviews/conversations were held with a range of potential witnesses.

Several hundred documents (GDPR compliant) were obtained from the RP Ballymore and their contractors and reviewed by the investigation team. These included Fire Risk Assessments, maintenance records, staff training records, contracts, fire policies, emergency plans, tenancy and lease agreements and information provided to residents covering the last three years.

On the basis of the evidence LFB has gathered, the factual findings include:

- Block D had been subject to ongoing investigations into intermittent faults within the fire detection system. These faults had been reported and were being investigated over a number of weeks by AFSS who were a sub-contractor of ATEC. These investigations had not been completed by the time of the fire.
- AFSS did not submit their report to ATEC stating that there was [a lack of fire cover / an issue with the system] until after the fire. There is no evidence ATEC were aware of the lack of fire coverage at the time of the fire. In turn, ATEC had therefore not informed anyone at Ballymore that there was a break in the system.
- Ballymore understood there was full fire cover in Block D prior to the fire. The evidence does not support a conclusion that Ballymore knew (or ought to have known) the fire detection system was not providing full cover and would not operate correctly in the event of fire. The evidence does not support a conclusion that Ballymore ought to have known a review of the fire risk assessment for Block D was needed.
- Fire safety information and advice on what to do in the event of a fire had been provided to residents. On the day of the fire there was a period of approximately 10 minutes between the fire starting and employees of Ballymore on site being alerted to the fire. There is no evidence that this elapse of time can be attributed to Ballymore. This allowed the fire to grow in strength whilst delaying the response from the emergency services.
- The front door to the flat in which the fire started was fitted with a self-closing device which was working on the day of the fire. The purpose of this device is to ensure the flat front door self closes and contains any fire within the flat. During the incident the fire was close to the front door and as a result, debris fell down in front of the front door, and it was not able to close. This allowed smoke to travel into the means of escape instead of being contained within the flat. There is no evidence of any deficiency in the operation of the front door that can be attributed to Ballymore.
- The waking watch for Block D remained in place in light of the concern with the building's ACM cladding.

Conclusions

The Code for Crown Prosecutors, issued by the Director of Public Prosecutions, sets out the general principles Crown Prosecutors should follow when making decisions to bring a prosecution. LFB abides by The Code for Crown Prosecutors which sets out to ensure that any prosecutions we bring are fair and proportionate. In order for LFB to bring a prosecution under the RRO and comply with this code, LFB must satisfy both the evidential test and the public interest test.

The evidential test requires a prosecutor (LFB) to satisfy themselves that there is sufficient evidence to provide a 'realistic prospect of conviction' in respect of each charge. The prosecutor

must consider what the defence case might be and how it is likely to affect the prospects of conviction.

If the case does pass the evidential test, the Prosecutor must then decide whether a prosecution is needed in the public interest. They must balance factors for and against prosecution carefully and fairly. LFB's Enforcement Policy Statement sets out the factors it will have particular regard to when making decisions in the public interest.

LFB committed significant resources to the investigation, with enforcement investigation officers working on the case (full time) for many months. After following all reasonable lines of enquiry over an extended investigation period, LFB has been unable to identify evidence that any offences have been committed under the RRO that would pass the evidential test. As the evidential test cannot be met, the Public Interest Test would not need to be applied. However, preliminary consideration of public interest factors indicated that this could not be identified as a case of deliberate risk taking or of risk taking for financial gain.

In light of this, LFB has decided no further regulatory action is required or appropriate in relation to the investigation following the fire of 7/5/21. If further relevant information is received this conclusion will be reconsidered.

Learning outcomes linked to enforcement activity

There were two key learning points relating to the enforcement have been identified.

- 1: **Evidence Gathering:** On the day of the fire, fire safety officers and fire engineers were urgently drafted in to assist with systematically checking blocks A, B, C and E, to ensure that all fire safety measures were checked as working and that any issues were immediately rectified by Ballymore. This was to ensure that hundreds of residents could be safely repatriated to their homes that same evening (block D was not able to be re-occupied). Had LFB officers focused at this initial stage on inspecting/evidence gathering (e.g. of a sticking AOV) over supporting the reoccupation of NPW, it is likely that further evidence would have been gathered about the condition and management of the premises. This additional evidence would have then been available to be considered alongside the material from the follow-up audit/inspection that took place some days later. This could have given a proper basis for further enforcement action (up to and including an Enforcement Notice). This learning has since been implemented.
- 2: **Legislation:** London Fire Brigade will be engaging with the Home Office to consider whether there are opportunities to strengthen the regulatory powers of fire and rescue services to assist with future investigations.