

██████████ ██████████

“11.2 Fire safety regulation considerations at time of fire: ... [fire safety legislation] does not apply, fire did not travel outside of the flat of origin. No issues noted by Senior Fire Safety Officer.”

General Response to the “Matters of Concern”

4. It is noted that the “Matters of Concern” raised in the Regulation 28 Report are lifted wholesale and verbatim from LFB’s letter to you of 26 October 2021. Indeed, Matter of Concern 2 still starts with *“The London Fire Brigade believe...”*.
5. Following the Inquest, you invited submissions and evidence with respect to prevention of future deaths. In response, NH provided a 38–paragraph witness statement from ██████████, NH’s Fire Safety Contracts Manager, which responded to many of the points that now form the “Matters of Concern”. No reference is made to ██████████ statement in the Regulation 28 Report, and so it is, unfortunately, not entirely clear if that statement has been considered before the Regulation 28 Report has issued.
6. If it had in fact been considered, and you have made an informed decision that there are still further points that NH needs to answer, then it is unfortunate that those remaining concerns have not been specified – regrettably, without knowing exactly the basis upon which you may consider these matters to be outstanding, it is difficult for NH to frame its response as helpfully as it might otherwise have been able to do.
7. Additionally, it is noted that in that letter, LFB’s recommendations were directed not just to NH and the other two recipients of the Regulation 28 Report, but also to The Home Office (Fire Policy team), the Care Quality Commission, All London Local Authorities, and the National Fire Chiefs Council. This would appear to be due to a recognition on the part of LFB that many of the “Matters of Concern” it raised make recommendations that go well beyond, and are in some cases incompatible with, current fire safety legislation and guidance. Such recommendations would therefore require new legislation or policy change, rather than action by individual dutyholders.
8. The effect of now directing these “Matters of Concern” to the dutyholders only, and not those responsible for policy and guidance, is that any reader could be misled into thinking that HM Coroners’ criticisms amount to failures on the part of NH (and potentially the other two recipients) to comply with the current fire safety legal framework and contemporary standards. That is simply not the case. With respect to the issues raised, NH is fully compliant with the

Regulatory Reform (Fire Safety) Order 2005, and in many cases goes well above and beyond those requirements in order to achieve best practice and to protect residents as far as it is able to.

The Nature of Residence Within Knightleas Court (and other similar premises)

9. Knightleas Court is sheltered accommodation consisting of 67 self-contained, independent living flats. It is accommodation for elder residents with the benefit of communal facilities, but retaining independent living for residents. Individual flats are the private homes of those residents.
10. No care facilities are provided. Knightleas Court, and other sheltered accommodation, is very different to facilities providing care services, such as care homes.
11. If residents do develop care or support needs, those residents would be sign-posted or referred to other voluntary or statutory agencies where their needs can be met by those providers. NH does not provide care services.
12. As explained in more detail below, NH completes regular reviews of the Person-Centred Risk Assessments and document and assesses any vulnerabilities that may result in resident's ability to respond to a fire.

The Legal Fire Safety Framework

13. Fire safety of premises in England and Wales is regulated by the Regulatory Reform (Fire Safety) Order 2005 ("RRO"). RRO imposes obligations on the Responsible Person for particular parts of premises, and empowers fire authorities (such as LFB) to enforce those provisions. In addition, guidance on the obligations under, and enforcement of, RRO is provided by Chief Fire Officers Association ("CFOA") and National Fire Chiefs Council ("NFCC").
14. Under Article 6(1)(a) RRO, none of the obligations under RRO (save in relation to Prohibition Notices, which is irrelevant here) apply to domestic premises. This means that, although the common parts of sheltered housing buildings (corridors, stairways etc) are covered by RRO, the individual flats themselves are not.
15. Therefore, NH does not owe duties under RRO with respect to individual flats, or with respect to any activity taking place within them. Inter alia, there is no duty under article 8 RRO to take

general fire precautions in relation to individual homes, and there is no duty under Article 9 RRO to conduct a Fire Risk Assessment in relation to individual flats.

16. The logic of RRO in this regard is clear – those individual flats are the private homes of the residents, an Englishman’s home is his castle, and so the building owner has no right (or obligation) to infringe upon the private homes of its tenants.

17. That this is the case is recognised clearly in the relevant guidance documents:

a. Appendix 1 of the CFOA “Enforcers Guidance”:

“Sheltered Housing

Accommodation may be provided as either flats or as separate houses. ... These premises are treated as private dwellings. The Order does not apply to the dwellings but may apply to any common facilities and office accommodation where this is provided on site.

...

Implications of the Order as it applies to Flats

... The Order imposes obligations on the responsible person to take general fire precautions in respect of the common parts of a block of flats (but not the individual flats themselves). ... The common parts of blocks of flats (e.g. halls, stairs, landings, lifts etc) are subject to the Order but individual flats fall outside its scope”

b. Section 30 of the NFCC’s “Fire Safety in Specialised Housing” guidance:

“30.1 The Regulatory Reform (Fire Safety)

Order 2005 (the ‘FSO’) does not apply to individual private dwellings and units of accommodation, other than in respect of measures installed within that accommodation as part of the building-wide fire strategy to protect residents of other accommodation. However, the FSO does apply to common parts.”

c. In relation to the Knightleas fire itself, by LFB’s Fire Investigation Team Report (dated 26 April 2021):

“11.2 Fire safety regulation considerations at time of fire: ... RRO does not apply, fire did not travel outside of the flat of origin. No issues noted by Senior Fire Safety Officer.”

18. Under RRO, LFB are given extensive powers and mechanisms by which they may enforce requirements under that legislation. The reason that LFB have not been able to enforce the “Matters of Concern” themselves via those powers is because those issues do not relate to legal requirements under RRO – LFB has no legal power to enforce them, because they are not the law.

Person-Centred Risk Assessments

19. Notwithstanding the legal position above, NH in fact seeks to implement best practice and the non-mandatory suggestions from the NFCC’s “Fire Safety in Specialised Housing” guidance with respect to its housing – including, in particular, with respect to Person-Centred Risk Assessments (“PCRAs”).
20. PCRAs are completely distinct to the legally-mandated Fire Safety Risk Assessments required under Article 9 RRO. Fire Safety Risk Assessments deal with the fire safety of the building, whereas PCRAs attempt to identify and assess specific factors in relation to individual residents.
21. Part D of the NFCC’s “Fire Safety in Specialised Housing” guidance explains:

“The person-centred approach, based on a person-centred fire risk assessment, relates to the safety of residents who are at high risk from fire in their own accommodation; as such, this risk assessment and measures identified by it are outside the scope of the Fire Safety Order, but are strongly recommended as good practice. ...

... A person-centred fire risk assessment should consider the propensity of the resident to contribute to the likelihood of fire or fire development, the mental capacity of the resident to recognise and respond appropriately to fire alarm signals or signs of fire, and the ability of the resident to escape in the event of fire.”

22. The NFCC’s “Fire Safety in Specialised Housing” guidance also contains an exemplar PCRA within its Appendix 4.
23. With respect to PCRAs, you have already received the following evidence in the witness statement of [REDACTED]. NH can do little more to explain the position with respect to PCRAs than repeat her evidence again:

21. *PCRA were completed by meetings in person with all tenants at Knightleas Court in 2018.*
22. *Under the NFCC Guidance for specialist housing it does not detail the frequency with which they should be reviewed. NH have adopted the standard template for PCRA's contained in that guidance.*
23. *However, NH policy was/is to review all its PCRA's on a 1,2-, and 3-year cycle; unless a new vulnerability or change to existing vulnerability is identified by the scheme manager.*
24. *High risk is reviewed annually and lower risk every 2 years, low risk every 3 years.*
25. *Mr Ennis' PCRA was completed at a meeting within the property (like all PCRA's). The document shows that at the time there was no reason to suspect there was a risk of careless disposal of cigarettes nor that NH should update the PCRA sooner than intended, in line with NH's policy.*
26. *I do not believe that it is possible or practical to assess the number of cigarettes or where they are smoked within each tenant's flat. These factors are likely to vary throughout a day and from day to day. The NFCC Guidance does not suggest that as part of the PCRA process an assessment be made in relation to the number of cigarettes smoked and location that takes place.*
27. *In Mr Ennis case, whilst we accept the PCRA said it would be reviewed in 2019 and was not, due to his assessed low risk status, he was not in fact due a review until 2021.*
28. *NH accepts the PCRA programme was slightly behind schedule due to the pandemic and inability to hold face to face meetings with tenants in their flats. A proper assessment of the risk can only be carried out by meeting in the flat with its tenant.*
29. *I can confirm that all tenants at Knightleas Court and at the other NH schemes have since this fire had their PCRA reviewed. Those identified as vulnerable and who may require assistance evacuating, are recorded and information is held in the premises information box.*

30. *As was heard in evidence there are measures in place should residents need assistance. There are pull cords in each room which when activated connect the flat to the Barnet Assist call centre so assistance is available if staff are not on site.*
31. *It must be accepted that if a tenant is overcome by smoke they would not be able to activate the pull cord so that is why there is automatic smoke detection in place and which worked.*
32. *NH do install fire suppression systems (sprinklers) and other aids if risks of a fire or ability to evacuate are identified. At this time there is no requirement on NH to retro fit a sprinkler system throughout Knightleas Court.*
33. *NH work collaboratively with the local authorities to ensure residents are in appropriate housing. If it is deemed that a resident can no longer live independently the local authority are responsible for rehousing residents into care or supported housing accommodation. NH does not have any care homes.*

Specific Responses to Matters of Concern 1–7

34. The below respond to each of your individual Matters of Concern so far as NH is able to respond to them.

Matter of Concern 1:

35. NH has carried out a comprehensive Fire Risk Assessment for all of the areas of premises for which it is the Responsible Person. Fire Risk Assessments are reviewed every year at this site, or sooner if there is a significant change in the premises.
36. When improvements or additional requirements are identified in a Fire Risk Assessment those actions will be given a target date based on risk and the extent of the work required. NH aims to complete all work before the target date, often doing so well before the target date. The target dates of works form part of the ongoing Fire Risk Assessment process – as part of that process, in conjunction with the Fire Risk Assessor, some actions are re-profiled and amended target dates are given.

Matter of Concern 2:

37. This is not an issue for NH to address.

Matter of Concern 3:

38. This is not an issue for NH to address.

Matter of Concern 4:

39. This is not an issue for NH to address.

Matter of Concern 5:

40. Whilst NH recognises that the provision of advice from LFB to residents could be of assistance to those residents with respect to fire safety within their flats, and it is happy to LFB to provide such advice, NH does not consider that it is appropriate to make this a mandatory condition of tenancy within its sheltered housing.

41. The changing of terms within tenancy agreements are of significant undertaking that requires consideration of a huge number of issues and requires consultation with, and the agreement of, residents. This is particularly so given that the suggestion at Matter of Concern 5 falls outwith the legal obligations of RRO, and is not even a recommendation within the relevant NFCC guidance.

42. Parliament chose, by enacting s6 Fire and Rescue Services Act 2004, to impose upon fire and rescue services the duty for making arrangements for the provision of advice to residents on fire prevention and means of escape. It is not appropriate for LFB or a Coroner to seek to circumvent this and to place the obligation on a third party such as NH. LFB is of course welcome to provide advice to residents, so as to comply with its obligation under s6 Fire and Rescue Services Act 2004, on a voluntary basis, and NH are happy to consider any practical requests from LFB about how it might reasonably assist in this regard.

Matter of Concern 6:

43. This matter of concern contains a number of errors/inaccuracies. The reference to what should or should not have been done in the past is outside of the proper scope of any PFD report. Additionally, as covered above, PCRAs are not required by law, and so it also incorrect to say that PCRAs "*should*" have been done.

44. As explained above, NH, as a responsible landlord, voluntarily carries out PCRA's so as to achieve best practice and as high a standard of safety for its residents as can reasonably be achieved.
45. PCRA's are reviewed regularly, in accordance with the recommendations in section 39 of the NFCC's "Fire Safety in Specialised Housing" guidance. They will be reviewed if there is a significant change in circumstances, and otherwise they are periodically reviewed at either one, two or three year intervals dependent upon the risk/needs level of the individual to whom the PCRA relates. A one-size-fits all approach is not appropriate. No reference is made to a maximum review period of 12 months within the NFCC guidance. It is therefore not correct to say that "*PCRA's should be reviewed on a regular basis, not less than every 12 months...*" - there is no formal guidance that recommends such an approach.
46. During the Covid-19 pandemic, NH's programme of reviewing PCRA's was delayed. In-person visits, a necessary step involved in conducting PCRA's, were not conducted so as to protect the residents from the significant risks from Covid - many of the residents were those most at risk from covid. NH conducted additional telephone-based welfare checks with residents during this so it could continue to provide the best level of support it could, given the difficult circumstances.
47. Following the lifting/relaxing of restrictions, all PCRA's have been reviewed. PCRA's for Knightleas Court have been provided to LFB, and no issues with these have been raised.

Matter of Concern 7:

48. NH's fire prevention, detection and response systems are adequate and appropriate, based on applicable law and guidance. If LFB considers that this is not the case in any specific regard, then it is more than welcome to liaise directly with NH to voice its concerns so that these can be addressed.

Summary

49. Network Homes takes fire safety extremely seriously and is committed to complying with all its statutory obligations under the RRO and all other fire safety guidance. It is in a committed partnership with the LFB to ensure its buildings are managed effectively.

50. The fire safety arrangements at Knightleas Court, and similar premises, are appropriate to the nature of those premises as sheltered accommodation which supports independent living (but which does not provide care services).

51. In relation to the fire on 19 April 2021, the fire safety systems behaved, and the fire safety equipment activated, as expected. Those systems were maintained in line with RRO and industry guidance. The fire was successfully contained within the flat of origin, which demonstrates the ability of the property to perform as expected in the event of a fire.

The above letter constitutes NH's response under paragraph 7(2) of Schedule 5 of the Coroners and Justice Act 2009 and under Regulation 29 of the Coroners (Investigations) Regulations 2013, and discharges NH's duties under those provisions.

NH would be grateful if, before publishing this response or making it more widely available, both you and the Chief Coroner would consider redacting the names of any individuals from the above response letter. In our experience this is common practice, but we include the request herein expressly, pursuant to Regulation 29(8) Coroners (Investigations) Regulations 2013.

Yours faithfully

Weightmans LLP

Weightmans LLP

On behalf of Network Homes