

Energy Efficiency and Private Blocks of Flats

The Federation of Private Residents Associations feel strongly that issues concerning energy supplies to privately owned blocks of flats are not being handled correctly. We have set out the issues below and would welcome the coalitions views at the June meeting when hopefully we can discuss them in more detail.

Background

We are concerned about the supply of energy to privately owned blocks of flats. Many of the landlords of these flats are companies and associations whose members are the owners of the flats in the blocks; we estimate there are 60,000 such companies in England and Wales. These small companies do not operate for profit; they collect service charges to pay for communal running costs and pay out the costs in order to balance the books each year. Some of these companies and associations engage a managing agent to who is delegated the day to day provision of communal services; but the company retains the role of landlord.

One of the services that is provided in all blocks of flats is the supply of electricity (and sometimes gas) to communal areas-the lighting of halls, stairs and corridors. In addition the utility supply will also run the lifts (if provided), the fire alarm to warn in the event of a fire and emergency lighting to allow evacuation in event of a fire.

Issue 1 Energy Efficiency

Grants are available to home owners to assist with improving energy efficiency and some private owners of flats do qualify for those grants. But there is a problem. In order to improve the cavity and roof insulation in flats there has to be a communal approach; it is the landlord who 'owns' the roof space and the cavity not the owners who cannot act independently. But grants are not available to landlords of private blocks of long leasehold flats, even if those landlords are the owners of those flats. Landlords who rent can obtain tax relief but this does not apply to landlords of leasehold flats.

Issue 2 Inability to Change Supplier/Lack of Competition

The companies that manage blocks of flats wish to obtain the best rates for the supply of gas and electricity to communal areas but they are being prevented from doing so. Why? Because the utility companies treat them as small businesses and run credit checks on them as businesses and find they have no assets; often they will have filed dormant accounts with Companies House. Remember these are not trading companies running a business.

This approach by the utility companies is wrong because these flat management companies are receiving domestic energy supply-see below re VAT. They are not supplied as commercial customers but the utility companies are applying commercial rules to them.

Issue 3 VAT and Domestic or Commercial Tariffs

Under VAT guidance it is quite clear that the supply of electricity and gas to common parts of blocks of flats is a domestic supply- see *Item 3.2 of Fuel and power notice produced by HMRC which defines what is domestic use.*

The following are treated as part of the same residential unit:

- *buildings such as garages used with houses;*
- *subsidiary buildings situated a short distance away, such as a garage in a block located away from a house; and*
- ***corridors, lifts, hallways and stairways in a residential unit.***

Despite this advice we still find utility companies refusing to acknowledge that a supply to flat management companies is a domestic supply and even if they finally do refusing to backdate the necessary repayment of wrongly charged VAT.

Issue 4 Disconnection

The utility companies have put in place a safety net to prevent unnecessary disconnection of vulnerable customers who receive domestic supplies but there is no protocol regarding disconnection of communal areas of blocks of flats. Disconnection of supplies to communal areas of blocks of flats immediately puts at risk the safety of those who live in those flats. The fire alarm and emergency lighting will not be operational and the block should not be occupied in these circumstances. In high rise flats the water supply to flats will normally be pumped and require power to supply.

We do not condone flat management companies that refuse to pay their debts but this is not usually the case. In order to pay bills the companies and their agents have to collect service charges from lessees who may or may not be in funds to pay. To pursue debtors through the courts and leasehold tribunals is costly and takes time.

What we seek is a protocol that utility companies will adopt before any disconnection would take place. A recent case we were aware of had court papers served to the block of flats and left in the communal hallway, rather than to the billing address provided with the managing agent. In another case the local authority had to step in or otherwise many families would have had to be found emergency accommodation.

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Chairman
On behalf of The Federation of Private Residents Associations Ltd.

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