

Are your gas inspection hatches in place?

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Yashmin Mistry



Gas inspection hatches and flues

31 December 2012 is a date all home-owners, leaseholders and landlords should have in their diaries.

Why?

After this date, if a gas engineer cannot view a boiler flue along its length they will be entitled to advise the homeowner that the installation is 'at risk' and will seek permission to turn it off.

A homeowner therefore has until 31 December 2012 to arrange for inspection hatches to be installed or potentially run the risk of becoming 'gas-less'. This requirement will clearly have an impact on landlords and leaseholders obligations and alike.

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Background

The introduction of fan-flued gas appliances in the mid-1990s allowed gas central heating boilers to be installed away from external walls. This meant that in blocks of flats developers and/or builders were routing flues to boilers through ceiling voids and stud walls between the flats to make better use of space.

The Health and Safety Executive (HSE) issued a safety notice in December 2010 which coincided with Gas Safe Register Technical Bulletin TB008. Both the safety notice and bulletin can be found on the HSE website: www.hse.gov.uk

In 2007, CORGI issued the original Technical Bulletin (TB 200) which required new installations with a flue routed within a void to have appropriate means for gas engineers to visually check the flue. This was to be achieved by the installation of inspection hatches located in the ceiling.

The main change made to the original bulletin TB008 was to dictate that inspection hatches be fitted retrospectively to properties where the flue is concealed within a void and cannot be inspected.

Whose responsibility is it to install the inspection hatches?

The responsibility belongs to the homeowner.

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However, in certain circumstances it may be that the homeowner will have recourse to other people/bodies. For example:

- Where a property is less than two years old, a homeowner should contact the original developer and/or builder for assistance with retro-fitting inspection hatches and repairs of the flue defects. Failing that, the homeowner should be advised to contact their home warranty provider. The main warranty providers in the UK are NHBC, Premier Guarantee, and Zurich Building Guarantee (for older properties)
- Where a property is between three and ten years old, the homeowner should contact the home warranty provider
- Where a property is ten years or older a registered gas safety engineer should be contacted.

How will this affect landlords and leaseholders?

Demised premises?

Leasehold practitioners must first and foremost consider the provisions of the lease. Most inspection hatches will need to be installed into the ceilings of flats. It is therefore important to identify which party under the lease the ceiling and ceiling void have been demised to and which party is responsible for maintenance of these parts.

Landlord's consent for works under the lease

It is also usual for leases to include provisions within them requiring the leaseholder to obtain landlords and/or managing company's consent prior to making alterations (structural or non-structural) within their demised premises.

From a landlord's perspective, whilst consents cannot be unreasonably withheld, landlords may need to give consideration to several issues:

- Whether they consider reducing their administration charges for providing consent as, arguably, all leaseholders must undertake the works to comply with legislation and statutory requirements

- It is possible that the original plasterboard ceiling will have been designed to provide fire protection and, in many cases, acoustic/noise protection too. The hatches will, of course, need to be fitted to provide equivalent fire/noise protection to the ceiling which they are replacing. It may be that the landlord considers appointing just one contractor to install inspecting hatches within their developments to ensure consistency and a minimum standard of safety.

Ongoing maintenance responsibilities

Another important thing to remember is responsibility for ongoing maintenance (if any). Which party to the lease will be responsible for the maintenance of the inspection hatch once installed? It will arguably come down to the party responsible for the ceiling under the terms of the lease as it is highly unlikely that the lease as currently drafted will incorporate specific provisions for inspection hatches. Lease variations may also need to be considered in certain circumstances.

Health warning!

Whilst there is no legal duty on homeowners to have inspection hatches installed, there is a long-standing legal duty for gas engineers to be able to visually inspect flues to ensure safety.

Getting the works completed may take time – especially if the homeowner needs to make contact with the original building and/or home warranty provider. To avoid the risk of having gas turned off from 1 January 2013, action must be taken now.

Leasehold management organisations also need to start considering, if they have not already done so, the policies they have to put in place for providing consent and ensuring a minimum standard of safety across their portfolios.

Whilst 31 December 2012 seems a long way off, time has a habit of flying by when you're dealing with other distractions such as Right to Buy and service charges!

About the author

Yashmin Mistry is a Partner at Jaffe Porter Crossick LLP and specialises in residential leasehold and general landlord and tenant work, which include collective enfranchisement, lease extensions/ variations, right to manage claims, appointment of manager applications, rights of first refusal and granting new leases. Yashmin also has experience in dealing with actions before Leasehold Valuation Tribunals, Upper Tribunal, enforcing lease covenants, forfeiture claims, Section 146 notices, and dealing with service charge disputes.

In May 2011 Yashmin won, for the second year running, 'Young Professional of the Year' and 'Regional Solicitor' at the News On the Block Enfranchisement and Right to Manage Awards. She had, in May 2010, won 'Enfranchisement Solicitor of the Year' as well as 'Young Professional of the Year'. In 2009 she was awarded 'Regional Solicitor of the Year'. In September 2011 Yashmin was also short listed for the 'Asian Woman of the Year' Award.