



Commercial Property

Occupiers & the liability for common parts

Businesses renting accommodation in buildings in multiple occupation could face claims for failing to ensure communal areas are properly maintained.

This follows from a recent case where an office occupier in a building in multiple occupation was sued by an employee who suffered serious injuries when her hand and arm were caught in a lift door situation in the common parts of a shared building.

Safety devices which would have stopped the incident were not in operation. Whilst the employee had no responsibility for maintenance of the lifts, the Court of Appeal held that the employer was liable under the Provision and Use of Work Equipment Regulations 1998 and had to pay substantial damages to their employee.

The employer argued that the lift was not work equipment within their building and that under their lease the landlord was responsible for maintenance of the lift. Under the Regulations, every employer is required to ensure that work equipment is maintained in good order and repair. However, the Court held that “work equipment” extended beyond the range of equipment solely within a tenant’s own office and extended to include items situated in the common parts of a multi-let building.

The follow on from this is that businesses occupying such accommodation need to be certain that their own insurance covers the possibility of such claims for which they have a liability (further details see PRP Architects v. Reid).

How green can your building be?

A recent report commissioned by the Royal Institution of Chartered Surveyors has addressed the issues of how carbon emissions in existing commercial buildings, i.e. offices, retail premises, hotels and industrial property, can be reduced so as to enhance energy efficiency standards.

Currently, some 44% of carbon emissions are contributed by existing buildings.

The report reveals that relatively small changes designed to improve energy performance of buildings can have highly positive results

from an environmental and financial perspective to the occupiers and owners concerned.

Some of the benefits of remedial action to existing buildings stock can include:

- A reduction of up to 60% of energy usage through the installation of energy efficient lighting.
- Reduction of 50% (or more) in heat loss by installing cavity wall insulation.
- Setting up of a “green roof” to provide thermal insulation and assist in rainwater retention.

These were some of the practical physical aspects considered but the real thrust of change must come from government policy. As a result, the RICS is calling on the government to:-

- Ensure the buildings it owns and uses are brought up to high energy efficiency standards – to act as an exemplar in this field.
- Reduce VAT from 17.5% to 5% on refurbishment and other works designed to improve energy efficiency.
- Consider other tax breaks as an incentive to introduce energy efficiency measures.
- Introduce a compulsory code which would set out minimum environmental standards to be met when undertaking refurbishment works.
- Ensure that both the planning system and also building regulations assist in promoting energy efficiency rather than hindering it.

To achieve this will require a concerted and coordinated approach by central government in promoting the practical solutions in tackling climate change - as well as financial assistance and a sympathetic ear from the Treasury.

It will be interesting to monitor developments in this arena in the months and years to come. ■