

Field Operations Directorate

**Rick Brunt**

Scotland and Northern England  
Division  
Redgrave Court  
Merton Road  
Bootle  
Merseyside  
L20 7HS

Tel: 0151-951-4712  
Fax: 0151-951-4835  
rick.brunt@hse.gsi.gov.uk

<http://www.hse.gov.uk/>

Head of Division  
Mr. David Snowball

18 April 2013

Reference

Dear Mr. Dooley,

**COMPLAINT TO THE PARLIAMENTARY AND HEALTH SERVICE OMBUDSMAN ABOUT HSE  
(REGARDING EMERSON HOUSE, ECCLES)**

I am writing in response to the issues you have raised with the Parliamentary and Health Service Ombudsman. The Ombudsman has contacted HSE to request that we consider these documents and provide a response to you.

HSE has considered the correspondence from IOSH and CIBSE. It is accepted that parts of CIBSE Guide A 1999 will apply to existing buildings such as Emerson House. However, this information does not have an affect on the outcome of the original complaint investigation.

CIBSE explained in their response to you dated 30<sup>th</sup> March 2012 that their guidance is generally regarded as 'best practice'. Best practice is not the same as a minimum legal standard. As a regulator, while HSE will encourage dutyholders to achieve 'good' or 'best' practice standards, we can only require them to comply with the minimum legal standard.

The minimum legal standards for ventilating workplace buildings are set out in Regulation 6 of the Workplace (Health Safety and Welfare) Regulations 1992. Regulation 6 requires that enclosed workplaces are ventilated by a "sufficient quantity of fresh or purified air". The Approved Code of Practice to Regulation 6 further states that "In many cases, windows or other openings will provide sufficient ventilation" but "where necessary, mechanical ventilation systems should be provided." The relevant guidance (paragraph 38) states that "The fresh air supply rate should not normally fall below 5 to 8 litres per second per occupant. Factors to be considered include the floor area per person, the processes and equipment involved, and whether the work is strenuous". These ventilation rates apply to industrial buildings as well as commercial office premises. There were no industrial processes being operated in Emerson House and only non-strenuous sedentary work was undertaken. In these circumstances, a level of fresh air ventilation at the lower end of the minimum standard of 5 litres per second per occupant would be acceptable and meet the minimum legal requirement.

HSL took measurements of the ventilation rates inside Emerson House using calibrated instruments and following a recognised method. At an average of 9.8 litres per second per occupant the measurements taken at Emerson House were above the minimum legal standard of 5 litres per second per occupant based on the average occupancy of the building.

You already know that, following our investigation HSE are satisfied that Urban Vision Partnership Ltd are complying with their legal obligations in respect of the ventilation at Emerson House. Having