

# Property Owners and Tenants Responsibility - Use of Equipment Within the Workplace

Engineering

Inspection



A recent legal case brought to the fore the issues surrounding the responsibilities for the maintenance of equipment used in a workplace. For such equipment, periodic examination should also be considered in conjunction with any maintenance regime. In this particular instance, a person was injured when exiting a lift. Although the duty for engaging a competent maintainer lay with the property owner, it was the employer leasing the building who was subsequently prosecuted for not ensuring that the equipment provided to its employee was in good order, under the Provision and Use of Work Equipment Regulations 1998.

Fundamentally, the law requires that equipment in any given workplace environment is:

- suitable for purpose,
- maintained in good order,
- inspected at appropriate intervals, and
- operated by trained staff, where deemed necessary.

In the first instance, the building owner will be responsible for the up keep of the building location and the services therein. However, by mutual consent, certain duties may be contracted out for the leaseholder to undertake. Any such duties must be clearly understood and agreed by both parties, and it is advised that such agreements are comprehensively documented within the body of a written contract.

Regardless of whether the property owner or the leaseholder retains the contractual duty, the Provision and Use of Work Regulations 1998 place a legal duty on any employer to ensure that any equipment that their employees use for the purposes of work are maintained in good condition.

It will not be sufficient for any employing organisation to assume that equipment is being maintained in good order. Any employer must be seen to actively assess whether the equipment is being maintained by a credible organisation and obtain an understanding as to whether or not such maintenance is suitable and sufficient.

In order to assist we would advise any duty holder (owner or occupier) that where they have concerns regarding maintenance then they contact the relevant Trade Association for the given equipment type for guidance on credible maintenance organisations. We would be more than willing to advise any client on these contact details, if required.

As part of this process of assessment it is advised that any lift installation and ancillary equipment is thoroughly examined by a competent inspection body. Such an independent scrutiny will enable an assessment to be made of the as seen condition, in order to advise on defects present in the equipment needing remedial action and guidance on the further safe use of the equipment in question.