



GUIDANCE NOTE B05

FIRE SAFETY

Revised – January 2017

ARMA-Q Standards

The Standards have been written to apply to residential long leasehold properties (a lease of a term in excess of 21 years when originally granted) in England and Wales where a service charge, which varies according to expenditure, is payable.

They represent the core of good practice for managing agents. We believe they are achievable by any well-run company. The applicable (if any) Standards related to this Guidance Note are stated below.

Standards in RED: An obligation to adhere to the Standard

Standards in GREEN: An obligation to adhere to the Standard unless there is a justifiable reason not to comply that the Managing Agent must be able to demonstrate

Statutory Compliance

The Managing Agent Must have regard to and comply with obligations under the regulations regarding fire safety. These obligations are set out in the legislative articles of the Regulatory Reform (Fire Safety) Order (2005), hereafter referred to as the Fire Safety Order (FSO).

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Overview

- **This Guidance Note summarises some of the key points about fire safety in blocks of flats. It is not in any way a full statement of what a managing agent should be aware of in respect of fire safety.**
- **It signposts where guidance on best practice is available.**

The Regulatory Reform (Fire Safety) Order 2005

The legislation governing fire safety is the Regulatory Reform (Fire Safety) Order 2005 (The Fire Safety Order) which came into force on the 1st April 2005. The Fire Safety Order requires the responsible person to:

- make a suitable and sufficient assessment of the risks to which any person who is or may be lawfully on the premises and any person in the immediate vicinity of the premises who is at risk from a fire on the premises (relevant persons) are exposed, for the purpose of identifying the general fire precautions which include the measures required:
 - o to reduce the risk of fire and the risk of the spread of fire on the premises;
 - o to provide the means of escape from the premises;
 - o for ensuring that the means of escape can be safely and effectively used at all times;
 - o for fighting fires on the premises;
 - o for detecting fire on the premises and giving warning in case of fire on the premises; and
 - o for action to be taken in the event of fire on the premises, including the instruction and training of employees and the mitigation of the effects of the fire.;
- take such general fire precautions as will ensure, so far as is reasonably practicable, the safety of any of his employees and the premises are safe for relevant persons;
- make and give effect to such arrangements as are appropriate, for the effective planning, organisation, control, monitoring and review of the measures which have been identified in the risk assessment as the general fire precautions he needs to take to comply with the Order (the preventive and protective measures);
- record the arrangements if they employ five or more employees;
- where necessary in order to safeguard the safety of relevant persons:
 - o ensure that the premises are, to the extent that it is appropriate, equipped with appropriate firefighting equipment and with fire detectors and alarms;
 - o ensure that routes to emergency exits from premises and the exits themselves are kept clear at all times
- establish and, where necessary, give effect to appropriate procedures, including safety drills, to be followed in the event of serious and imminent danger to relevant persons;
- appoint one or more competent persons to assist him in undertaking the preventive and protective measures;
- ensure that the premises and any facilities, equipment and devices provided in respect of the premises under this Order are subject to a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair;
- provide his employees with comprehensible and relevant information on the risks to them identified by the risk assessment and the preventive and protective measures and adequate training.

Responsible Person

The Responsible Person is defined in the Fire Safety Order as:

- in relation to a workplace, the employer, if the workplace is to any extent under his control;
- in relation to any other premises:
 - o the person who has control of the premises (as occupier or otherwise) in connection with the carrying on by him of a trade, business or other undertaking (for profit or not); or
 - o the owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking.

Typically, the responsible person is the freeholder or landlord, but may be a 'residential management company' (RMC). However, responsibilities and duties imposed on the responsible person also apply to any other person having control of the premises. This includes anyone who, "under a tenancy or contract, has a responsibility for maintenance or repair of the premises, maintenance or repair of anything in or on the premises, or for the safety of the premises". This can include a wide variety of people, including the Residential Managing Agent (RMA).

As a RMA you will be presumed to have some responsibility because you will have greater knowledge of these requirements than the landlord or RMC directors. It is very important to clarify the boundaries of responsibility for appointed persons with regard to fire safety, and it is advised that this is clearly written in to the service level agreement for the RMA.

Sources of Guidance for Blocks of Flats

There are two principal sources of national guidance for fire safety management in flats. The most relevant is 'Fire safety in purpose-built blocks of flats' issued by the Local Government Group in 2011 which has the support of the Department for Communities and Local Government (the DCLG Guide). This guidance applies to all existing purpose built flats, whatever the date they were built. The guidance also is appropriate to conversions, provided that at the time of conversion the work was carried out in accordance with the Building Regulations that were current at the time. This guidance is relevant to conversions where the fire safety arrangements are such that they can fully support a stay put policy in the event of a fire incident occurring.

There is also the LACORS guide which is relevant to rented property and to older conversions which may not meet all of the standards required for a stay put policy. Guidance for modifications to existing residential flats, and for the construction of new, may be found in the Building Regulations Approved Document B Volume 2 (Buildings other than dwelling houses), and in British Standard 9991 (Fire safety in the design, management and use of residential buildings).

Fire Risk Assessments

It has been a legal requirement for all blocks of flats (including houses converted into two flats or in to houses of multiple occupation) to have a fire risk assessment (FRA) since 2006. The fire risk assessment encompasses the common parts only, but it should also include the front doors of flats irrespective of who they are demised to.

The responsibility to arrange for the fire risk assessment to be undertaken, and to action its findings where required, lies with the responsible person (that is the landlord, which may be an RMC or RTM Company).

If you are managing blocks where there is no FRA, or where the FRA is out of date or otherwise deemed to be unsuitable, you should get your client's agreement to one being carried out at once. If this request is refused, then consider resigning your position - completion and review of the fire risk assessment is a statutory duty under the FSO, and the fact that you have advised the landlord that one is needed may not alone be a sufficient defence if the matter is investigated by the fire service and goes to the courts for jurisdiction.

Review of Fire Risk Assessments

The fire risk assessment will require review periodically or if there are any alterations to the structure, layout, or use of the building. The frequency of review should be specified as part of the fire risk assessment process.

The DCLG Guide indicates that the frequency of review should take into account the rate with which changes, including those arising from the need for maintenance work, are likely to occur, and the risk to people that might arise from changes. This means that a less frequent review might be acceptable if there is close management control of the common parts, including frequent routine inspections.

On low risk, modern, low-rise block (eg a block of no more than three storeys above ground, built within the last 20 years), a review every two years might be sufficient, with a new fire risk assessment completed every four years. For blocks with higher risk – arising from social factors, the age of the building, and so forth – and blocks over four storeys in height, an annual review might be more appropriate, with a new fire risk assessment every three years. In extreme cases, for the highest risk premises, an annual fire risk assessment might be appropriate.

Fire Risk Assessors

There are national competency standards for fire risk assessors set out in Appendix 3 of the ‘fire safety in purpose-built blocks of flats’ guidance (page 150). There are several competing accreditation schemes, but to date there is no provision of a single national register of competent fire risk assessors for reference and use.

The legal requirement is that a competent person is engaged by the landlord to carry out the FRA, but that may be a lay person for the simplest of blocks. When engaging a fire risk assessor, you should consider asking for confirmation of his/her experience and qualifications in order for them to demonstrate their competency to you, and therefore their suitability to undertake the fire risk assessment on your behalf.

A risk assessment is a subjective process, and its findings will be based on the opinion and the information available to the assessor at the time it is made. It is important that any actions and recommendations made in the assessment are fully understood by the responsible person/s. Remember there is no reason why the views of a fire risk assessor should not be challenged, and issues should in all cases be discussed, where required, in order to ensure that you have a full understanding of what is required or being recommended.

Fire Action Plans/Arrangements

As part of the FRA, a fire action plan should be produced that advises as to the necessary changes to the fire safety arrangements for the block, should any be required. This should include their priority rating, and the timescales for completion of any recommended actions by the responsible person.

Those persons that are affected by the fire risk assessment should be made aware of its significant findings. In the simplest of blocks a standard fire safety notice may suffice, but otherwise a bespoke plan will be required that should be a working document.

If you are managing a block where the FRA has recommended fire safety works are undertaken that are reasonable and your client landlord/RMC will not agree a plan to do those works you should resign your position, most particularly if they are deemed to present any high or immediate risk to occupants. If you cannot demonstrate that you have taken all reasonable steps to ensure the requisite fire safety precautions and a fire incident occurs, or if pre-emptive legal action is taken by the fire service prior to an incident occurring, you may be partly liable for any safety deficiencies along with the landlord.

Principles Of Fire Safety In Purpose Built Flats

Purpose built blocks of flats are usually built to common design principles:

- There is a high degree of compartmentation between each flat, and between flats and the common parts of the block;

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- Each flat is formed within its own fire resisting enclosure;
 - There is a low probability of fire and smoke spread beyond the flat of a fire's origin; and
 - There is a low fire risk in common areas due to precautionary management.

If these design principles are in place then the following fire safety principles will apply, subject of course to the fire risk assessment of each block:

- a stay put policy will be suitable;
- there is usually no need for simultaneous evacuation, unless it is advised by the fire service;
- residents in the flat of a fire's origin should evacuate it and immediately call the fire service - other residents are safe to stay in their flats without the need for immediate evacuation;
- there is no need for fire alarms in common areas, or that are linked into or between flats;
- there is no need for fire extinguishers in common parts except for plant and service rooms; and
- emergency lighting is required in common parts stairs and corridors, plant and service rooms.

Stay put policies allow residents to remain in their own demise in relative safety in the event of a fire in another flat. They do not usually require an alarm warning to be sounded other than in the flat of the fire's origin.

N.B This type of policy requires a suitable level of fire containment between flats and the common parts to ensure the fire service may intervene with a fire and bring it safely under control before there is any risk of early fire or smoke spread into the common parts. This protection will also protect the means of escape so that it will remain safe for use for a suitable period of time if evacuating the building is later advised by the fire service.

Front Doors Of Flats

Whether the front doors of flats are demised to the leaseholder or the landlord, they are an essential part of the fire and smoke containment plan of a block of flats. All fire risk assessments must consider the suitability of the front doors to flats in the context of the common areas and the means of escape.

All front doors to flats should afford an adequate degree of fire and smoke resistance and must be self-closing and hung on suitable hinges.

Should a leaseholder wish to alter their front door (e.g. install a uPVC replacement, provide a cat flap etc) then managing agents must ensure that they do so only after consultation and approval, even where the door is deemed to be the leaseholder's sole responsibility. This is in order to maintain the requisite levels of fire and smoke containment outside of the leaseholders' private demise, and article 17.4 of the FSO requires leaseholders to cooperate with their landlords in support of the maintenance of the general fire precautions within the common areas of the building.

Internal Alterations To Flats

For some blocks of flats, the internal layout of the flats is also designed to add to the compartmentation of the flats from common parts (e.g. protected lobbies). If leaseholders are making internal alterations to flats then managing agents need to be aware and to prevent changes that add to the risk of fire and smoke spread.

Contractors working in flats may drill openings in fire resisting walls without. It is essential that any new openings are made good to ensure the levels of fire containment are not in any way reduced by such works.

Managing agents need to be vigilant against such possible changes to the fire risk in blocks and advise leaseholders carrying out internal alterations to let the agent know and to seek their advice before carrying out any internal alterations that could have an effect on fire safety in the block.

Leaseholders should, where possible, be suitably constrained from making detrimental changes by virtue of the conditions within their lease.

Examples of detrimental changes include:

- a leaseholder changing their flat entrance door, but not replacing it with a suitably fire resisting and self-closing door;
- a resident installing a new bathroom suite, but not ensuring that breaches of riser walls created for new drains are fire-stopped afterwards to maintain fire separation to the common riser;
- a resident removing the doors and walls to the kitchen and lounge to create an open plan living area, but in so doing making all the bedrooms inner rooms, and possibly impairing protection to the common parts;
- residents fitting non-condensing tumble dryers with holes through fire walls and doors for vent pipes;
- the installation of downlighters in the ceilings of flats – which are not of a closed back ‘fire-rated’ design and which have not been fitted with intumescent fire hoods or covered by an insulation support box – therefore diminishing the fire separation provided by the ceiling; and
- a resident undertaking DIY to fit additional socket outlets and, in so doing, damaging the protection to the timber frame construction.

Housekeeping And Common Parts

The guidance on fire safety in purpose-built blocks of flats suggests two possible approaches to maintaining precautions in common parts: zero tolerance or managed use.

A zero tolerance approach is one in which residents are not permitted to use the common areas to store or dispose of their belongings or rubbish, with no exceptions. This may be the most straight-forward policy to apply, but it may also be viewed as onerous and restrictive by occupants.

A managed use approach allows for strictly defined use of common areas with certain low risk items to be present (e.g. pot plants, door mats etc.). This may encourage occupants to foster a sense of pride and value in the block, and may in turn lower the risk of anti-social behaviour. It can however be more difficult to adopt as it requires a clearly defined policy and regular inspection to ensure the list of items present does not grow such that it presents a risk of fire spread or obstruction in the means of escape. See section 44 on page 55 of the ‘fire safety in purpose-built blocks of flats’ guidance for more information.

Testing and Maintenance

All blocks will have some fire systems present in support of the fire safety plan for the building. The responsibility for ensuring the regular testing and maintenance of these systems will usually lie with the landlord or the managing agent.

You may find it to be of benefit to compile a fire safety manual for the fire systems in the building so these records are maintained in a central location for audit and inspection. Records of testing and maintenance of fire systems will include the following examples:

- Where automatic fire detection is installed in common areas or working parts of the building (e.g. smoke detectors that activate automatic smoke vents in lobbies or protected staircases), then testing and maintenance is required in accordance with the relevant sections of BS5839-1.
- In areas where emergency lighting is required, for example to illuminate escape routes in the event of a mains power failure, then it must be maintained and tested

in accordance with BS5266-1.

- If portable fire extinguishers are provided in working areas, then they should be serviced and maintained in accordance with BS5306-3. Regular visual inspections should be undertaken in-between service visits.
- If fire suppression or smoke control systems are installed (e.g. sprinklers or mechanical lobby ventilation systems), then they must be maintained and tested in accordance with the manufacturer's instructions.

Communications With Residents

All landlords and their managing agents have a duty to communicate important fire safety messages to their residents. Those messages will include:

- how to prevent fires from occurring within flats. Most fires in blocks start within a flat, not in the common parts;
- the most effective fire safety measure in flats is for residents to install their own smoke alarms within the flat and test them regularly to make sure they are working properly. The local fire service may offer a smoke alarm installation service free of charge, along with general fire safety advice for the home;
- the required standard of housekeeping in common parts;
- keeping the block secure to prevent arson;
- the fire safety and emergency action plan for the block; and
- the importance of considering fire safety when making internal alterations and changing front doors.

Further Information

- The Regulatory Reform (Fire Safety) Order 2005 www.legislation.gov.uk/ukxi/2005/1541/contents/made
- Fire safety in purpose-built blocks of flats' guidance download only from <http://arma.org.uk/leasehold-library/document/fire-safety-in-purpose-builtblocks-of-flats/pages/1>
- LACORS guidance titled 'HOUSING - FIRE SAFETY: Guidance on fire safety provisions for certain types of existing housing' – download from http://www.cieh.org/library/Knowledge/Housing/National_fire_safety_guidance_08.pdf
- 'Electrical safety in common parts of flats' download from <http://arma.org.uk/leasehold-library/document/electrical-safety-in-communalareas-of-residential-properties/pages/1>
- Competency Criteria for Fire Risk Assessors http://www.fia.uk.com/filemanager/root/site_assets/technical/fire_risk_assessment_competency_document_-_21_12_11_final_version_.pdf
- Building Regulations Approved Document B Volume 2 (Buildings other than dwelling houses) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/441669/BR_PDF_AD_B2_2013.pdf
- British Standard 9991 (Fire safety in the design, management and use of residential buildings) <http://shop.bsigroup.com/ProductDetail/?pid=000000000030301830>



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