



**Department
for Business
Innovation & Skills**

**FOCUS ON ENFORCEMENT
REGULATORY REVIEWS**

**Enforcement of the Regulatory
Reform (Fire Safety) Order 2005**

AUGUST 2013

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FOCUS ON ENFORCEMENT REVIEW: ENFORCEMENT OF THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005

INTRODUCTION

1. This report summarises the findings of the Focus on Enforcement review of the practical application and enforcement of the Regulatory Reform (Fire Safety) Order 2005, particularly in relation to small and medium sized enterprises. The review is one of a series examining the impact of regulatory delivery and enforcement in specific areas of the economy. In this case the review looked at the impact of a cross-cutting piece of enforcement activity which impacts on all sectors of the economy. Each review is a short, sharp investigation of stakeholder experiences and evidence; they are carried out by a small review team and typically involve a six to eight week fieldwork phase.

2. The review team took evidence through visits and face-to-face discussions and through the Focus on Enforcement website. Input was received from a range of trade bodies, from individual businesses and from the regulators. The 49 responses received through the website represented the highest number of online comments for any of the eight Focus on Enforcement reviews to date.

3. The purpose of this report is to present the findings and evidence that the review team heard. The aim of this document is not to make specific recommendations for reform but to identify the impact and consequences of current enforcement practice and to invite relevant regulators to respond with reforms. In this case we have worked closely with the Chief Fire Officers Association in the first instance to see how best a programme of reform could be developed and implemented – recognising that it is ultimately the role of individual Fire and Rescue Authorities (FRAs) and fire protection teams to consider and address the issues raised in this review.

4. The focus of each review is to identify areas of good practice, as well as those elements of the approach to regulatory enforcement that affected companies and other stakeholders felt posed problems. Each review therefore sets out those aspects of regulatory enforcement that businesses, and other stakeholders, felt could be improved. Publication of this report, setting out the issues raised, is accompanied by an initial response from the Chief Fire Officers Association.

EXECUTIVE SUMMARY

5. This review was carried out in the second half of 2012 and involved discussions with a range of stakeholders including businesses, business representatives, fire protection teams, fire industry specialists and the Chief Fire Officers Association. Discussions informing the review primarily took place with those holding operational responsibility for enforcing the Fire Safety Order – namely representatives of Fire and Rescue Services and individual fire protection officers. The fieldwork did not involve dialogue with members of Fire and Rescue Authorities. This approach reflects the fact that whilst legal responsibility for enforcing the Fire Safety Order sits with Fire and Rescue Authorities, responsibility for management and delivery of this function is delegated to the professional service.

6. Everyone welcomed the fact that the review was taking place, including those we spoke to within fire protection teams and the Chief Fire Officers Association, who were particularly keen to understand more about the most effective channels for engaging with smaller businesses. Some consistent messages have emerged pointing to some common issues and some interesting examples of good practice.

7. The main body of this report includes details of the feedback received and the issues raised. The following section provides a summary of the headline findings, starting with areas of positive feedback:

- The need for the Regulatory Reform (Fire Safety) Order 2005 (FSO) is understood, and the planning of audit visits (sometimes known as inspections) is generally regarded as being both hazard and risk-based¹.

¹ The assessment of hazard and risk in the fire safety context is driven primarily by a consideration of risk to life – with ‘sleeping risk’ being one of the key drivers in the targeting of enforcement activities.

- There have been commendable efforts on the part of individual fire authorities working with the Chief Fire Officers Association (CFOA) to encourage consistency in the advice given to businesses, and to support consistency in the assessment of compliance, between areas.
- Businesses gave examples of some good working relationships with fire protection officers, identifying valued partnership working, helpful professionals who invited queries and provided advice, and who offered examples of good documentation and approaches that could be used by the business.
- There are examples of fire and rescue authorities providing effective support and advice through dedicated business support teams. The evidence suggests that this was highly valued by small businesses in particular, and that this type of approach offered the most effective means of engaging small business.
- However, considerable discretion exists as to how each fire and rescue authority approaches its regulatory duties, and the policy and approach to audit and enforcement of each fire and rescue authority varies significantly. Many businesses described this as leading to frustrating inconsistencies.
- There is also a strong sense that fire protection departments are given less prominence than the more visible aspects of the service such as operational fire-fighters or community safety teams (offering fire prevention and safety advice to householders or school children). This was described as having the following consequences:
 - fire protection teams tend not to have their own career structure;
 - fire safety audit and enforcement roles (i.e. fire protection roles) are often seen as a brief stage within a career that is otherwise focused on emergency response and fire-fighting;
 - some authorities seem not to describe enforcement as part of their role or to see themselves as regulators;
 - insufficient funding being allocated to fire protection services (i.e. to audit and enforcement activities);
 - whilst fire protection teams may have received training locally, this is not to a national standard or qualification; and individuals often don't have experience of working with companies in a regulatory role;

- questions have therefore arisen about the capability and training of some fire protection officers;
- some officers are felt to be pursuing an unobtainable zero risk; and,
- cumulatively this has a negative impact on the quality of regulatory activity.

8. There was a clear sense that this fundamental positioning, structuring and resourcing of the fire protection function has a direct, negative impact on the delivery of enforcement activities, and therefore on businesses' experience of them; including in the following ways:

- There is a fundamental difference of opinion, and therefore of approach, between fire and rescue authorities as to how they carry out their fire safety audit and enforcement roles. For example some are willing to provide advice to businesses on compliance matters and to do so proactively, whilst others state it is not part of their role to give advice to companies. These fundamental differences mean it is impossible to provide a simple single statement of what businesses can expect from fire and rescue authorities;
- Fire professionals (such as fire protection officers and safety consultants) felt that some Fire and Rescue Authorities are reluctant to give advice in case it resulted in them being deemed as being at fault in cases where there was a subsequent fire, or because they feared it might leave them unable to prosecute;
- Business cited inconsistencies in enforcement decisions as one of the main issues they face – telling us they had to deal with conflicting judgements, requirements and advice from fire protection teams, often with significant cost implications. These conflicting requirements were described as occurring between different areas, different inspectors and as sometimes occurring between one inspection and the next;
- One current example of reported inconsistency relates to 'supported living' in the adult care sector where there appears to be some confusion over which premises are covered by the legislation and which are not. This is a complex area and interpretations of whether the Fire Safety Order applies are determined on an individual, local basis – although it does not apply to domestic premises in this context. Some businesses and fire officers stated that different fire authorities are applying different interpretations. It was suggested that there is currently no agreed

channel for such issues to be resolved and that it would be helpful if one could be put in place;

- Many larger businesses are frustrated by the costs and uncertainty resulting from conflicting requirements between different fire authority areas and are in favour of the adoption of the Primary Authority² scheme as they feel this is the only effective way to address this. Some (but not all) fire protection officers we spoke to expressed reservations about the Primary Authority scheme and its application to fire safety. Some officers were in favour of the scheme. Costs identified by businesses as arising from current inconsistencies included:
 - the cost of substantial physical works being required on premises in some areas and then being identified as inappropriate or inadequate in other areas and having to be changed as a result;
 - additional costs resulting from multiple solutions and different systems being needed to meet the variation in requirements between areas;
 - costs of multiple negotiations between different areas over solutions to similar issues;
 - costs of legal challenge, in some more extreme cases.
- Businesses reported instances where, having been found to be non-compliant, they received Enforcement Notices that failed to explain the precise nature of the non-compliance that officers had identified – leaving them unsure what needed addressing. Examples given included notices which simply quoted the aspect of the Fire Safety Order that had been breached but didn't say where on the site the breach had been observed;
- Businesses and fire protection officers reported that some individual enforcement officers are applying guidance documents as if they set out legal requirements rather than identifying potential risks and possible steps to mitigate these – and that sometimes businesses were instructed to make costly changes on this basis;

² Primary Authority enables a business operating across multiple local authority areas to form a partnership with a single local authority, which then: issues advice on regulatory compliance, which must be respected by other local authorities; ensures enforcement action taken by all authorities is consistent with that advice; and can agree an inspection plan with the business, to which other local authorities must have regard.

- A number of businesses that had wanted to appeal decisions made by fire protection officers reported that the only route available to do this had been an expensive, formal legal route, others felt there was no easy way for them to appeal. One business told us of an example where a determination made by the Secretary of State in relation to a case in one area had been dismissed by the fire authority in another area despite the issue being felt to be the same in both cases;
- Guidance documents in England were described by some as being confusing and conflicting (making it hard to pin down the right advice), out of date and not very user friendly. A number of people told us they would welcome a refresh involving a range of stakeholders;
- There seems to be a widely held view amongst fire protection officers and safety consultants that many small businesses are not aware of their specific responsibilities under the changes made to the legislation through the Fire Safety Order 2005;
- Of those small businesses that are aware of their responsibilities, many pay for the use of commercial risk assessors because they do not feel confident enough to carry out a fire risk assessment themselves, yet they can find that the assessments they have paid for face significant challenge from fire protection officers;
- Fire protection officers and industry specialists told us that the competency of some of those carrying out risk assessments on a commercial basis is questionable and that until recently there has been no national standard available for them to operate to;
- Some in the fire sector felt there was scope to make greater use of non-uniformed staff in support of uniformed officers, to bring additional skills into protection teams and to support greater continuity of personnel (a model already being used by some fire authorities).

SECTION 1: BACKGROUND

Regulatory scope and purpose of the regime

9. The Regulatory Reform (Fire Safety) Order 2005 is in place to ensure that appropriate steps are taken to protect human life. It does not define any requirements on the protection of property. The Fire Safety Order 2005 had three main objectives when introduced:

- to consolidate the existing fire safety legislation into one set of regulations, thereby reducing burdens on business and overlap of enforcing authorities;
- to align fire safety legislation with health and safety law, reducing prescriptive requirements, and introducing a more principles-based regime;
- to put the onus for fire safety in all relevant premises on a 'responsible person' (owner / occupier / employer / landlord), abolishing the regime where fire officers issued fire safety certificates for some types of premises.

10. The Order applies to virtually all premises and covers nearly every type of building, structure and open space. Although there are a small number of exclusions such as transport, the Order applies to almost all premises which do not constitute a single private dwelling, including the common areas of multi-occupied residential buildings. Under the Order, anyone who has control of premises or anyone who has a degree of control over certain areas or systems may be a 'responsible person'. The law therefore directly affects anyone who is:

- responsible for business or premises to which the public have access (for example employers, owners or occupiers); or
- a contractor with a degree of control over any premises.

Features of the regulatory regime

11. The Fire Safety Order 2005 places a general duty on the *responsible person* to ensure the safety of all relevant persons on their premises; ensure the safety of all other persons who may be affected by fire at their premises; to carry out a suitable and sufficient fire risk assessment; and to implement appropriate and adequate fire safety measures to minimise the risk to life in the event of a fire to as low as reasonably practicable.

12. Specifically the responsible person must:
- carry out a fire risk assessment identifying any possible dangers and risks;
 - consider who may be especially at risk;
 - get rid of or reduce the risk from fire as far as is reasonably practical and provide general fire precautions to deal with any possible risk left;
 - take other measures to make sure there is protection if flammable or explosive materials are used or stored;
 - create a plan to deal with any emergency and, in most cases, keep a record of the findings; and
 - keep the risk assessment up to date.

The regulators

13. There are 46 Fire and Rescue Services in England; each is accountable to a Fire and Rescue Authority (FRA) made up of locally elected councillors. The FRAs have a range of statutory duties and are expected to set policy and be accountable for the overall direction and performance of the services they provide. There are four different models of authority: County and Unitary Fire and Rescue Authorities; Metropolitan Fire and Rescue Authorities; Combined Fire and Rescue Authorities; and the London Fire and Emergency Planning Authority. Each is constituted and funded differently.

Duties of Fire and Rescue Authorities

14. Under the Fire and Rescue Services Act 2004 and the Fire Safety Order 2005, FRAs have a number of statutory duties including, to:
- make provision for promoting fire safety, through providing information and advice;
 - make provision for extinguishing fires, and protecting life and property in the event of a fire; and
 - enforce the Fire Safety Order.
15. Fire and Rescue Services are responsible for:
- promoting safety by providing information and advice;
 - extinguishing fires;
 - carrying out audit or inspection visits to inform decisions on enforcement.

16. Individual fire and rescue authorities have considerable discretion as to how they fulfil their statutory duties. For example, providing advice may range from simply signposting existing guidance to visiting premises in the area proactively. The specific approach is determined locally, based on the assessment of risk and prioritisation of resources within the local authority and on a judgment as to whether or not those requesting information could get it elsewhere.

17. The National Framework³ requires that each locally elected FRA identifies and assesses the full range of foreseeable fire and rescue related risks their area faces, makes provision for prevention and protection activities and responds to incidents appropriately. It specifically requires each FRA to produce an Integrated Risk Management Plan part of which must set out its management strategy and risk based programme for enforcing the provisions of the Fire Safety Order in accordance with the principles of better regulation.

18. Similarly, enforcement activity is locally determined, with programmes of audit or inspection generally driven by an assessment of hazard and risk informed by national and local data. The assessment of hazard identifies those premises where the impact of any fire would be greatest (in particular where the potential loss of life is greatest), and this is typically supplemented with any local intelligence about the relative risk posed by individual premises. This informs a range of audit approaches from, for example, comprehensive audit visits to business premises through to a simple inspection of documents. Typically, premises where people sleep (such as hospitals, care homes or hotels) are assessed to be higher hazard than others (such as offices) and usually feature significantly on locally determined risk based audit or inspection programmes. Lower hazard premises, such as shops or offices may also be inspected as part of a sampling process, to help ensure that information on their risk profile stays accurate. Inspections of lower hazard premises will generally be very infrequent, and higher risk premises may typically receive a routine audit once every three to four years.

19. Failure to comply with the Fire Safety Order can result in an Informal Notification recommending changes where the failures are low risk; or, where more serious, can lead to formal steps ranging from the issuing of an Enforcement Notice through to a prosecution, potentially resulting in a fine or prison sentence. Fire and rescue authorities have adopted the Health and Safety Executive's 'Enforcement Management Model' which informs this staged and proportionate approach to enforcement within the legislative regime; and authorities are also expected to have regard to the requirements of the Statutory Code of Compliance for Regulators.

³ The Statutory Instrument 2012, number 1886: The Fire and Rescue Authorities (National Framework) (England) Order 2012
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The role of central government

20. The Government, through the Department for Communities and Local Government (DCLG), is responsible for setting the strategic, legislative and financial framework for Fire and Rescue Authorities. The Government's expectations and requirements for the authorities are set out in the recently revised Fire and Rescue National Framework. The Government has a duty under the Fire and Rescue Services Act 2004 to produce the Framework and to keep it current, whilst Fire and Rescue Authorities must have regard to the Framework in carrying out their duties. The current strategy places an emphasis on the accountability of each fire authority and service to its local community, but includes some core requirements, for example, each authority must produce an assessment of fire risk in the local area and allocate its protection, prevention and operational resources to mitigate those risks through its *Integrated Risk Management Plan*.

21. DCLG makes available a suite of guides to help businesses – particularly small and medium sized ones – in specific types of premises to comply with the Fire Safety Order. For example guides for residential care premises, offices and shops and for factories and warehouses, were issued in 2006 ahead of the FSO coming into force in October that year.

22. As set out above, though, it is the individual fire and rescue authorities that are responsible for determining significant elements of their policy as well as their operational approach locally, within the broad duties set down in legislation. No formal structures exist either to drive or facilitate coordinated national action by the services. The Chief Fire Officers Association provides a forum for services to share experiences and discuss issues – but the grouping has no formal governance role in the delivery of services.

Charging in the regulatory regime

23. In the main Fire and Rescue Authorities do not charge for their services. They do not have powers to charge for audit or enforcement under the Fire Safety Order – and in fact are specifically excluded from charging for these under the Localism Act. Some Fire and Rescue Authorities do have trading arms. Charges are usually only applied to the provision of training. Fire and Rescue Authorities also have powers to charge for advice services but few, if any, do so.

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Recent history of the regulatory regime

24. Fire safety has been an area of successful improvement over recent decades: fire deaths in the UK have reduced from over 1,000 in the late 1980s to fewer than 400 in 2011, with the majority of deaths occurring in domestic premises. There were in the range of 15 to 25 deaths per year in commercial premises in each of the three years from 2008/09 to 2011/12. Much of the success in improving safety and reducing loss of life has resulted from improved fire prevention measures, such as changing materials in furniture manufacture and the increased use of smoke detection and sprinkler devices.

25. The introduction of the Fire Safety Order 2005 marked a shift in the nature of fire legislation, in the specific legal responsibilities placed on companies and in the role of the fire service. The Order consolidated a number of provisions for fire safety into one unified piece of legislation. It abolished the system under which fire officers issued – and certain types of businesses paid for – fire certificates and clarified that the legal responsibility for fire safety lay with those who own and run premises, bringing this into line with businesses' broader responsibilities under health and safety legislation.

26. One effect of the change in legislation was to give Fire and Rescue Authorities a clear responsibility as a regulator. This regulatory function now sits alongside fire authorities' non-regulatory activities such as operational fire-fighting and the provision of community safety teams delivering safety advice to households and schools. The fire service was not originally established as a regulator, it still has many other duties outside this role. However, their role in carrying out audit or inspection visits, in forming judgements on whether or not companies are compliant with their legal responsibilities, and in taking action on enforcement decisions where necessary, clearly gives them a function as a regulator, and indeed has brought them within the scope of the Regulators' Compliance Code.

SECTION 2: WHAT WE HEARD

27. This section summarises the key evidence gathered through the review. It brings together input from detailed discussions, website postings and other written submissions.

28. Annex A contains a fuller summary of the website postings and written submissions received.

29. This summary deliberately focuses on those areas that were identified as issues and that could therefore present the most fruitful opportunities for change and development. However, the summary also acknowledges the positive feedback that was received and specific examples of good practice that were welcomed by the regulated community.

30. The key themes emerging from the review were:

- The need for the Fire Safety Order is very widely accepted.
- There was good evidence of hazard-based and risk-based inspection planning being applied⁴.
- Business cited examples of positive working relationships with individual officers.
- There are examples of fire and rescue authorities collectively seeking to increase consistency and standards of enforcement activity.
- There are good examples in some areas of business support teams providing fire safety advice.
- However, we were told that fire and rescue authorities are generally perceived to have small, non-permanent and non-specialist enforcement teams.
- Approaches to enforcement and business engagement vary across the country – making the role of fire and rescue authorities confusing to business.
- Businesses reported significant inconsistencies in enforcement decisions.
- Businesses and fire officers reported confusion and inconsistency in the treatment of premises in the ‘supported living’ sector.
- Many larger businesses would like to see Primary Authority applied to fire safety as a means of addressing inconsistency and the costs arising from it.
- Enforcement notices are sometimes vague – leaving businesses unsure what remedial action is required of them – and the extent to which notices contain advice varies widely.

⁴ With hazard and risk relating primarily to the assessment of possible risk to life, and being associated with factors such as ‘sleeping risk’.

- Guidance is applied by some fire protection officers as if it represented legal requirements.
- Businesses feel there are limited avenues open to them to appeal or simply to discuss enforcement decisions – and some successful appeals are felt to be ignored.
- There was strong support for better guidance, especially for smaller companies.
- There is a view among fire professionals that many small businesses are unaware of the change in fire safety legislation in 2006.
- Many small businesses are using commercial providers to carry out their risk assessments, but until recently there has been no mechanism available to provide any assurance on the quality of their service.
- Some observers suggested greater use could be made of non-uniformed staff to support uniformed officers in the delivery of business outreach functions.

31. These key points are explained in more detail below:

- **The need for the Fire Safety Order is very widely accepted.** No businesses challenged the fundamental need for the regulations. Limited questions were raised about the proportionality of their application to some simpler premises. It was generally noted that the non-prescriptive nature of the regulations is most suited to larger businesses that have their own internal expertise available. Some smaller businesses would welcome more prescription, but other small businesses welcomed the flexibility to put their own cost effective and proportionate measures in place.
- **There was good evidence of hazard-based and risk-based inspection planning being applied.** Local enforcement activity is typically highly targeted, focusing on the types of premises where the highest risks to life exist – for example where there is a ‘sleeping risk’, such as in hotels or in commercial units with flats over them. A staged and pragmatic approach to enforcement is available. Enforcement Notices and the closure of premises are generally used as a last resort and in cases of obvious and immediate danger. However, there is local variation in the use of Enforcement Notices, and evidence that they are being used increasingly in some areas as a high profile and high impact measure to drive awareness of fire safety issues more widely.
- **Business cited examples of positive working relationships with individual officers.** Businesses spoke of examples of good relationships with local fire protection teams and with individual officers, identifying valued partnership working, helpful officers that invited queries and provided advice, and who offered examples of good documentation and approaches that could be adopted. Some of these were cited as

having helped individual businesses to develop their activities successfully and cost-effectively, helping the business to trade and to grow.

- **Fire and Rescue Authorities have taken some steps collectively to try and increase the consistency and standards of enforcement activity.** We heard of examples where fire authorities had taken steps collectively to try and simplify and improve the way some enforcement and fire protection work operates, for example working through the Chief Fire Officers Association to develop shared approaches and guidance. One example of this was guidance produced for fire protection officers carrying out audit visits (inspections) to help them assess business compliance and to support a more consistent approach to the application of enforcement notices (it should be noted we heard some suggestions for the scope further to improve this). A second example was the production of a tailored and more accessible guide for the Bed and Breakfast sector on complying with the Fire Safety Order – a DCLG document produced in partnership with CFOA and with business representatives.
- **There are good examples in some areas of business support teams providing fire safety advice.** We saw interesting examples of fire authorities that were specifically structuring their fire protection teams to provide support services to businesses with individuals dedicated to outreach, awareness raising and advice functions. These teams had received some very positive feedback from businesses that had made use of their services, but the particular approach appeared to exist in a minority of areas only and seemed to be carried out by small teams (say of 3 people), and in some cases by single individuals. Roles carried out by these teams included the provision of advice on how to meet legal requirements; the building of business-to-business networks to pass on advice and knowledge on compliance; teams that have developed approaches to get the maximum penetration with the business community with dedicated professional outreach teams, including some with non-fire-fighting backgrounds, but with a mix of technical knowledge and advisory skills. Teams ran awareness raising workshops including some in partnership with other regulators such as the Health and Safety Executive. They typically reported the value of an “us to them” approach and that the volume and impact was typically far greater when they went out and interacted with businesses on their own premises. This finding is potentially important in the context of the view that many smaller businesses are still not fully aware of the changes made under the 2005 Order, and the obligations now placed on them.
- **We were told that Fire and Rescue Authorities are generally perceived to have small, non-permanent and non-specialist enforcement teams.** There is a strong sense, which was widely remarked on, that fire protection departments are typically given less emphasis than the more visible aspects of the fire service such as

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operational fire-fighters, community safety teams, fire stations and fire appliances. This was described as having the following consequences:

- Fire protection and enforcement work tending not to have its own career structure;
- Fire safety audit and enforcement roles (in fire protection teams) often being seen as a brief stage within a career that is otherwise focused on emergency response and fire-fighting; it was described sometimes as being an end of career role or sometimes as being needed to get a “tick in the box”;
- Some fire and rescue authorities not really describing or considering enforcement as part of their role;
- Insufficient funding generally being allocated to fire protection teams and to audit, enforcement and business engagement work;
- Whilst fire protection teams may have received training locally, on the provision of safety advice and on enforcing compliance requirements, this is not to a national standard or qualification and individuals often don't have experience of working with companies in this type of role;
- Some in the fire service reported that there are individuals who are effectively pursuing an unobtainable outcome of zero risk; and,
- Questions being raised about the capability and training of some fire protection officers.

There was a clear sense that this fundamental positioning, structuring and resourcing of the fire protection function had a significant negative impact on the delivery of enforcement activities, and therefore the business experience of it.

- **Approaches to enforcement and business engagement vary across the country – making the role of fire and rescue authorities confusing to business.** Businesses and fire officers reported that there was fundamental variation in the policy adopted in different fire authority areas. The most obvious example of this is the extent to which officers offer compliance advice to businesses. The type of support given varies tremendously, with some authorities giving little or no advice whilst others are very proactive in raising awareness, especially by going out to meet with smaller businesses. As set out above some have small dedicated outreach teams, whereas others explicitly state that it is not their role to advise businesses, merely to tell them if they are compliant or not when audited. Businesses welcomed proactive advice where it had been given. In some cases the decision not to provide advice seems to be based on a misunderstanding of the legal powers and duties given to fire authorities – and also to be based on a fear of liability in cases where there is a subsequent incident, or compliance failure. The most obvious consequence of this fundamental variation in approach is that it appears impossible to provide a single simple statement of what

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support business can expect from fire and rescue authorities – and for businesses operating across multiple areas it makes dealings with fire protection teams confusing and frustrating.

- **Businesses reported significant inconsistencies in enforcement decisions.** This was one of the main issues raised by businesses, citing a lack of consistent enforcement as frustrating, confusing and costly for them. There was evidence of businesses receiving different advice from different fire protection officers in the same authority and on subsequent visits, with questions being raised about the credibility of the process as a result. We heard examples where businesses had agreed an approach to safety management with one fire authority only to be told by the next that they would not accept the approach and that they were not interested in the position agreed elsewhere. We also heard examples of businesses that were asked to put in additional measures each time they were visited over a number of years. For small businesses, this ratcheting up of requirements can be very costly, and over time it can undermine confidence in the advice that is being given if it seems to change on each visit without an obvious rationale. Similarly for larger businesses trying to operate corporate compliance systems, this becomes impractical and costly and can leave the compliance team in a business unsure what actually constitutes effective solutions in their premises.
- **Businesses and fire officers reported confusion and inconsistency in the treatment of premises in the ‘supported living’ sector.** There is evidence of confusion and variable practice currently in the handling of ‘supported living’ in the adult care field. With domestic premises being treated as workplaces, and providers that work across multiple areas experiencing different interpretations from different fire authorities. This can be a complex area and the precise approach will vary according to individual schemes, delivery models and premises in the care sector. However, the Fire Safety Order does not apply to domestic premises, whereas it was reported that in practice some authorities are enforcing it in this way. For example some providers of supported living had essentially been asked to put up fire equipment and signage in people’s private dwellings. It was suggested that there is currently no agreed channel for issues such as this to be resolved and that it would be helpful if one could be established.
- **Many larger businesses would like to see Primary Authority applied to fire safety as a means of addressing inconsistency and the costs arising from it.** Many large businesses felt that Primary Authority was the best means available for addressing the frustrations they experience in receiving contradictory and conflicting advice between different fire authorities. They argued it would enable greater clarity and efficiency in agreeing relevant risk management arrangements with one lead fire authority. Costs identified by businesses in relation to the current system included:

- the cost of substantial physical works being required on premises in some areas and then being identified as inappropriate or inadequate in other areas and having to be changed as a result;
- additional costs of multiple solutions and different systems being needed to meet varying requirements between areas;
- costs of multiple negotiations between different areas over different solutions to similar issues;
- costs of legal challenge, in some more extreme cases.

Some of those we spoke to in the fire service were nervous about the adoption of Primary Authority, or were specifically against it. In part this seems to be based on misconceptions about how the scheme would operate in practice, for example a belief that it takes away the ability to inspect premises within an area to deal with current and specific risks. Some fire officers were in favour of the adoption of Primary Authority though and believed it would be a positive step helping them further to target their resources. A partnership programme was set up a couple of years ago by fire services to test an alternative voluntary approach, this programme was known as RAFKAP – the Retail and Fire Key Authority Partnership. However this has now been absorbed within two pilots that are now running to test how Primary Authority, or the Primary Authority principles, could be applied in a more binding way to fire safety enforcement to deliver the consistency and certainty that business would like to see. One of the limitations of the RAFKAP scheme identified by businesses and some fire officers was that not all fire services participated in it.

- **Enforcement notices are sometimes vague – leaving businesses unsure what remedial action is required of them – and the extent to which notices contain advice varies widely.** Businesses gave examples of notices which simply quoted the aspect of the Fire Safety Order that had been breached, giving them no idea where on their site the breach had been observed and therefore leaving them unable to address the issue. Some businesses even shared examples of enforcement notices that cited activities that were not actually carried out on the site. In addition, the approach to advice and direction within notices seems to vary considerably. Some offered no view or advice on appropriate solutions to meet compliance requirements, whilst others were said to be very prescriptive telling the business they had to take a specific action or apply a specific solution. It was felt to be unclear whether or not this was in line with the legislation which generally allows for flexibility in solutions as appropriate to the context of the specific risk. It should be noted that businesses raising these issues were generally not challenging the fact that there were areas of non-compliance to be addressed – rather they were pointing out that where Enforcement Notices were poorly written this did not help in resolving matters and in addressing non-compliance promptly.

- **Guidance is applied by some fire protection officers as if it represented legal requirements.** Businesses reported instances where enforcement officers (fire protection officers) have demanded that specific changes are made to premises based on guidance documents – applying the guidance as if it sets out the only way that a potential risk can be managed and suggesting that the documents specify legal requirements rather than identifying potential risks and potential steps to mitigate these. The issue was identified not only by businesses, but also by senior professionals in the fire service. It seems likely that this is one impact of the limitations set out above in how the enforcement function is staffed and supported, the training that is available, and the extent of mechanisms to identify and resolve inconsistencies.

- **Businesses feel there are limited avenues open to them to appeal or simply to discuss enforcement decisions – and some successful appeals are felt to be ignored.** Businesses gave us examples of decisions which they felt were odd, of ones which they felt went beyond legal requirements, and of ones which were plainly contradictory – having received different judgements in different areas. However, they also told us that they didn't feel there were any easy routes informally to seek a second opinion or to pursue a more formal appeal where necessary. Those that had appealed had typically found themselves going down a costly legal route. This was not generally feasible for most smaller companies for reasons of cost, and even for larger companies it involved a serious assessment of the likely costs and benefits of a legal challenge. Some businesses reported that they felt they had received increased and coordinated enforcement visits as a result of pursuing an appeal. Others told us that even where the Secretary of State had made a determination on a case arising in one fire authority area, they felt his decision had subsequently been dismissed in another area on the grounds of local autonomy rather than reflecting any real variation in the practicalities of the situation in question.

- **There was strong support for improved guidance, especially for smaller companies.** A range of points were made on the availability of advice and guidance, in particular:
 - **Uncertain status:** Current guidance was described by some as being inconsistent, confusing or out of date with no one obvious route for obtaining definitive advice. A number of respondents felt that current guidance had been drawn up without a great deal of consultation and that they would welcome a refresh involving a range of stakeholders. A number said that they liked the style of the recently refreshed guidance produced in Scotland.
 - **Multiple templates:** Many Fire and Rescue Authorities have sought to help businesses by offering templates for fire risk assessments – but as each area has tended to produce its own version there are many different templates available with no definitive guide.
 - **Defining the responsible person:** A specific point was made that some businesses find the definition of 'responsible person' confusing and that

clarification would be helpful in the guidance. This point seemed to relate specifically to the hierarchy of responsible person, which covers: the employer; owner; and people 'with a degree of control'; and the fact that multiple parties can be prosecuted in a single case.

- **There is a view among fire professionals that many smaller businesses are unaware of the change in fire safety legislation in 2006.** This view was expressed by fire protection officers and fire consultants. In particular they believe that many smaller businesses are not aware that the Fire Safety Order was introduced, that it expanded the range of premises covered by fire safety legislation and that it moved responsibility more clearly to those that own, run and manage premises, abolishing the system under which fire protection officers would issue a fire certificate for relevant premises. A number of fire officers expressed the view that the budget available when the new legislation was introduced was limited, and a concern was expressed that some people operating smaller business premises may be unaware of the current regulations and the responsibilities they place on them.
- **Many small businesses are using commercial providers to carry out their risk assessments – with little assurance available on the quality of their service.** Some small businesses prefer to conduct their own fire risk assessments, and welcome the fact that they are able to do this and that the way in which the legislation is framed gives them some flexibility in approach. Some also cited the usefulness of existing guidance and advice that fire officers had been able to provide them with. For those with the capacity, conducting their own assessment allows them to put in place proportionate measures to manage their risks. Professionals in the fire service also believe that this is generally a better approach as it enables those working in the premises properly to understand the fire risks. However, it is clear that many businesses use commercial third parties to carry out the risk assessment. Until recently no certification or accreditation existed in relation to these services and none are currently required in the market, meaning that in effect anyone can offer their services. Some businesses reported overselling by assessors that were also equipment suppliers, and a number of fire professionals questioned the quality of some commercial providers. In practice a third party assessment offers no guarantees to a business, and sometimes they will find that a fire protection officer will ask for additional measures beyond those identified in the 'bought in' fire risk assessment.

Some work has been undertaken within the sector, involving DCLG, the fire service, commercial operators, the UK Accreditation Service (UKAS) and others to develop certification and accreditation schemes, this will in future offer those businesses choosing to purchase advice from third parties the opportunity to make a more informed choice against recognised industry standards. Specifically it will give them the choice to purchase services from a certified provider or from a non-certified provider as

they prefer – ideally in the knowledge of how fire authorities are likely to treat the resulting assessment. It should be noted that some business bodies are not in favour of accreditation for third parties, seeing this as another regulatory step, identifying the risk that it may squeeze some smaller operators out of the market, and also because they think it may in time lead to businesses having to use a third party assessor and thereby lead to increased costs for small businesses. A number of fire industry professionals nevertheless felt there was a good case for certification and accreditation.

- **Some fire protection officers and consultants felt there was scope to make greater use of non-uniformed staff to support uniformed officers in the delivery of business outreach functions** – in support of uniformed officers to supplement existing activities and in particular to support business engagement work. This was seen as offering the potential to bring different skills into the teams and to support greater continuity of personnel. Those making this suggestion felt that mixed teams could go some way to providing greater continuity in protection and advice services, with some dedicated staff staying in post whilst others rotated through a range uniformed roles, for example in fire-fighting and in protection functions (maintaining the transfer of knowledge between enforcement and response roles as is currently the case). We were told this model was already being used by some fire authorities.

ANNEX A: WHAT WE WERE TOLD IN WRITTEN SUBMISSIONS

The following is a summary of the postings made on the Focus on Enforcement website, and of comments made in separate written submissions.

Section A.1: Overall summary of themes received through the website

The list below summarises the issues raised, and their frequency. A total of 49 web postings were received covering a variety of topics with most making multiple points.

- Inconsistency in approach of authorities and officers 12
- Competency of officers and inadequacy of training 10
- Positive feedback from business 9
- Responsible Person not knowing what is expected of them 8
- Inadequacy and inconsistency of guidance 8
- Fire and Rescue Authority contributions detailing proactive work in their areas 8
- Competency of Fire Risk Assessors, concerns over lack of training 7
- Lack of clarity on whether the Fire Safety Order covers sheltered and supported living 6
- Unnecessary compliance requests 5
- Cost of compliance to business 5
- Lack of accreditation for commercial fire risk assessors / lack of recognised training and quality standards 4

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- Quality of Enforcement Notices 4
- Lack of advice available from the fire authority 4
- Introduction of a simple website and email provision to keep business abreast of changes 3
- Fire equipment specialists concerned about poor quality products being used 3
- Fire Protection Teams seen as “enforcers” not “advisors” 2
- Officers being seen as too lenient 1
- Review of the regulations required 1
- Lack of collaboration between the fire protection officers and fire safety professionals 1
- Need for fire risk assessments for some buildings queried, e.g. for a car park kiosk 1
- Insufficient resource to carry out enforcement 1
- Increase in targeted enforcement to address specific risk 1
- Inconsistency of fire regulations with building regulations 1
- Primary Authority support 1
- Need for a single regulatory system 1
- Introduction of a standard Organisational Fire Risk Management System 1
- Return of Fire Risk Compliancy certificate for display, plus incentives for people to report non-compliance 1

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Section A.2: Individual postings

The following is a summary of the 49 postings made on the Focus on Enforcement website, and of comments provided in 4 separate written submissions. Comments were received from a range of respondents including businesses, fire officers, fire consultants, equipment suppliers, those running voluntary and community activities and other members of the general public. The comments are summarised here in approximately the order they were posted.

Posting 1

- **Unhelpful inspector:** The inspector was unhelpful and not interested in helping us to achieve compliance.
- **Excessive demands:** The inspector insisted on expensive and impractical measures being taken that other fire professionals consider to be negligible.
- **Infrequent engagement:** Called visit an “annual fire safety audit” but first visit in ten years of trading.

Posting 2

- **Cost effective safety:** As a fire door consultant – believe that not all fire safety improvements are as costly as many firms think.
- **Limiting overselling:** Trade associations can help firms access the right advice by ensuring members do not force sales of services/products.

Posting 3

- **Competence and accreditation of commercial consultants:** Many fire consultants and companies do not have adequate competence. None of the organisations approving individuals as fire risk assessors are accredited to do so - they should be UKAS accredited.

- **Lack of awareness of legal responsibilities:** Many “responsible persons” do not fully understand their legal responsibilities and do not always comply with their duties to remedy failings identified in a risk assessment for financial reasons.
- **Unnecessary compliance activity:** Many fire enforcement officers issue onerous requirements. Overall burdens arise from: inexperienced fire officers; non-competent fire consultants; and service companies that ‘pay their engineers commission to find defects’.
- **Burdens on SMEs:** The current legislation has increased burdens because: responsible persons are generally not well informed; professional advice is often poor; and enforcement can be adversarial.

Posting 4

- **Training requirements:** Fire officers often lack training, experience or knowledge of how the companies that they inspect operate.
- **Instruct based on guidance:** Officers too often rely on, or issue an instruction, by referring to standard guidance and don’t adopt a more complex risk assessment approach.

Posting 5

- **More needed in some premises:** Work for a large NHS Trust that subcontracts its estates and facilities services to GP practices – think that many would fail a fire safety audit on a variety of grounds.

Posting 6

- **Inconsistency and supported living:** As a fire safety consultant with experience across the country – I have found inspectors have different attitudes in different parts of the country e.g. in supported living premises which are essentially domestic type premises but which some fire authorities are enforcing with care type standards.

Posting 7

Differing approaches to Fire Risk Assessments: As a chartered building surveyor, observe variable quality and attitudes to fire risk assessments. Would like premises to display a certificate (or similar) from their risk assessor with a regular review.

Posting 8

- **Approach based on good practice:** As a Fire Service, reviewed how we could help businesses achieve compliance after introduction of the fire safety order and after reviewing evidence on effective enforcement, such as the Hampton report.
- **Dedicated business support team:** Recruited a business safety team that provides information and support to local businesses to ensure that they are able to comply with the law, team focuses on an 'us to them' approach recognising pressures and constraints on small and medium sized enterprises to attend functions outside the workplace.
- **Targeted approach:** Have also raised awareness by targeting minority groups, delivering campaigns aimed at particular types of premises such as fast food outlets and hotels, and provided advice and support to those who have had a fire or to other businesses in the vicinity.

Posting 9

- **Helpful advice received:** Local fire safety team has always been very helpful, feel support is only a phone call away, fully appreciate professional information given. Helped develop a robust risk assessment approach.
- **Competence of risk assessors:** Welcome the drive towards seeking competency of fire risk assessors, would welcome stronger support from fire authorities to this end.

Posting 10

- **Work proactively with local businesses:** We aim to assist them to achieve compliance. Work closely with local chamber of commerce, provide additional guidance and templates, attend breakfast meetings and evening seminars.

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- **Partner with other agencies:** We deliver activities in partnership with other agencies like the Health and Safety Executive (HSE) and have developed positive working relationships with building control partners – speeding up processes and enabling early feedback to premises.

Posting 11

- **Letterbox arson risks:** Confusion over the scope of the fire safety legislation in respect of letterboxes, exacerbated by the lack of a UK standard.

Posting 12

- **Variable quality of fire advisers:** Not a lot of companies or persons who conduct activities such as fire risk advice have either the necessary experience or qualifications to do so.
- **Compliance can be managed by non-experts:** Legislation was created in such a way as to assist persons not acquainted with it, all they should really need is a little guidance in the right direction. Advice given should reflect two key phrases: “as far as reasonably practicable” and “where necessary”.

Posting 13

- **Variable approaches and inconsistency:** Regulators have generally been empathetic, but the change from advisors to enforcers has been an issue at times. Considerable disparity in views between Services and even between individual officers. Some officers have clearly not received enough training.

Posting 14

- **Fire service providing advice:** My Brigade offers a Fire Risk Assessment template for businesses. I regularly give general telephone advice.
- **Limitations to role of advice:** Don't have the staff available to carry out guidance visits. Onsite remarks intending to be helpful could lead to a conflict of interest as the enforcing officer.

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- **Role of inspectors:** Have to constantly juggle safety, compliance, financial costs to the company, subjective experience, guides, regulations and policies and a professional desire to get it right.
- **Awareness of legal requirements:** Still too many responsible persons who are not aware of their responsibilities under the Fire Safety Order.

Posting 15

- **Good support from local service:** We have fostered a close working relationship with our local fire service on an enforcement and operational basis. Have nothing but praise for helpful and professional support we have received. Inspectors are knowledgeable and open to reasoned argument.

Posting 16

- **Advice has supported business development:** Nothing other than positive comments regarding the help and support I have received from my local fire authority. We work directly with the Business Support Officer, this has enabled us to make rapid progress in business development whilst having fire safety in order.

Posting 17

- **Practical support for small businesses:** As a small business would like to thank the Business Support Team for their straightforward advice and practical help to solve issues with a common sense approach and to identify best practice.

Posting 18

- **Approachable officers:** As a safety advisor for the local Council, we have always found fire safety officers approachable when we need advice – and have addressed issues after receiving several improvement notices. Think that the order itself is fairly balanced.

Posting 19

- **Inconsistency:** Work for a charity providing various types of housing across the country. I often find that different fire officers have different opinions on what's required.

Posting 20

- **Helpful officer:** Found our local fire safety officer particularly helpful in providing a suggestion for a solution at reasonable cost. He helped me complete the initial fire risk assessment and agreed a sensible approach to complying with building regulations without compromising safety.

Posting 21

- **Liaison with business community:** As a Fire Service, take our liaison with the business community very seriously. Have set up a Fire Liaison Panel, with business representatives, which meets twice a year to discuss emerging issues and informs operation of the service.
- **Routine feedback obtained:** We also send a questionnaire to every business premise visited to obtain their views, acting on and following up on the points raised.

Posting 22

- **Scope to exempt very low risk premises:** Local fire authority does take a pragmatic approach with low-risk buildings, but wonder if there is scope for exemptions from the order for very small, low risk buildings like car park kiosks, small changing rooms.

Posting 23

- **Lack of commercial understanding:** Have worked in fire and safety profession for over 40 years as enforcer and client. Think current enforcement role is carried out by people with little commercial understanding.

- **Role too focused on enforcement:** Enforcers used to provide advice in addition to carrying out the enforcement role. In many cases now enforcement is seen as the only answer, many members of the service don't feel they have time to give advice.
- **Scope to better align fire safety activities:** There is a need for the fire service to work with other areas of the fire safety profession, as it is only by combining all the expertise available that we are likely to achieve good levels of cost effective fire safety.

Posting 24

- **Inconsistency:** As a social housing provider have had mixed experiences. Fire officers are polite and professional but inconsistency in interpretation from officer to officer can be frustrating, confusing and lead to unnecessary expense and inconvenience.
- **Handling of sheltered housing:** Vital to recognise that sheltered accommodation is about independent living and is very different to a care home. Some general requirements are being imposed which are excessive and impractical. More regard needs to be given to individual circumstances.
- **Liaison with Fire Officers:** Make real efforts to build relationships with the Fire Safety Officers we deal with, so they get a better understanding of our premises and we get better outcomes for our residents and business.
- **Helpful guidance:** LGA (Local Government Association) guidance on 'Fire Safety in Purpose Built Blocks of Flats' extremely helpful but consider further clarity is warranted on sheltered accommodation and extra care schemes.

Posting 25

- **Good inspector:** In our residential homes the rules are, relatively speaking, clear cut. We were pleased when one officer commented at the most recent inspection that they were happy with everything and it was the quickest and easiest inspection they had ever had.
- **Inconsistency and supported living:** We have experienced very different approaches by Fire Safety Officers. The problems mainly arise with Supported Living, owing to the various situations with shared accommodation. We have however sometimes had Inspectors quoting the full Fire Regulations to us where there is a 'single household'

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status (essentially a private domestic home) and insisting that there should be full fire warning systems, fire fighting equipment and signage.

- **Training for Fire Officers:** Should include guidance on where the line is drawn in the supported living sector and where the Fire Safety Order Regulations apply and where not.

Posting 26

- **Lack of knowledge:** The legislation has provided a number of challenges for business and for the enforcing authorities, not least that a responsible person with limited fire safety knowledge may be responsible for managing complex solutions and often, producing fire risk assessments.
- **Cultural change:** Fire officers are now auditing risk assessments, rather than inspecting premises.
- **Best practice and SMEs:** Have tried to help SMEs by offering free workshops at which we outline the legal requirements on business and provide guidance on negotiating the risk assessment and audit process. Each business within a geographical area receives an invitation. Businesses are also advised of the likely audit dates for their area.

Posting 27

- **Good service:** Fire Authorities in my experience are committed to helping people and organisations that are interested in complying with the law, and generally do so (clearly there will be exceptions) with a view to minimising the burden on business.
- **Risk management:** We work hard to target those individuals and companies who are prepared to compromise on safety, and to apply a light touch to those who are low risk and are doing their best to comply.

Posting 28

- **Inconsistency and supported living:** Struggling with the huge variations in enforcement regimes across numerous different fire authorities in England. In particular Supported Living houses (for disabled people): some authorities are viewing these pretty much as domestic private houses, whilst others are insisting on rigorous inspection & enforcement regimes.

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Posting 29

- **Provision of advice:** I have had two queries re situations occurring at our hall and on both occasions advice was given promptly.
- **Access to information:** Would welcome a bulletin for email subscribers re new legislation and recommendations and a simple website entry in layman's terms.
- **Provision of training:** Would appreciate more frequent courses if possible so that all members of hall committees such as mine can be made aware of requirements.
- **Good service:** Overall I have been very pleased with the service provided.

Posting 30

- **Access to information:** Would like a simple template for a Fire Risk Assessment that could be downloaded from the Internet that is available from either the local Fire service or ACRE/the Village Halls Association.
- **Provision of advice:** Would be very helpful if we could have free advice from the local Fire Prevention Service as to the viability of the Fire Risk Assessments that have been carried out.

Posting 31

- **Inconsistency and increasing requirements:** Over nine years, we have had three visits from the local fire safety office, at three year intervals. The first visit helped to get us to the required standard and we implemented the suggestions. At the second visit, a new officer identified new deficiencies, and the same thing happened on the third visit. It seems that each new fire officer has to make his mark by finding new deficiencies at each new visit.
- **Financial implications and pursuit of zero risk:** Fire Officers should give some thought to the risk /cost ratio of their recommendations – one can always get better and better protection but there comes a point where the cost is overbearing on small business.

Posting 32

- **Guidance and information:** Government guidance on Fire Risk Assessment on the DCLG website was extremely helpful and helped me to carry out a risk assessment.

Posting 33

- **Provision of information:** We have developed a number of ways that we can support local businesses, not only through the provision of training courses, but through material that is available in a range of formats from hard copy, CDs and more increasingly via the internet to provide information.
- **Good practice advice:** Delivered legislative fire protection activities within the business community, third sector and in partnership with other agencies and institutions. Providing advice and support that is tailored to businesses in order to assist in the prevention of fire and other emergencies. Providing support and information to businesses that have had a fire, both at the time of the fire and post fire.
- **Partnerships:** Developed an extremely positive working relationship / partnership with the Fire Protection Association and as a result a number of Training and Information Packages are available to assist businesses to meet their obligation regarding training, information and instruction for staff.

Posting 34

- **Good inspector:** Value the working in partnership with our fire protection officer. He and I meet regularly to discuss our company action plans, visit our services, and receive regular feedback from local fire officers in the areas where we have homes and services.
- **Continuity:** Having link officers helps to reinforce our commitment to fire safety and gives continuity especially for a large organisation as ourselves.

Posting 35

- **Access to information:** The Health and Safety Executive (HSE) website and others have some good guidance relating to the legislation. Would appreciate email updates on updates to legislation.
- **Quality of inspections – no advice given:** While on site there were a few points that the fire brigade noted that we could improve. But there was no real support given to business compliance with the legislation.

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Posting 36

- **Lack of clarity on compliance requirements:** The legislation is written in general terms. Not surprising that fire risk assessors', the responsible person's and the enforcement authorities' perception of the wording that a fire risk assessment should be suitable and sufficient in practice can differ.
- **Difficulty in applying the legislation:** Enforcement authorities may often choose to be lenient, owing to the different perceptions of what 'reasonably practicable' and 'where necessary' mean.

Posting 37

- **Good practice activity:** We undertake a number of proactive measures to assist business. These include giving general fire safety advice at seminars and educational / training events to promote the understanding of requirements, providing fire safety advice and fire risk assessment templates on web-sites, and informing businesses of forthcoming audits and inviting them to attend a session to prepare them for the audit process.
- **Fire Safety Order – principles and flexibility:** The Fire Safety Order allows us to employ a generic set of principles to all premises; and is supported by a robust and graduated enforcement process and with enforcement models and codes to moderate enforcement activity.
- **Support for SMEs:** In some areas, half the fires we attend relate to SMEs. Also evidence that some SMEs want a greater level of prescription to the inform them of what they need to do to comply with fire law.
- **Accreditation:** For fire risk assessors, specifiers, installers and the wider fire sector (including enforcers) would help the sector.
- **Information sharing in enforcement:** Serious fire safety failures can result in other regulators becoming involved in the premises and can thereby result in further enforcement action. This is in consequence of the information sharing and partnership working established between different authorities.

Posting 38

- **Access to information:** Trades bodies such as ARMA provide good resources for their members. Would like the information available to all RMC / RTM Directors directly from Companies House when they take on the responsibilities along with a web-based

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discussion forum to share experiences.

- **Conflicting requirements:** The Equalities Act 2010 requirements for 'reasonable adjustments' is causing much confusion for disabled flat-dwellers requiring improvements to the 'common parts' to facilitate access while impacting on the 'means of escape' of other residents in a block.
- **Cost of consultants:** Volunteers can provide a reasonable and proactive approach to fire safety in a block without the need for expensive consultants over prescribing fire safety measures in low risk blocks.

Posting 39

- **Inconsistency:** We have identified significant inconsistency in the way local Fire and Rescue Authorities apply the regulations. In some cases this inconsistency is so significant that Authorities in different areas give contradictory instructions.
- **Clarity on Guidance:** Various guidance documents are currently available. Although these can be helpful, they pose a challenge for us where they contradict each other or our Fire Risk Assessments which have been completed by competent assessors. The guidance is also problematic because their legal status is unclear. We would prefer a single, unified, enforcing authority, which produced Approved Codes of Practice and Guidance, where the legal status of these documents was clear.
- **Variable quality of inspectors:** Very mixed experience of working with Fire Enforcement Officers, with significant variation in perception of risk and methods of working with us, and producing inappropriate recommendations owing to lack of understanding of our business. Fire Enforcement Officers selectively quote from guidance documents in their correspondence to us, as though they were regulations.
- **Variable quality of relationship:** Significant variation in the way that Fire Enforcement Officers behave while they are on our estates. In some cases, Fire Enforcement Officers are very personable and helpful to the local staff. In other cases they are officious, aggressive or rude to our front-line staff.
- **Lack of advice:** Fire Enforcement Officers have stopped providing informal advice, and as a result, we have experienced a significant increase in Notices of Deficiency.
- **Setting standards:** Appears that some Fire and Rescue Authorities have set their own centralised standards which they believe should be met, rather than assessing fire safety on a case by case basis in line with the risk assessment approach in the legislation.

- **Conflicting requirements:** Fire officers appear to feel that the fire safety legislation should supersede our legal duty to consult under the Landlord and Tenant Act 1985 and the Commonhold and Leasehold Reform Act 2002. There are also issues with meeting the requirements of disabled people under the Equality Act 2010, as Several Fire Enforcement Officers have set unachievable requirements in Notices of Deficiencies

Posting 40

- **Inconsistency:** Fire safety enforcement across the UK is inconsistent. Multi-site businesses which are accustomed to the primary authority scheme cannot comprehend why this is not available for fire safety.
- **Guidance applied as regulations:** Fire officers believe that the guidance for business is regulation not guidance. Some fire officers believe that guest houses need sprinkler systems and have difficulty in believing that the costs will bankrupt the business.
- **Quality of consultants:** Ex-fire officers have set themselves up as consultants without established competence and have charged small businesses for fire risk assessments which are not fit for purpose.
- **Understanding among SMEs:** Many small hospitality businesses do not understand the concept of “risk assessment” and use a consultant to have it carried out but subsequently forget they need to keep it up to date.
- **Training standards:** No recognised fire safety training standard.

Posting 41

- **Regulatory Reform (Fire Safety) Order (FSO):** Applaud the FSO for the impact it has had on making companies aware of their responsibilities with respect to fire.
- **Lack of clarity in the legislation:** The wording of the FSO is vague in places and can allow an overly subjective definition, enabling building owners to find loopholes within the legislation.
- **Lack of specific understanding of fire doors:** Lack of understanding of the role, definition, use and installation of fire doors is evident. There are cases where fire doors are no longer compliant, have been badly damaged or were never given any attention since they were first installed.
- **Guidance on specific safety measures:** Concerns over contradictory guidance on the need for measures such as intumescent strips and smoke seals on bedroom doors

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in multi-occupancy buildings.

- **Inconsistency:** Concerns that fire safety enforcement can be inconsistent from one area to another. FSO enforcement needs to be more stringent.

Posting 42

- **No national standards:** Enforcement varies drastically from area to area, with different standards and guidance being applied by Fire Officers. There are no national standards.
- **Training for Fire Officers:** Presume that standard of enforcement is getting poorer due to cut-backs in Fire Officer training. I am finding that each Fire Authority is applying different standards. More and more officers do not know what the guidance documents are or how to apply the regulations. Standardised national training is needed.
- **Lack of advice / use of consultants:** Enforcing authorities I come into contact with no longer offer guidance or advice, but instead direct premises to an outside consultant to do their fire risk assessment.

Posting 43

- **Conflicting requirements:** Interested to know how others have dealt with the dual issue of ensuring they comply with building control/fire safety legislation in providing fire escape windows on 1st (and above) floors of premises while at the same time ensuring that service users and residents are not exposed to the risk of falling from these windows.

Posting 44

- **SME perceptions:** Difficult for small companies to fully understand the need for a Fire Risk Assessment. You can make your company safe but to put it in writing is difficult for many small companies.
- **Access to information:** Found an assessment on the internet written by a fire brigade and adopted the text to our company. Conclusion is that we comply with all the regulations and have no fire risk.

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Posting 45

- **Training for Fire Officers:** Training needs to be better, so they have a clearer understanding of the Regulatory Reform (Fire Safety Order) 2005, and keep themselves updated with current British Standards.
- **Standardisation:** Having standardised set paragraphs for officers to use for different contraventions, will help to deliver the same quality and level of advice and guidance to the 'responsible person'.
- **Quality assurance:** Quality assurance should be put in place to check the standard of letters and information being sent out to the public.

Posting 46

- **Good practice documentation:** Pleased that local fire authority has produced sample documentation for small premises such as village halls.
- **Appropriate documentation:** Sample documentation for premises needs to be appropriate to the premises, as some documentation is more appropriate for larger business venues.

Posting 47

- **Self-certification:** In February 2013, the British Standards Institute will publish the UK's first standard on Organisational Fire Risk Management Systems.
- **Targeted enforcement activity:** This standard will enable fire authorities to focus their enforcement efforts on organisations that are not regularly audited by independent third party certification bodies.
- **International standards:** Methodology is based on the management system approach contained in existing international standards.

Posting 48

- **Helpful officer:** Fire Officer checked paperwork and toured premises. He was constructive and invited queries.
- **Consistency of inspections:** Most recent inspection was constructive, but previous inspections raised issues which we regarded as over the top and 'gold plating'.

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Posting 49

- **Processes and procedures:** Need to be executed with the necessity of helping people to safety, such as those with disabilities and differing needs. Businesses have to realise that their employees and customers have differing needs.

Submission 1

- **Inconsistency:** Inspected by a total of seven different Fire Officers, and each time they came up with new requirements of me that had not been raised before.
- **Lack of clarity:** Differing opinions between Fire Officers and businesses as to what constitutes a "suitable and appropriate Fire Risk Assessment" under the Fire Order.

Submission 2

- **Lack of awareness:** Wish to highlight the general public and the basic lack of any safety or regulatory knowledge of solid fuel appliances.

Submission 3

- **Inconsistency:** There is an inconsistent approach taken by fire authorities with regards fire safety. There does not appear to be agreement on what a suitable and sufficient fire risk assessment is or what format it should take. Also, one fire authority proposed some measures, and another fire authority threatened a prohibition notice if we implemented those measures in another part of the country. With some fire authorities there appears to be some doubt as to who a 'responsible person' is, who a 'relevant person who may be affected' may be as defined in the regulations, creating confusion.
- **Provision of advice:** Enforcing officers are not always willing or able to offer advice and simply remind owners about their responsibility to comply with the legislation. If they do offer advice it is usually information drawn from the guidance documents, but if the documents do not cover a specific issue they appear unable or unwilling to consider alternative proposals. Where advice is given there is an unwillingness to back it up in writing.
- **Financial Implications:** The introduction of the Regulatory Reform Order was designed to ensure no major financial implications for businesses that were already compliant with existing legislation. The reality is that there have been major financial

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implications often as a result of some fire authorities making requirements that are not proportionate to the risk.

- **Clarity on Guidance:** Some Fire Authorities refer to the Guidance Documents as though the contents were prescriptive. They are unwilling to enter into discussions which would explore alternative solutions.
- **European Standards:** As a business that operates across Europe we do not see the same standard of fire safety being implemented in other European countries. The European Framework Directive should ensure that all Member countries apply the same standards.
- **Quality of relationship:** Our experience and interaction with many fire authorities in the UK is good. Many are willing to offer advice and support during their visits and to develop a good working relationship with us.
- **Overselling by commercial providers:** We have experienced extinguisher companies misleading managers into purchasing additional extinguishers. Managers have also been told they must have signs above extinguishers to indicate the location of extinguishers. Again there is no such requirement.

Submission 4

- **Rigid application of guidance:** Concerned that several fire services appear incapable of, or unwilling to depart from the methods listed in guidance documents.
- **Prescriptive solutions:** Have also noted that fire safety officers have been deciding what measures should be taken, rather than auditing whether the measures in place are appropriate to the risk, and rather than offering options. Believe some officers are exceeding their brief and authority requiring certain specific measures to be implemented.
- **Pursuit of perfection:** Some fire services pursue specific issues even though the premise falls within the 'generally satisfactory' category. My understanding is that persistent but relatively unimportant issues can carry over from report to report, provided the general level of safety is acceptable. Regulations require reasonable measures rather than perfection.
- **Overzealous enforcement and lack of training:** Think some enforcement decisions and 'threats' are over-zealous, and there are grounds in some cases to challenge the

Focus on Enforcement

training, experience and qualifications of officers – e.g. where Notices are issued simply because solutions in place don't match guidance documents.

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