



Extinguishing the risk:

a councillor's guide to fire safety

What you need to know and what you need to do

What legal responsibilities do you as an elected member have for safeguarding people in their homes from the danger of fire?

For you as a leading councillor, it is actually quite straightforward.

Housing law states that:

- Landlords, including councils and Arms Length Management Organisations (ALMOs) are responsible for fire safety in their properties
- Councils have responsibility to enforce fire safety standards in privately rented accommodation.

Fire Law states that:

- Landlords are responsible for communal areas in multi-occupied buildings and for carrying out fire risk assessments
- Fire authorities have power to take action if standards are not met and also have a duty to promote fire safety in their area.

Councils therefore need to focus on the two distinct roles of a landlord and fire authority.

All **housing authorities** are responsible for regulating standards in privately rented homes, while those who are still landlords themselves are also responsible for the homes they own.

Along with responding to fires, all **fire authorities** have two roles: responsibility for enforcing the law in multi-occupied residential buildings and for educating communities about how to reduce the risk of fire.

Where a property could be under both council and fire authority regulation, they should work together to decide who will lead on any enforcement action.

This guide is for leading councillors, whether you are a Leader or Deputy Leader, housing portfolio holder, regulatory services portfolio holder, fire authority member or county fire service portfolio holder, Overview and Scrutiny Committee member or ALMO Board Member. It will give you the information you need to be confident that your authority is doing all it can to comply with the law, enforce the law and safeguard people in their own homes. If things were to go wrong you would need to be able to show that your authority's systems can withstand intense scrutiny.

STRATEGY + ACTION = CONFIDENCE



Responsible for council homes?

Strategy

Your responsibilities as a landlord, whether of retained stock or via an ALMO, are exactly the same as for any other landlord. In order to assure yourself that fire safety is being taken seriously in your housing strategy, you will need to know the type of housing in your stock. It may be flats in houses or tower blocks, sheltered accommodation or mixed residential and commercial premises. Your asset management and investment strategy should identify the approach to fire safety your council is taking in those buildings. Paper briefings are useful, but you should not rely on them completely; you should also visit some of the premises and see for yourself.

Action

Every multi-occupied building must have a risk assessment that identifies the things that might cause a fire, what risks a fire might present and to whom, the action you are going to take and the information you will give to people. One size will not fit all and you will need to make sure that the person doing the risk assessments on your behalf is competent; this is not the duty of the fire authority. The risk assessment is a live document and will need to be kept under review. Having an action plan will help you prioritise activity and resources and you will need to monitor the action plan.

There are three important issues to think about:

- the state of fire precautions in your housing stock
- day-to-day management of communal areas
- keeping tenants and leaseholders informed.

In a fire, people do not usually die from the fire itself but from toxic smoke, so keeping fire precautions such as fire doors and smoke alarms in good repair is essential. Your repairs policy should identify fire safety as a priority. Building works may affect fire precautions and, in some cases, the Building Regulations require contractors to tell you if the fire safety in the block has changed as a result of their work. You need to make sure this is happening with systems in place and responsibility clear for the different aspects of fire precautions in the building.

Keeping communal areas clear at all times is important, such as corridors and staircases, as people may need to escape from a fire and dumped items can themselves be a source of fire risk. Regular checks should be made and residents made aware of their responsibilities.

The information you give your residents about how to keep safe in their homes, their responsibilities and what to do in a fire could save lives. Your residents may not all have English as a first language or be able to understand written materials easily, so the information must be in an understandable form. Giving a leaflet when a new resident moves in is not enough. Regular updates should be given, particularly when changes occur following refurbishment, for example. Tenants' and residents' associations may be able to help with this.

The fire authority should be a partner in your housing strategy and you should have a working relationship with your fire authority members. Sharing information about your properties and the people who live in them with the fire authority will help to target fire safety activity and fight fires.

Confidence

There are no prizes for good fire safety management but the penalties are severe. You will only be confident if you regularly measure and keep on top of your performance on fire safety. This can be evidenced through local indicators developed for your area, such as the number of risk assessments carried out, reduction in fires, response time to fire safety repairs and feedback from residents' surveys.



Responsible for council regulatory services?

Strategy

Your council will not have the resources to inspect all privately rented accommodation. Your private sector housing strategy should identify the number and type of premises in your area and give risk ratings so you know which type should be inspected as a priority.

Action

Enforcement is just one of the tools available to you. Your enforcement policy should set out when you must take action, as well as how landlords will be supported through information and advice to improve and maintain fire safety in their properties. Private tenants are often unaware of their rights and you should provide information for them on how to get help.

To maximise use of resources you should have an agreement with the fire authority on how you will deal with premises where you both have powers to improve fire safety.

Confidence

You need to measure and review your performance on private rented accommodation. You can develop a local evidence base that might include a risk based inspection programme, the percentage of Houses in Multiple Occupation licensed and the number of contacts with private landlords.



Responsible for Fire and Rescue Services?

Strategy

The range of buildings in your responsibility is very wide and includes offices, care homes and schools. You will need to direct resources to those presenting the highest risk. Your plans should include an overview of the multi-occupied housing stock in your area and a risk profile so that you know which should be targeted for inspection and proactive fire prevention. Operational experience should inform Integrated Risk Management Plans and vice versa.

Action

Working arrangements with all the local councils in your area should not just look at the division of enforcement responsibilities but also identify the vulnerable communities where you should focus your fire prevention work.

Confidence

The reputation of your fire authority could be at risk, so you will need to measure and review your performance. This might be by way of a local evidence base, such as the reduction in fire deaths, the percentage of high risk premises visited or the number of home fire safety visits.



What does fire safety legislation require?

The **Housing Act 2004** (the Act) sets down a risk-based framework for assessing the health impacts of housing. The Housing Health and Safety Rating System (HHSRS) identifies 29 hazards associated with housing, one of which is fire safety. The Act is enforced by councils (usually the private sector housing team) and applies to all residential accommodation, including individual dwellings. If the council discovers a fire safety hazard, they can take a range of action including service of an Improvement Notice or a Prohibition Order. Non-compliance is a criminal offence.

Councils are unable to take enforcement action against council-managed property but serious failures in achieving the HHSRS standards will cause council property to not meet the Decent Homes Standard. This in turn will lead to failure to achieve National Indicator 158 relating to decent council homes. The fire authority can take action on fire safety failings in multi-occupied council property.

The **Regulatory Reform (Fire Safety) Order 2005** (the RRO) applies to the common parts of all residential buildings, including council-owned property, that are shared or used by more than one household. Areas covered by the RRO include the common stairways, corridors, lift shafts, entrance lobbies and all associated services. The RRO does not apply to individual flats occupied by a single household.

Under the RRO, the 'responsible person' (usually the landlord) must carry out a fire risk assessment. The fire risk assessment should identify fire hazards, those people at risk, mitigation measures and action to be taken, information and training needs and how the assessment will be kept under review. If the landlord has five or more employees, the fire risk assessment must be recorded in writing.

The RRO is enforced by fire and rescue authorities and non-compliance can attract a criminal conviction resulting in an unlimited fine or up to two years imprisonment. If individual officers or members are found to have been negligent, they could also find themselves subject to legal action.

Under Regulation 16(B) of the **Building Regulations 2000**, a person carrying out certain works to specified buildings to which the RRO applies must give fire safety information to the owner or occupier that will assist them to operate and maintain the building or extension with reasonable safety. Council Building Control teams have responsibility for enforcement of the Building Regulations.

Useful sources of information

Guidance on the principles of fire risk assessment and an example of a joint enforcement protocol can be found in LACORS (part of the LGA Group) fire safety guidance issued in 2008:

www.lacors.gov.uk/lacors/ContentDetails.aspx?id=19843

Government guidance on carrying out fire risk assessments is available at:

www.communities.gov.uk/fire/firesafety/firesafetylaw

Guidance is also available from the British Standards Institution in the form of a publicly available specification (PAS 79).

The Fire Kills website is a good source of information and has versions of public information leaflets in a number of languages: firekills.direct.gov.uk/other-languages.html

Information on the risk-based approach to fire inspections for purpose-built flats can be found in Appendix C in the current IRMP Guidance Note 4, September 2009, available at: www.communities.gov.uk

Guidance on Fire Service enforcement can be found in the Government (Regulatory Reform (Fire Safety) Order 2005 Guidance Note 1 Enforcement:

www.communities.gov.uk/publications/fire/guidance1enforcement2005



INVESTOR IN PEOPLE

IDEA
Layden House
76-86 Turnmill Street
London EC1M 5LG

telephone 020 7296 6880
facsimile 020 7296 6666
email ihelp@idea.gov.uk
www.idea.gov.uk

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