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| <p style="text-align: center;">London Borough of Croydon</p> |  |
| <p style="text-align: center;">Private Sector Housing Landlords Forum</p> <p style="text-align: center;">Information Sheet 2.</p> |  |

Fire Safety in Properties – the main legislation.

This information sheet is to help you understand some of the main pieces of legislation relating to fire safety in rented accommodation.

Housing Act 2004.

The Housing Act 2004 (“2004 Act”) makes requirements regarding the condition of a broad spectrum of housing. This includes single terraced, individual flats in sheltered housing, houses in multiple occupation and the buildings common parts. Local housing authorities (‘LHA’) are the enforcing authority for this legislation.

Housing health and safety rating system

LHA assess the safety of residents in dwellings by means of the Housing Health and Safety Rating System (‘HHSRS’) specified in Part 1 of the 2004 Act. The HHSRS assessment identifies hazards and allows a judgement to be made on the level of risk. 29 hazards, including fire, must be considered in the HHSRS assessment. The assessment is carried out on each individual dwelling unit, rather than the block containing dwellings and considers the fire risks within the dwelling, from adjoining dwellings, and in achieving safe escape through the common parts.

Hazards can arise from the original design, construction, or lack of care and repair. For example, a badly maintained ceiling could be deemed to be a hazard as a result of potential for fire and smoke to spread beyond the room in which a fire starts. This can also apply to a poorly fitting door within a dwelling, which might allow smoke to affect escape routes within the dwelling before people can escape. The HHSRS assessment considers fire safety hazards in relation to the vulnerable age group; over 60 years. Further consideration may need to be given to protecting residents with other vulnerabilities such as sensory disability, mobility or special needs.

Following an assessment the hazards are given a classification; Category 1 or 2, according to the extent of risk. Category 1 hazards create greater risk and if a LHA becomes aware that significant hazards may exist, they are obliged to carry out an inspection. LHA must take enforcement actions where category 1 hazards exist.

Removing hazards through Enforcement Action

Enforcement actions include the serving of various forms of notice, which may require the person served to take remedial action, or may prohibit the use of the building or part of the building. In the case of imminent risk of serious harm (category 1), the housing authority may, itself, take emergency remedial action.

The 2004 Act is a powerful tool that may be used to require improvements in fire safety within occupied dwellings and units of accommodation. The LHA will work closely with local Fire and Rescue Authorities to ensure a multi-agency approach to ensure fire risk is managed. LHA will respond to complaints from residents, landlords and other agencies such as fire and rescue authorities or social services.

A person on whom a notice is served has the right of appeal to the First Tier Tribunal. It is an offence not to comply with a remedial notice or act against the instructions in a prohibition order. Persons committing offences can be prosecuted or for some offences issued with a financial penalty notice.

Houses in Multiple Occupation.

Houses in Multiple Occupation (HMO) are deemed to have a higher fire risk than a single family dwelling. The 2004 Act makes specific requirements in relation to HMOs. A property is an HMO if it is rented out by at least three residents who do not form a single household (e.g. partners, a family or blood relatives) and share facilities, such as a toilet, bathroom or kitchen. Buildings converted into self-contained flats, prior to the 1 June 1992, are also deemed an HMO (s257 HMOs). Additionally less than two-thirds of the flats need to owner-occupied. The property would not comply with the then Building Regulations (in force from 1 June 1992).

Licensing conditions and Management Regulations.

The Management of Houses in Multiple Occupation (England) Regulations 2006 and the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 impose duties on managers of HMOs to take safety measures, including provision/ maintenance of escape routes, fire alarm systems, escape plans, fire-fighting equipment and escape signs.

Mandatory and Discretionary licensing of rented properties and HMOs

HMOs that are occupied by five or more people living as two or more households must be licensed under the 2004 Act Mandatory licensing scheme. Croydon has also introduced the Croydon Private Rented Property Licensing Scheme. In effect all rented properties must be licensed with the LHA (some exemptions exist).

Regulatory Reform (Fire Safety) Order 2005

The Regulatory Reform (Fire Safety) Order 2005 ('FSO') does not apply to individual units of accommodation, other than in respect of measures installed within that private accommodation as part of the building-wide fire strategy to protect residents. The FSO does apply to common parts and ancillary accommodation within sheltered and extra care housing, and to the common parts and staff accommodation of supported housing in which residents live independently within their own units of accommodation (workplace), as it is not the normal residence of any employee.

The FSO imposes requirements and duties on the 'Responsible Person' ('RP'). Typically, the RP is a landlord, housing provider, Management Company, person having control, person running the business, care or support provider or freeholder; in any single building, there might be several people taking on this role. It is important that all parties understand their responsibilities and those of other RP.

Responsibilities and duties imposed on the RP also apply to any other person having control of the premises. These other duty holders include anyone who, “*under a tenancy or contract, has a responsibility for maintenance or repair of the premises, maintenance or repair of anything in or on the premises, or for the safety of the premises*”. This can include a management company, fire risk assessors and contractors who maintain fire protection equipment, who may commit offences if they do not carry out their work properly. Additionally, in supported housing, where funding levels for support are controlled by persons other than the care provider (e.g. commissioning groups) those persons might be regarded as duty holders under the FSO by control over the number of persons nominated to assist with evacuation.

It can be difficult to determine whether a particular party should be regarded as the RP or alternatively, a person on whom duties are imposed by virtue of a tenancy or contract. In taking prosecution proceedings it is only necessary for the fire and rescue authority to establish that the person had duties imposed upon them which they failed to carry out. The need to establish that the potential defendant is the Responsible Person or another duty holder is not necessary. The FSO imposed responsibilities and duties are limited to matters over which the person has control.

Duty of safety in respect of relevant persons.

The FSO imposes a general duty of fire safety care in respect of “relevant persons”; i.e. anyone lawfully on the premises (and anyone in the immediate vicinity). The duty is primarily to ensure that the fire safety measures within the common parts, plant rooms, and so forth are such as may reasonably be required in the circumstances of the case to ensure that the premises are safe. Where specialized housing is a workplace, the fire safety measures must, so far as is reasonably practicable, ensure the safety of the employees.

To ensure compliance with the FSO the fire safety measures within the common parts should comprise the following.

- Steps to reduce the risk of fire starting and the risk of spread.
- Installation of an early fire warning system to protect occupants.
- Provision of a means of escape from fire.
- Measures fitted to assist people with the use of the escape routes; i.e. emergency escape lighting, fire exit signs and measures for smoke control.
- Measures fitted to assist with the control or suppression of fire; i.e. fire extinguishing appliances (as necessary) (within non-domestic parts)
- An emergency plan (Including a fire action notice).
- A plan to ensure the maintenance of all measures.
- Maintenance of measures required for the safety of, or use by, fire-fighters.

Whilst residents’ accommodation falls outside the scope of the FSO, some fire precautions within accommodation are deemed necessary for protection of other residents and as such, removal, disablement or lack of maintenance of such measures is likely to contravene the FSO. An obvious example is fire detection within residents’ accommodation, which is not solely intended to warn them.

Fire Risk Assessment

Under the FSO the fire risk assessment (‘FRA’) is used to determine the appropriate fire safety measures and ensure that the general duty of fire safety is satisfied within

the common parts. A fire risk assessment must be “suitable and sufficient” to ensure safety and whilst residential accommodation is not considered, there is a need to consider the general nature of residents. A FRA will propose a stay put or full evacuation policy and measures fitted need to reflect this. Information for fire fighters should be considered especially in respect of identifying the location of a fire and all residents who may have difficulty in evacuation (information panel or box).

If the RP or person having control of the premises employs five or more persons in their organization (regardless of where they are employed), or a licence is in force, the significant findings of the FRA must be recorded including the fire safety plan.

Enforcement Action

The fire and rescue authority enforce the FSO. Compliance audits are completed and where a breach is identified the Responsible Person is notified. An enforcement notice can be issued requiring that steps be taken to remedy the breach. In the case of serious risk, a prohibition notice, prohibiting or restricting the use of the premises (and residential units), may be issued. Failure to provide adequate fire safety measures is an offence punishable by an unlimited fine in the Magistrates’ Court, or by an unlimited fine and/or two years’ imprisonment in the Crown Court. Before serving a prohibition notice in relation to an HMO, the fire and rescue authority must, where practicable, notify the local housing authority of their intention and the use to which they intend to prohibit or restrict.

A person on whom a notice is served has the right of appeal to the Magistrates’ Court. Where the RP and the fire and rescue authority cannot agree on the measures necessary a determination by the Secretary of State can be requested.

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015.

Private sector landlords are required, from 1 October 2015, to have at least one smoke alarm installed on every storey of their properties and a carbon monoxide alarm in any room containing a solid fuel burning appliance (e.g. a coal fire, wood burning stove). After that, the landlord must make sure the alarms are in working order at the start of each new tenancy.

The requirements will be enforced by LHA who can impose a fine of up to £5,000 where a landlord fails to comply with a remedial notice.

Further information

Housing health and safety rating system - [advice](#)

Fire risk assessments - [advice](#)

Smoke and Carbon Monoxide Alarm (England) Regulations 2015 – [advice](#)

Contact information.

For more information on private sector housing matters please contact:

Email – hsg-privatehousing@croydon.gov.uk

Telephone: 0208 760 5476 or Minicom: 0208 760 5797

Or on licencing your property

Email - propertylicensing@croydon.gov.uk

Telephone: 0208 726 6103 (Monday to Friday 9am-4pm)