An introduction to HHSRS and housing standards – Wales only post course material

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hqn TRAINING

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1 Message from Peter Wilson

I enjoyed meeting yourself and the other delegates on the public HHSRS Awareness and Housing Standards Course. I said I would send some additional information after the course.

The Local Government Group fire safety guidance relates to purpose built flats; the LACORS fire safety guidance relates to HMOs, many converted flats and single household dwellings. Both are written in a straightforward, common sense style. Please note that the Local Government Group guidance was in fact withdrawn from their website because parts are now out of date post Grenfell but was rapidly reinstated by the Home Office and remains available on their website. Their comments are as below:

> *"The guide was originally produced in 2011 and summarised the legislation, guidance and best practice at the time of writing and should be viewed as no longer comprehensive. The Home Office is working on a revised version of this guide which we intend to publish in 2023. In the interim, it is continued to be made available to fire safety professionals as it contains relevant and useful information for purpose-built blocks of flats.*
>
> *In particular, the position laid out in regard to vulnerable persons in paragraphs 79.9 to 79.11 is subject to developing policy, through the Personal Emergency Evacuations Plan consultation which closed on 19 July 2021, and the Emergency Evacuation Information Sharing Plus consultation (the EEIS+ consultation), which ran from 18 May to 21 August 2022. The responses to the EEIS+ consultation are currently being reviewed and the government will publish a response in due course."*

Hopefully the revised guidance will be out in the fairly near future. Similarly the LACORS guidance was first published in 2008 and again it is recognised that the guidance needs to be updated to reflect changes to British Standards and fire safety policy. Again it is being reviewed (started in 2019) and hopefully revised guidance will be issued in the none too distant future. It is still available for down load on Government and Fire and Rescue Service websites.

I have attached the HSE Legionella guidance and the Zero Carbon report on overheating, along with Approved Document O which the Government recently issued in response to the growing concern about overheating and makes stipulations about maximum temperatures in new builds. I have also added the Chartered Institute of Environmental Health guidance on excess cold which gives practical guidance on that hazard.

I have attached an interesting report from the Glasgow School of Art in respect of sustainable clothes drying. I do feel strongly that that some new flat developments are creating problems for the future with both overheating and condensation. Sensible provision for clothes drying without relying on tumble dryers, radiators, drying racks etc would make a big difference to a lot of households. It is wrong that many low income households are paying to use tumble dryers when outside drying on many days can mean clothes dry for free.

I have also attached an extract from the Welsh Housing Quality Standard in respect of kitchens and bathrooms. Although not strictly applicable in England, it does give clear, common sense guidance on appropriate facilities and finishes. For any houses in multiple occupation (HMOs), it is strongly advisable to look at the HMO licensing guidance issued by the local housing authority (local Council). Whilst not strictly applicable to HHSRS, if an HMO meets the HMO licensing guidelines, there will not be any significant HHSRS risk.

There is also the LACORS guidance on crowding and space and also some Worked Examples along with a pdf with some slides taken from another course which covers overcrowding and

crowding and space. NB LACORS now longer exists as a separate body (subsumed into Local Government Association) but its guidance is still widely used.

Delegates need to bear in mind that Part X of the Housing Act 1985 is still in force. This is the statutory standard which has been heavily criticised as it treats all habitable rooms as bedrooms. In practice because overcrowding is so widespread in reality local housing authorities frequently not use HHSRS when considering overcrowding and will still generally use the statutory standard. I have attached a few slides on the Part X statutory standard. When enforcement action is taken under HHSRS, it will invariably be a suspended Prohibition Order (which stipulates the number of people that can be accommodated at a property for example, say, 8 but if there are, say, 12 there it only comes into force when 4 people have left for whatever reason – it does not come into affect straightaway). With the Worked Examples I have sent, in reality it is unlikely that many local authorities would take action under HHSRS of their own volition.

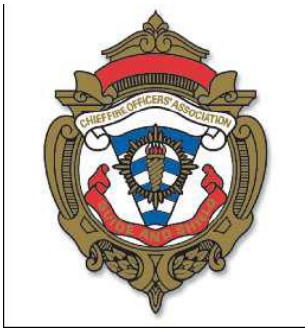
Regards

Peter

2 Lacors fire safety clarification







In July 2008, "Housing – Fire Safety: Guidance on fire safety provisions for certain types of existing housing" was published by LACORS in partnership with the Chartered Institute of Environmental Health and the Chief Fire Officers Association.

In December 2008, the housing fire safety steering group met to discuss feedback on the new guidance. The steering group agreed that the guidance had been well received and was providing valuable assistance to landlords, property managers, local councils and fire and rescue authorities. All parties agreed that the guidance should remain fundamentally unchanged. However, the group also agreed that written clarification should be issued on a few specific points. This paper aims to provide that clarification and to assist all parties in adopting an appropriate risk based approach to fire safety.

1. Defining risk

Prescriptive definitions of "low" and "high" risk properties are not included in the guidance. This is because risk is a relative concept and something that will be influenced by a wide range of factors. Generally, factors influencing the level of risk include the size, layout and condition of the property, construction standards, the level of existing fire precautions, the number and type of occupants, standard of property management, etc. Some examples are given in the guidance to help with assessment of specific cases.

In general terms the guidance recognises that the risk level will often be lower in single family properties and some shared houses (see item 2 below).

More prescriptive definitions of low risk and high risk are not possible under current legislation. Where fire precautions are being required by a local council or fire and rescue authority, the works must be necessary and appropriate and based an assessment of the risk presented. It is important that enforcement officers understand the range of factors that will influence the level of risk and apply fire safety precautions accordingly. We believe the new national guidance provides a useful framework to assist both landlords and enforcement officers in this respect.

2. Shared Houses

Some discussion has occurred around the inclusion of the term "shared house" in the guidance. Shared houses, as described in paragraph 35.2 of the guidance, fall squarely within the Housing Act 2004 definition of House in Multiple Occupation (HMO). The guidance recognises this. However, when considering risk it is clear that certain types of shared house HMOs can present a lower risk than say, a bedsit type HMO. Consider two examples:

1. A two storey house occupied by a small group of friends, work colleagues, etc, who occupy the property on a single tenancy, who exhibit no unusual high risk factors (see section 1 above) and who live together very much like a family. This property would be defined as an HMO under the Housing Act 2004. However this arrangement may present no significantly higher risk than an adjacent similar single family house which is not an HMO.

2.A two storey house which has been divided into bedsit rooms occupied by unconnected individuals who live completely separate lives with no knowledge of who is around them in the house. The bedsit rooms each have individual cooking facilities, a lack of storage space and an inadequate numbers of electric sockets leading to overloading and trailing leads.

The shared house HMO in example 1 will almost certainly present a lower risk than the bedsit HMO in example 2. It would not therefore be appropriate to apply the same fire precautions to both, as the level of risk is entirely different.

Conversely, some shared houses may present a higher risk even when they are let on a single tenancy. For example, shared houses with high occupancy levels, those let to groups with drug or alcohol dependency, with unusual or highly complex layouts, or with other high risk factors present.

In short, the issue is no longer about what does and does not constitute an HMO (Sheffield v Barnes), it is about assessing the level of fire risk having regard to the mode of occupation. Some shared houses may be considered high risk for a variety of reasons and may require more extensive fire precautions. The exact arrangements will vary from house to house and so each case needs to be considered on its merits.

3. Protected routes

General

The guidance acknowledges that a 30 minute protected route is the ideal standard in all multiple occupied accommodation. The question is whether a council can always insist on a 30 minute protected route under Part 1 Housing Act 2004 (HHSRS). Sound conventional construction and good standard, sound, traditional doors will provide some level of fire separation and although it will not meet the ideal standard, it may be considered adequate in a small, low risk property.

Paragraph 9.7 of the guidance sets down circumstances in which it may be appropriate to accept sound, conventional construction throughout the escape route and close-fitting doors of conventional construction (excluding light-weight doors and doors with very thin

panels) to risk rooms. It is envisaged this relaxed standard would apply to single household properties and lower risk 2 storey shared houses (subject to Part D, Case study D5, note 8 – see below). It would not apply to bedsit-type accommodation or to larger, higher risk shared houses. This relaxed standard would not be conditional on the installation of escape windows.

Three storey shared houses
The guidance recognises that the ideal solution for a 3 storey shared house is a 30 minute protected route with FD30 fire doors throughout. However, in a low risk 3 storey shared house where there is sound conventional construction and doors opening onto the escape route which are of sound, solid construction, close fitting and self closing then 20 minutes fire resistance can often be achieved. Subject to the absence of any high risk factors and the inclusion of all other relevant fire safety precautions recommended in the guidance this arrangement may be accepted. This is explained in Part D, Case Study D5, Note 8.

The alternative of stripping out all the partitions, ceilings and doors and replacing them throughout cannot usually be justified on a risk assessment basis in such situations. However, where full refurbishment of such a property is planned then it may be appropriate to provide the full 30 minute protection.

4. Escape windows

Escape windows do not provide an ideal solution and in practice, even when available, they will only be used if occupants find that the main escape route (down the stairs) is blocked. Building Regulations permit the installation of escape windows in new build properties and so their use must be considered. In practice, an escape window may provide the only available option for some inner rooms (see section 12 of the guidance).

Escape windows should only be permitted if they meet all the criteria listed in section 14 of the guidance including in particular, that the occupiers are able bodied individuals who can reasonably be expected to exit via the window unaided. Where they are accepted, an escape window from each habitable room would be the preferred solution. Any exceptions to this rule would need to be considered on a risk assessment basis. For example, there must be unrestricted access to the room containing the escape window via an unlocked door and a protected route may be required to enable occupants to reach the room without the communal areas becoming blocked by smoke. An appropriate fire detection and warning system will always be required (see section 22 of the guidance). In practice, an internal escape route may often provide a more appropriate and practical solution.

If escape windows are provided in full compliance with the guidance and with direct access from each habitable room then there will be no need to require additional protection to the internal escape route.

5. Bedsit-type HMO and Shared House descriptions

There are no legal definitions for these types of occupation – they are all HMOs under the Housing Act 2004 definition. For the purpose of the guidance and in order to differentiate risk, the term shared house has been described in paragraph 35.2 and the term Bedsit HMO has been described in the Glossary. Where properties deviate from

these descriptions, the inspecting officer would need to decide what impact this may have on the level of risk.

6. Fire extinguishers

The positioning of portable fire extinguishers in the communal areas is deemed appropriate in order to help occupiers deal with small scale fires in their early stages and to aid their escape from the building. Their location in communal areas will also assist with regular maintenance inspections. The guidance does not define 'simple multipurpose extinguisher' and we do not propose to do so. Councils and fire and rescue authorities could develop local guidance on this point. The suitability of existing extinguishers would need careful consideration before taking enforcement action to require the installation of a different type of extinguisher.

7. Case studies

It is important to view the guidance as a whole and to appreciate that the guidance does not set down any prescriptive requirements. Part C explores the general principles of fire risk reduction whereas Part D contains example case studies as to how these principles might be applied to different property types, based on various assumptions. It is important to refer to the Part D Introduction (see section 33 of the guidance) which helps to put the case studies in context and to read the case studies in close connection with the principles in Part C as there may be alternative solutions. In practice, when carrying out an HHSRS assessment under Part 1 of the Housing Act 2004, the inspecting officer must have regard to all relevant factors before deciding what, if any remedial works may be required.

8. Single family houses

Concern has been expressed that some councils are using the case studies in Part D as prescriptive standards that must be enforced, rather than simply examples of what might provide adequate fire precautions based on certain assumptions outlined in the introduction to Part D.

For example, Case study D1 is a two storey single family house and suggests that a Grade D, LD3 alarm system is appropriate. This is the ideal solution and where no detection currently exists within such a house this would be the appropriate standard to install. From an HHSRS enforcement perspective though, if the property already has operational battery smoke detectors in the escape route and no particular high risk factors, it is unlikely the property would have a category 1 or high level category 2 fire hazard. As such, it is unlikely that any enforcement action would be appropriate at this time. However, when the landlord schedules major renovation or improvement works he/she should be advised to install a Grade D LD3 system as part of those works.

Conclusion

This briefing note is not intended to over-rule or contradict anything contained in the national fire safety guidance. It simply provides additional clarification on a few specific issues.

Any comments or enquiries should be addressed to LACORS at housing@lacors.gov.uk. Please note that LACORS is unable to respond to queries from individual landlords and managing agents. Landlords with fire safety queries should contact their local council, fire and rescue authority or their trade association.

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