

A REVIEW OF FIRE SAFETY REGULATORY REQUIREMENTS FOR SHARED RESPONSIBILITIES IN MULTI-USE AND MULTI-OCCUPIED COMMERCIAL PREMISES

Synopsis

To provide an insight into the issues relating to implementing the Regulatory Reform (Fire Safety) Order 2005 (RRO) within multi-occupied commercial premises.

To outline the definition of “Responsible Person” within multi-occupied sites and to try to identify what is meant by a ‘suitable and sufficient’ assessment of fire hazards.

To review the key requirements, for both occupier Fire Risk Assessment and the Site Landlord responsibilities. To provide further clarity on cross-over areas of responsibility including access and evacuation procedures

Article

There has been a lot of discussion in the recent past about how the RRO has changed our approach to fire safety with the focus on risk assessment. It has provided a framework in which both fire safety professionals and the business person can establish an effective fire safety strategy within a given building.

The issue of establishing the role of the ‘responsible person’ has been key. Is it yet understood? Anecdotal evidence suggests not. In particular with reference to multi-occupied sites.

Who is responsible for fire safety within a multi-occupied site? Article 22 of the RRO requires “co-ordination and co-operation” between responsible persons. To what extent is that responsibility defined? Clearly the risk assessment of fire safety hazards is within the boundaries of their responsibility. What happens to common parts that are used by the occupier but maintained by the landlord? These are clearly the responsibility of the person who has control of the building. Is the individual responsibility defined in the lease? It is for the responsible person for a given area to ensure that they compile all relevant information in order to produce a suitable and sufficient risk assessment. This may include understanding the risks associated with other tenants, including any significant fire loading or out-of-hours operations. An example is a co-tenant who has deliveries via a fire exit route from your area and as such, blocks that route for a period of time. How would this be managed?

Good fire safety management of multi-occupied sites will include regular meetings between the tenants and landlord or building manager to establish a coordinated team approach within the building. This is paramount in establishing due diligence under the RRO.

The RRO requires ‘each such person’ to take all reasonable steps to reduce fire hazards to a controllable level of risk.

They are also required under article 18 of the RRO to appoint one or more competent persons to assist them in undertaking the preventative and protective measures. With regard to tenants within multi occupied sites this will generally require the company representative (site manager) taking on this role. Whilst they may not be “competent” themselves to carry out an assessment they can engage a competent person to carry out the assessment on their behalf. This is a critical issue and in the opinion of this consultant, is as yet not fully understood.

Situations are arising where a manager of a company occupying an area of the multi use building is completing a fire risk assessment based on a generic template provided by their company. Can this be considered suitable and sufficient? In this situation the company must provide evidence of competency.

The responsible person in control of the building should ensure that all assessments completed within their building are suitable and sufficient and are completed by a competent person. This ensures that the correct risk rating is applied to any given tenant. This should be included as part of the coordination and cooperation role expected by the RRO.

OK, let's look at the role of the company responsible person; an owner or operator of a business within a shared building. In order to complete a 'suitable and sufficient' assessment of fire safety hazards they must have information regarding other occupiers, to evaluate their responsibility with regard to their business undertaking. This information is not always readily available due to confidentiality issues.

It would help if the enforcing authorities could agree a format for completing the risk assessment process including information required and thus assisting and providing useful guidance to businesses in their efforts to comply. There are currently many versions of a fire risk assessment template available.

Even after more than 3 years in place these are elements of the RRO that still represent an issue with businesses. The Initial Evaluation of the Regulatory Reform (Fire Safety) Order 2005 was published in March 2009 and offered a consensus of opinion from enforcers that the RRO was broadly moving fire safety forward and that businesses were 'generally' complying. However, concern was shown with respect to those responsible for premises covered by the RRO being aware of their fire safety responsibilities. It is the smaller businesses (those with less than 50 employees) where awareness and compliance are lowest. Are you in a multi tenanted site with small businesses? Do each of those businesses have a fire risk assessment?

The issue of competency is also very much on the agenda of fire authorities. This highlights the need for those persons carrying out Fire Risk Assessments (FRA) to have the level of training or understanding of fire safety issues, in order to be able to assess fire hazards and identify controls within a given site. Some of these controls are simple, including provision of extinguishers and maintenance of exit routes. Others require attention to management systems and procedures i.e. evacuation of disabled persons.

A recent article in EHN (Environmental Health News) gives comment from the London Fire Brigade (LFB) warning businesses that neglecting their responsibilities under the RRO can result in heavy

finer. Over £1m in fines were paid last year by companies and individuals following breaches of the RRO. Ron Dobson London Fire Commissioner said "there are still too many buildings that do not have an adequate fire risk assessment". He identifies inadequate fire alarm systems and insufficient staff training as issues to be addressed.

The department for Communities and Local Government in their risk assessment guidance indicates that the guides can be used by businesses "*for multi-occupied buildings to address fire safety issues within their individual occupancies*". Clearly this does not give any guidance on competency other than to outline a competent person as such: "*someone with enough training and experience or knowledge and other qualities*".

It is the experience of this consultant that this is not being addressed and therefore companies with good experience of operating the premises will try to complete an assessment with limited training. It is difficult for the enforcing authority to provide local guidance regarding these concerns.

The day to day management of fire safety within a multi occupied building is fraught with difficulties including shared escape routes being blocked by individual businesses and the management of the common areas by the landlord.

The CIEH (Chartered Institute for Environmental Health) are launching a range of Fire Safety training courses including Level 3 Award in Fire Safety Risk Assessment and Control. These are aimed at managers and assessors as a result of the need to address the competency issue. Better late than never!

It is hoped that the training element with regard to the completion of suitable and sufficient risk assessments is given a boost to assist businesses in establishing a clear understanding of the principles of fire safety and the application of risk management. It is still a consideration that some fire authorities have not yet adopted the mantra of a risk assessment approach to fire safety.

Other factors include contractors who are a constant concern, and many fires occur when contractors are at work during the refurbishment of premises. By far the biggest problem is associated with hot works, and as such any assessment should include effective "permit to work" controls, in particular with reference to out of hours working. Where significant works are planned these should be co-ordinated with the responsible person in control of the building.

An example can be provided with regard to contract catering companies that operate within a client site. The client has in some cases little knowledge or understanding of the fire hazards within a catering area including equipment, and servicing requirements. Extract ducting is a significant fire risk. It is important for responsible persons to ensure regular deep cleaning is carried out.

With reference to a risk assessment for the catering areas, it is the caterer who has the knowledge of the fire hazards and is responsible in providing assessment information to the building manager or client. This should be in a format that is clearly understood by the manager. They are then responsible to ensure that information is included within their holistic FRA for the building. Significant hazards may affect their controls with regard to issues such as evacuation routes.

Hotel operators offer another example where additional retailers have space within a hotel building. The retailer is responsible for providing the hotel operator with a suitable and sufficient assessment of the fire hazards and controls, so that the hotel can incorporate these into its assessment for the building.

In conclusion it is clear that the RRO has provided a good framework for fire safety, however there are still numerous obstacles to compliance that need to be addressed within multi occupied sites. It is important to ensure suitable training is provided and effective coordination and cooperation between all parties is properly managed.

Trevor Hodgson BSc MCIEH

Trevor Hodgson is a senior consultant manager with The European Safety Bureau. He has had significant experience of auditing fire safety within multi occupied sites including, hotels and cinemas. He has also produced a fire safety policy for hotels that has proved to be an effective practical tool in compliance with the RRO.