

Press Release :: Flat Out?

A review of risk assessments for common areas in flats and similar buildings.

Recently, there have been a number of articles on flat fires. These have ranged from the use of timber frame construction to unforeseen fire spread within existing flat developments. One issue that these articles have in common is that they all, at some point, mention the Regulatory Reform Fire Safety Order. The articles inform the reader that risk assessments need to be carried out for the common areas and that these are the responsibility of the designated "responsible person".

Like all my colleagues who are concerned with flat design, and especially the question of flat fire safety, I read these items, together with guidance from the Fire Authorities, with interest to see where the current cult of risk assessment may end.

Generally, flats, the humble maisonette, and for that matter houses, are of a simple design which comprises of a single or double stair; the larger and double stair variations may require a ventilated lobby or corridor which is shared by the flats on their individual levels. Apart from high risk ancillary areas such as electrical intake rooms, lift shafts and the like, common areas in flats, maisonettes and houses with shared facilities (see below for examples) either have minimal or nil fire risk and/or are located in the open air and are normally only used for gaining access, egress or for first aid fire-fighting. However, the controlling authorities appear to be of the opinion that fire risk assessments need to be carried out in respect of these common areas.

It is felt that this is due to the wording in "Interpretation" of the RRO ~ Article 2. This describes what does or does not constitute domestic premises. Together with Article 6 & 31(10,) the RRO implies that the legislation only does not apply, in this instance, to a single private dwelling ~

Article 2 Interpretation

"domestic premises" means premises occupied as a private dwelling (including any garden, yard, garage, outhouse or other appurtenance of such premises which is not used in common by occupants of more than one such dwelling)

The crux of the problem is clear: any area shared by two or more single private dwellings no longer constitutes a "domestic premises," and as such could be subject to the provisions of the RRO. Therefore, the area(s) not used by a single dwelling may be required by the controlling authorities to have a current risk assessment carried out upon them.

At the moment, the controlling authorities' message has been clear: failure to carry out such risk assessments could end in a court case and substantial fine. Whilst this may be acceptable in large high-rise flat developments which incorporate large open-plan areas in their design which might be abused on a day-to-day basis, the majority of flats are designed so that the corridors and stairs are of a size only sufficient for access and egress purposes.

It is appropriate at this juncture also to remind ourselves that protected common stairs, and if needed, common flat corridors are deemed places of relative safety in the current Approved Document B Volume

2. Also, the relatively new BS9999 fire safety guide still allows the corridors in flats to be used in lieu of a fire fighting lobby, as did the previous BS5588 series document.

There are some of us in the fire engineering profession who are concerned at the common request of the Fire Authorities for risk assessments to these areas, especially as the guidance issued by the Secretary of State allows such areas in new flat developments to provide adequate fire access for first aid fire-fighting and the safe assisted evacuation of occupants within the flats.

As such, the main question is: who are the risk assessments written for? It is unlikely to be for the occupants of the flats, as the means of escape in case of fire from flats is well known and has been with us in common guidance form since the issue of CP3 Chapter IV 1971, and other reasonable fire safety measures are and have been contained within other Building Regulation guidance.

Therefore, the persons to whom it could reasonably apply are those who could reasonably resort within the building other than the flat occupants; these would include: ~

- a) the post man
- b) the milkman
- c) statutory undertakers (water and electric meter readers)
- d) cleaners (if any)
- e) painters and other general workmen

By their very nature, the persons identified in categories (a) to (c) do not bring into the building any additional significant levels of fire risk. In fact, they can be seen as less of a risk than a flat occupant resorting within the protected areas of the flats, as they do so for a very short time and their addition to the total number of persons resorting in the building will be negligible especially in larger more densely occupied high rise developments. As it is reasonable to expect that the origins of fire would be from either a flat or ancillary areas, these persons would be well placed to evacuate as they would be in an area of relative safety.

Cleaners (d): although these individuals may seem as a higher risk than those individuals mentioned in (a) to (c), due to the cleaning materials they may carry, the amounts of these would be restricted to what they can carry or trolley in. It is generally acknowledged that the amounts of cleaning materials would be analogous to those found in any shopping basket/trolley bought in by the flat dwellers in their weekly shop. Also, due to the need to keep these by them, to carry out their job and to stop theft, the materials would be reasonably supervised and removed from the common areas once the job is completed. Cleaners, like those in the (a) to (c) categories, would be on site for short periods of time, perhaps once a week/month dependent upon the flats agreed cleaning cycle, and therefore no worse risk than a casual visitor with shopping.

Painters and general workmen (e): it is felt that these individuals would need a risk assessment to be written before they take over any area within a flat development. However, it is felt also that this should not be imposed upon the owners of the flats. The Articles of the RRO are quite clear in respect of the employer-employee relationship, and it is to this that the authorities should look when requesting fire risk assessments if work is proposed within flat developments.

Subsection (a) of Article 3 indicates that the “responsible person” should be “in relation to a workplace – the employer, if the work place is to any extent under his control”. It is suggested that should, for example, contractors take over any of the ancillary accommodation such as lift shaft, electrical installations/transformers, common corridors or stairways for repairs or renewal, then, according to Article 3(a) above, he/she should be responsible for the production of risk assessments which should have due regard to the fire risks to his employees and flat occupants and temporary users of the building.

Because of the recent changes to the building regulations, most of the work, especially that involving part L, will be subject to a building regulation application whereby the fire authority could issue requests for all appropriate risk assessments to be completed under the statutory consultation procedure. However, from current events it appears that the controlling authorities are addressing the issue of fire risk assessments after this procedure, and also for some types of flat design which would have no additional fire risk, except for those posed by maintenance contractors and the like in the future which cannot be ascertained at the time.

Taking the current situation and looking into the future, it can reasonably be seen that once the controlling authorities have set the precedent of “all flats, regardless of the real fire risks and logical evaluations thereto, need a fire risk assessment because we say so”. Further buildings will come under the risk assessment banner: these are but a few, and you or your neighbours will most probably be included.

So beware, those of you who: ~

- Reside in a maisonette that shares a garden path.
- Own a house with a shared side drive to your garages .
- Are among those trendy individuals who have taken down your garden fences and have made a communal garden & share other facilities.
- Have a house that has a back alleyway and has full or part ownership of it.
- Live in houses that have separate but united granny flats (these are two single family units).
- Intend to have alterations carried out in your house by a third party i.e. plumbing, loft conversions, extensions, garden makeovers etc. (this could constitute a work place).
- Work from home (if a corridor is deemed as a work place when a person only walks through it to deliver a letter, then what is your study when you work in it all day?).

The list can go on. Whilst I’m aware that some may point out that this article is a bit on the late side, should have been written some time ago or is just scare mongering, I would direct those individuals to the fact that the ACAI /CAFOA committee, a forum for discussing the above and other associated issues, has not met for some considerable time, in fact I believe that this year is the 3rd year since its last sitting.

It is also acknowledged that with all new legislation there is a bedding-in period where the authorities who control it explore the envelope of the Legislation to assess what can be controlled and what cannot. It is felt that this period has passed and no substantive review has been made by a body or committee who would be able to evaluate the reasonableness of its application and/or to feed back the concerns and issues it has received from the end users and those affected by it.

It is imperative that the positives that came with the enactment of the RRO are not lost or overwhelmed by the negative issues caused by the apparent over-provision of fire safety installations/requirements caused by the "fire risk assessment for fire risk assessment's sake" mentality.

A measured, reasonable and considered response to fire safety for each individual flat, maisonette and/or house development is all that is needed, and it is well to remember that the legal standard for reasonableness in these instances is very well known and it goes something like this: in law the measure of what is reasonable is "what is reasonable to the man on the Clapham omnibus". There are sufficient numbers of reasonable persons within the fire and the construction industry who feel that that level has been exceeded.

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About the Author

Gary has over 20 years' experience in the industry and joined SWH Approved Inspectors Ltd in 2006 as Senior Building Manager. He became a Director in May 2007.

His role includes overall management of all building control staff within SWH Approved Inspectors Ltd offices in Bedford, London and Winchester and appointed agents, overseeing major projects within central London and our portfolio of clients nationwide in private and public sectors, ensuring that Approved Inspector / Building Control Service, plans, assessment, site inspections and other necessary functions are carried out to ensure compliance with various statutory provisions such as Building Regulations, Regulatory Reform (Fire Safety) Order 2005, Regulatory Reform (Fire Safety) Subordinate Provisions Order 2006, Disability Discrimination Act, Housing Acts, etc as well as company policy and key performance indicators.

Prior to joining us, he was District Surveyor for various London Local Authorities and a Project Manager and Fire Engineer for another firm of Approved Inspectors.

About Scott White and Hookins

Scott White and Hookins is a construction consultancy practice, providing civil and structural engineering and related services.

The practice has offices at Bedford, London and Winchester and employs around 80 staff.

About SWH Approved Inspectors Ltd

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