

# Avon Fire and Rescue Service and West of England Local Authorities Enforcement Protocol for Fire Safety duties under:

Regulatory Reform (Fire Safety) Order 2005

Building Safety Act 2022

Fire Safety Act 2021

Fire Safety (England) Regulations 2022

Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022

and

Housing Act 2004



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**Bath & North East  
Somerset Council**

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History of Protocol changes:

Origin	Paragraph	Change
Protocol review 08 December 2011	10	Added that FRA is lead authority for the common parts of purpose-built blocks of flats; LAs retain responsibility for flats themselves.
Protocol review 14 February 2010	11	One day response time for LAs to emergency situations added before FRA will progress.
Protocol review 14 February 2010	12	Procedure for emergencies clarified.
Protocol review 08 December 2011	17	Reference to The Local Government Group's 'Fire safety in purpose-built blocks of flats' guidance added for that type of premises.
Protocol review 08 December 2011	20 (new)	Clarification provided to approach to be adopted for purpose-built blocks of flats where flat entrance doors are the responsibility of leaseholders rather than the freeholder.
Protocol review 14 February 2010	32	Protocol liaison meetings to be annual with ad hoc interim meetings if particular issues arise.
Protocol review 14 February 2010	33	Clarification added about liaison arrangements regarding licensed HMOs, hostels and rented properties where FRA have installed free battery detectors in an HMO at the request of a landlord.
Protocol review 14 February 2010	Appendix A	Clarification provided about rehousing arrangements following service of a prohibition notice by FRA.
Protocol review 14 February 2010	Appendix B	Telephone numbers provided and clarification provided that LA officers are not available out of hours.
Protocol review February 2025		<ul style="list-style-type: none"> <li>• Updating of legislation and associated information.</li> <li>• Updating wording of protocol to clarify and update procedures.</li> <li>• Insertion of new objective relating to enforcement of high rise buildings.</li> <li>• Updating of table detailing who will be lead authority in certain types of building,</li> <li>• Insertion of table detailing relevant enforcement actions.</li> <li>• Reformatting the document and moving relevant text from Appendix A into main protocol.</li> <li>• Appendix A – updating of legislative information.</li> <li>• Appendix B – Updating of contact details.</li> </ul>

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## **Agreement between Avon Fire and Rescue Service (AFRS) and West of England Local Authorities (LA):**

Bath and North East Somerset Council  
Bristol City Council  
North Somerset Council  
South Gloucestershire Council

### **Purpose of the Protocol**

To clarify how the parties will carry out their duties in relation to enforcement of Fire Safety provisions in relation to relevant legislation including:

#### **Regulatory Reform (Fire Safety) Order 2005 (FSO)**

#### **Building Safety Act 2022**

#### **Fire Safety Act 2021**

#### **Fire Safety (England) Regulations 2022**

#### **Housing Act 2004 (2004 Act)**

Part 1: Enforcement of Housing Standards: General  
Part 2: Licensing of Houses in Multiple Occupation  
Part 3: Selective Licensing  
Part 4: Additional Control Provisions in relation to Residential Accommodation

#### **Housing and Planning Act 2016**

#### **Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022**

### **Non-Statutory Guidance**

This protocol also has had regard to:

LACORS - Housing Fire Safety Guidance on fire safety provisions for certain types of existing housing. 2008. [See link](#).

Fire Safety Housing Working Group – Clarification of Protocol between Local Housing Authorities and Fire and Rescue Authorities to improve fire safety. 2010. [See link](#)

## Main objectives of this protocol:

1. To acknowledge that there are two different Enforcing Authorities on Fire Safety matters under different pieces of legislation and to clarify legal responsibility.
2. To provide as clear and simple practical arrangements for landlords and officers on how to comply with the legislation as far as is possible in the situation with the purpose of working towards a common goal in relation to fire precautions required in buildings whilst recognising that there may be alternative fire safety solutions to achieve the same end.
3. To confirm the arrangements for meeting the requirements for authorities to consult under the 2004 Act and the FSO and relevant fire legislation.
4. To confirm arrangements and enforcement in relation to fire safety in High Rise Residential Buildings (HRRBs).
5. To confirm communication strategies and commitment to joint training and support on Fire Safety issues.

## Objective 1

6. To acknowledge that Local Authorities and Avon Fire and Rescue Service have statutory duties and are enforcing authorities in relation to fire safety matters, whilst also recognising the role of the Building Safety Regulator in relation to higher risk buildings. This document clarifies responsibilities for each organisation.
7. The FSO and the 2004 Act place duties on Avon Fire and Rescue Service (AFRS) and West of England Local Authorities (LA) to enforce fire safety provisions in the same parts of some properties.
8. AFRS have responsibility for enforcing fire safety provisions under the FSO in the following:
  - the common areas of houses in multiple occupation (HMO). (LACoRS guidance has clarified that this does not include HMOs let as shared houses where the tenants have exclusive possession of a whole dwelling)
  - the common areas of flats and maisonettes
  - guest houses and bed and breakfast accommodation
  - hostels
  - refuges (unless a shared house as above)
  - residential conference, seminar and training centres
  - student halls of residence and other areas of sleeping accommodation in other training institutions
  - seminaries and other religious colleges
  - the common areas of sheltered accommodation (where care is not provided) - [Fire safety risk assessment: residential care premises - GOV.UK \(www.gov.uk\)](#)
  - areas in work places where staff sleep in as a condition of employment or a business requirement, but doesn't include tied accommodation such as separate flats, houses or apartments
  - hotels and motels

- residential health and beauty spa centres
  - sleeping accommodation in boarding schools
  - holiday chalets, holiday flat complexes, camping and caravan parks (other than privately owned individual units)
  - short term-let accommodation/small paying guest accommodation
9. The Fire Safety Act 2021 clarified that the external walls, flat entrance doors and structure of buildings are all covered by the FSO and must be accounted for in fire risk assessments.
10. AFRS are under a duty to ensure that where a property covered by the FSO has a licence the landlord or other responsible person has in place a written suitable and sufficient Fire Safety Risk Assessment.
11. The Fire Safety (England) Regulations 2022 apply to the following buildings in England and brought in additional duties for Responsible Persons (RPs) under the FSO:
- High-rise residential buildings.
  - Residential buildings with storeys over 11 metres in height.
  - All multi-occupied residential buildings with two or more sets of domestic premises.
  - The regulations require RPs in multi-occupied residential buildings to take specific actions including the sharing of relevant information with AFRS, depending on the height of the building:
  - Some provisions apply regardless of building height.
  - More are needed once a building reaches 11 metres, and
  - Further requirements are introduced when a building reaches 18 metres (or 7 storeys) or more.

### **How does the FSO affect licensing under the Housing Act 2004**

12. The LA have a duty to license a privately rented property where five or more people from 2 or more households live, sharing toilets, bathrooms or cooking facilities. Local Authorities will require fire safety measures to meet the adopted fire safety standard as part of the licence procedure. LA may also have Additional and Selective Licensing Schemes which also have Fire Safety related licence conditions. Additional licensing applies to privately rented HMOs, where 3 or 4 unrelated people from 2 or more households live and share toilets, bathrooms or cooking facilities. Selective licensing normally applies to all other privately rented accommodation.
13. In relation to Fire Safety, LAs are required by the Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) (England) Regulations 2006 SI 373/2006 (the 2006 Regulations) to place conditions in the licence:
- For smoke alarms in the house to be installed and maintained
  - For shared kitchens to be provided with a fire door and a fire blanket
14. West of England LAs have used their power to impose other fire safety conditions which are:
- To provide an appropriate Automatic Fire Detection System

- To provide an Emergency Lighting system
  - To ensure that any security locks provided onto the means of escape and on final exit doors can be operated from the risk side without the use of a key
15. When the FSO was made on 7<sup>th</sup> June 2005, Article 43 had the effect of suspending any terms and conditions which are covered by the FSO, e.g. fire precautions to common parts of residential properties for any licences in place at that time.
16. Article 43 states if there is a licence in force:

Whether issued before or after the order came into force in relation to a premises or person in respect of a premises to which the order applies **and**

The licensing authority is required or authorized to impose terms, conditions or restrictions in connection with the issue of licences

Then at any time the FSO applies to a premises:

- Any term, condition or restriction has no effect in relation to any requirements or prohibitions under the FSO
- This means that if the FSO applies to a property all fire safety provisions required under the Licensing scheme including mandatory and discretionary licence conditions cannot be enforced by the LA and it is the responsibility of AFRS to enforce fire safety provision they believe are appropriate.

## HMO Licence Conditions

17. LAs are directed by section 67 of the 2004 Act with regard to the relationship between the Local Authorities' Licensing powers and their Part 1 (Housing Health and Safety Rating (HHSRS)) powers:

“In general they should seek to identify remove or reduce Category 1 or 2 Hazards in the House by exercise of Part 1 functions and not by means of licence conditions”

18. It has been acknowledged by the government departments issuing both the FSO legislation and the HMO licensing legislation that the new legislative frameworks were constructed in parallel without consultation between the 2 parties on how enforcing authorities would operate in conjunction with each other
19. LAs also have powers and duties to make requirements in any residential property where there is an actionable Fire Safety Hazard under the HHSRS.
20. LAs have powers and duties to make requirements in residential properties under [The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#) and [The Smoke and Carbon Monoxide Alarm \(Amendment\) Regulations 2022](#)

## Objective 2

21. To provide as clear and simple practical arrangements for landlords and officers on how

to comply with the legislation as far as is possible in the situation with the purpose of working towards a common goal in relation to fire precautions required in buildings whilst recognising that there may be alternative fire safety solutions to achieve the same end.

22. The table below sets out which authority will take the lead<sup>1</sup> in relation to Fire Safety matters in a property. The table adopts the key principles suggested in the National Protocol to take into account changes since it was written.

<b>Type of building</b>	<b>Lead authority</b>
Single dwelling – (Fire risk assessment not required)	LA
All Houses in Multiple Occupation (HMO), whether or not subject to mandatory, selective or additional licensing	LA
All self-contained flats whether purpose built or converted	LA
Common parts <sup>2</sup> of purpose-built or converted blocks of flats	FRA <sup>3</sup>
Premises with mixed commercial and associated <sup>4</sup> residential accommodation	FRA
Hostels <sup>5</sup> /B&B/hotels	FRA
Premises that are owned or managed by the Local Housing Authority	FRA
Sheltered/specialized housing	FRA

23. In an imminent risk of serious harm to health or safety of occupiers related to fire either authority can take action to deal with the immediate risks where they have enforcement powers to do so. The Lead Authority to be informed as soon as practicable possible and to attend within a suitable agreed timescale. Ideally inform on the same day but within 24 hours.
24. LAs will consider on a case-by-case basis if the Housing Act 2004 provides a suitable legal remedy within a suitable time scale. Otherwise, contact AFRS to determine if they have powers to assist.
25. WOE LAs will continue to make fire safety requirement in the schedules to any HMO licences (additional and mandatory) following each LA's own Fire Safety Standards.
26. LAs will follow up outstanding fire safety requirements with landlords where they have a

<sup>1</sup> Lead means the authority responsible for dealing with complaints in the first instance as far as the respective legal requirements allow.

<sup>2</sup> As a guide the common parts are the shared parts of the building up to and including the entrance door to a flat, the external envelope of the building including cladding and balconies. The Fire Safety Act 2021 clarified that the external walls, flat entrance doors and structure of buildings are all covered by the FSO.

<sup>3</sup> There may be specific arrangements on who leads for HRRBs. FRA is the lead authority. Enforcement action may also be taken by the LA following consultation with the FRA. The LA or FRA may apply for Remediation Orders under the Building Safety Act 2022. LAs may use powers under Part 1 of the Housing Act 2004 in relation to the common parts. If Part 1 powers are used any Fire Safety Risk Assessment can be considered. The FRA are responsible for enforcement of Fire Safety Order requirements.

<sup>4</sup> Associated means there isn't independent access, which is adequately fire separated, so where residential accommodation such as an HMO is completely separated from commercial accommodation then the LA will take the lead in the flats and the FRA in the commercial accommodation and the common parts of the accommodation.

<sup>5</sup> Where a kitchen is used to provide food. If food only is provided and it is a tenant's main residence, the property will be treated as an HMO.



lead role but may refer cases to AFRS for enforcement under the FSO where appropriate.

27. LAs will, when dealing with landlords make them aware of the FSO and outline its requirements in relation to fire safety.
28. LA officers may refer landlords queries about the FSO to AFRS, where AFRS are the lead agency, in line with this protocol.
29. AFRS and LAs will have regard to LACoRS 'Housing - Fire Safety, Guidance on fire safety provisions' for certain types of existing housing. The Local Government Group's 'Fire safety in purpose-built blocks of flats' is the relevant guidance for that type of premises.
30. AFRS will consider that the fire precautions in a property have been improved if the local authority have carried out compliance visits and confirmed that all the licence conditions and or other fire safety requirements under the FSO have been met.
31. This does not remove the ultimate responsibility of AFRS for the enforcement of the FSO.
32. Section 1 of the Fire Safety Act clarifies that where a building contains 2 or more sets of domestic premises, the responsible person must take account of structure, external walls and flat entrance doors in a fire risk assessment. The Fire Safety Act amends article 6 of the Regulatory Reform (Fire Safety) Order Act 2005 in this regard.
33. Enforcement actions can include:

Local Authority	Fire Authority
<p><b>Service of HA2004 Notice:</b></p> <ul style="list-style-type: none"> <li>• Improvement Notice               <ul style="list-style-type: none"> <li>○ Notice requiring works to be carried out to address category 1 and or 2 hazards.</li> <li>○ A notice cannot require remedial works to start within 28 days of the service of the notice.</li> <li>○ <u>Works in default</u>: LAs take action to carry out works required by an improvement notice where the notice has not been complied with.</li> <li>○ <u>Prosecution</u>: Offence of failing to comply with an Improvement Notice. A person who commits an offence is liable on summary conviction to a fine not exceeding level 5 (unlimited fine).</li> </ul> </li> <li>• Prohibition Order               <ul style="list-style-type: none"> <li>○ Order made prohibits the use of part or all of the premises or restricts the type or number of people living there.</li> <li>○ Details remedial action that would result in order being revoked.</li> </ul> </li> </ul>	<p><b>The Regulatory Reform (Fire Safety) Order 2005</b> gives AFRS the power to take the following enforcement action:</p> <p>Article 29 - Alterations notice</p> <p>Article 30 - Enforcement notice</p> <p>Article 31 - Prohibition notice</p> <p><b>Formal Caution</b></p> <p><u>Prosecution</u>:</p> <ul style="list-style-type: none"> <li>• With an unlimited fine in Magistrates' Court or Crown Court. Under the Regulatory Reform (fire safety) Order 2005 any 'indictable offence' can come with a 2 year custodial sentence.</li> </ul>

- An order becomes operative 28 days after it is made.
- Prosecution: Offence of failing to comply with prohibition order. A person who commits an offence is liable on summary conviction to a fine not exceeding level 5 (unlimited fine), and to a further fine not exceeding £20 for every day or part of a day on which he so uses the premises, or permits them to be so used, after conviction.
- Hazard Awareness Notice
  - Notice that advises of hazards identified and remedial action.
  - No further action is required.
- Emergency remedial action (not available for category 2 hazards)
  - LAs undertake emergency remedial action to remove an imminent risk of serious harm.
- Emergency prohibition orders (not available for category 2 hazards)
  - LAs make an emergency prohibition order prohibiting the use of part or all of the premises.
  - Prosecution: Offence of failing to comply with prohibition order. A person who commits an offence is liable on summary conviction to a fine not exceeding level 5 (unlimited fine), and to a further fine not exceeding £20 for every day or part of a day on which he so uses the premises, or permits them to be so used, after conviction.

**Management of Houses in Multiple Occupation (England) Regulations 2006:**

- Impose duties on managers and occupiers of a HMO (except converted blocks of flats) whether licensed or not. Duties include ensuring that all means of escape from fire are maintained and kept free from obstruction, all fire precautions are maintained.
  - Informal action – schedule of works.
  - Only formal action available is prosecution or civil penalty (see below).
  - Prosecution:
  - Housing Act 2004, Section 72(3) - Offence

for failing to comply with any condition of the licence. A person who commits an offence is liable on summary conviction to a fine not exceeding level 5 (unlimited fine);

- Housing Act 2004, Section 234 - Offence for failing to comply with a regulation in relation to Management Regulations in respect of HMOs. A person who commits an offence is liable on summary conviction to a fine not exceeding level 5 (unlimited fine)

- For properties that are classed as Section 257 HMOs, the Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 apply.

LAs will be able to impose a **civil penalty**, up to a maximum of £30,000, as an alternative to **prosecution** for the following offences under the **Housing Act 2004** and **Housing and Planning Act 2016**:

- Section 30 HA04 (failure to comply with improvement notice),
- Section 72 HA04 (licensing of Houses in multiple occupation (HMOs)),
- Section 95 HA04 (licensing of houses under Part 3),
- Section 139(7) HA04 (failure to comply with overcrowding notice)
- Section 234 HA 04 (failure to comply with management regulations in respect of HMOs).
- Section 21 off the Housing and Planning Act 2016 (Breach of a banning order)

**Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 Remedial Notice:**

- Notice requiring works within 28 days of the service of the notice.
- Works in default: LAs take action to carry out works required by remedial notice where the notice has not been complied with.
- A civil penalty of up to £5,000 can be imposed on landlords who do not comply with the remedial notice.

**Banning Orders:**

- In relation to specific offences, an application can

be made to First-tier Tribunal for the responsible person to be subjected to a Banning Order. Preventing them from letting housing, engaging in letting agency work, property management work, or hold a HMO licence. Banning Orders, if granted, will last a minimum term of 1 year but there is no restriction on the maximum term.	
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Both authorities may also take the following actions as they are listed as 'interested persons' under the Building Safety Act 2022.

### **Remediation Orders**

- As one of the listed 'interested persons', the local authority and/or fire authority can make an application to the First-tier Tribunal to require a relevant landlord to remediate relevant defects in a relevant building.

### **Remediation Contribution Orders**

As one of the listed 'interested persons', the local authority and/or fire authority can make an application to the First-tier Tribunal to require a specified corporate body or partnership to make payments for the purpose of meeting costs incurred in remediating relevant defects in a relevant building.

34. AFRS have no duty to rehouse occupants following service of a prohibition notice, however where practicable, AFRS will liaise with the LA so they can consider potential support with regards to rehousing. West of England Authorities may only be able to assist with rehousing if there is a statutory duty to do so because the person is in 'priority need'. However, West of England Authorities have a duty to provide advice and assistance to all who become homeless. See Appendix B for contact details for emergency housing advice.
35. When a property is licensed under the Housing Act the LA will still issue a licence with conditions in relation to Fire Precautions.
36. The LA will issue the licence with conditions relating to fire safety following each LA's own Fire Safety Standards.
37. The LA will issue a schedule of works requiring fire safety requirements that they believe are required under either:
  - HMO Licence conditions
  - Part 1: 2004 Act - HHSRS assessment
  - HMO Management Regulations
38. LAs will have regard to the LACoRS guidance when specifying work and will, as a minimum, advise landlords of the FSO and that additional fire safety works may be required as well as the responsibility under Article 9 of the FSO to carry out a suitable and sufficient risk assessment. Landlords will be informed of the guidance and how they can obtain a copy.

39. Where the FSO does not apply, properties which require a licence should refer to the relevant LAs Fire Safety Standards. Where a licence is not required in addition to the minimum requirement for detection, Landlords who wish to improve their standards of Fire safety above the minimum requirements may wish to refer to LACORs or take expert advice from a competent Fire Safety Risk Assessor.
40. Where AFRS are the lead authority, LA officers may forward fire risk assessments to AFRS to allow assessment of their suitability.
41. LAs will use their enforcement powers to deal with landlords not providing adequate fire safety provisions. However, in some cases where it is not practical or appropriate to do so the case will be passed to AFRS to deal with the non-compliance as they see fit.

### **Objective 3**

42. To confirm the arrangement for meeting the requirement for authorities to consult under the 2004 Act and the FSO.

#### **Duties of AFRS**

43. AFRS are under a duty in relation to any property they are dealing with to:
  - Inform the LA of any formal action they take.
  - AFRS will write or email the relevant LA informing them of the details of any formal action they have undertaken as soon as possible within 5 working days.
  - Consult before serving an Enforcement Notice and or Prohibition Notice.
44. AFRS will contact the relevant LA in writing or by email before serving an Enforcement Notice and or Prohibition Notice.
45. The communication will confirm that any fire safety requirements are in accordance with the FSO and it will be deemed that the officer has consulted on the standards that should be applied.
  - Notify the LA's Homelessness Service before serving a Prohibition Order, where practicable.
46. Emergency contact details for LAs are in Appendix B.

#### **Duties of LAs**

47. HMO licence conditions include the requirement to meet fire standards for licensable HMOs that are agreed between LAs and AFRS. Where any changes are proposed to these standards. AFRS will be given the opportunity to make representations about any further changes to Fire Safety Standards for licensable HMOs.
48. Consult AFRS before taking formal action in relation to an HMO or in any common parts of a building containing one or more flats, under the Part 1 of the 2004 Act.

49. Where emergency measures are required, LAs are to consult AFRS as far as is it is practicable before taking any formal action under the HHSRS enforcement powers of the 2004 Act. Emergency measures” means emergency remedial action under section 40 or an emergency prohibition order under section 43
50. A LA taking action on a property where the FSO applies will advise landlords appropriately and will provide information to enable them to carry out a risk assessment under the FSO and contact details of the relevant Fire Safety Office.
51. Officers making fire safety requirements in line with any guidance that has been agreed will have deemed to have consulted with AFRS in that matter.
52. Where a scenario is not covered by this protocol, officers will need to consult with AFRS on a case-by-case basis.
53. Contact details for AFRS are in Appendix B.

#### **Objective 4**

54. To confirm arrangements and enforcement in relation to fire safety in High Rise Residential Buildings (HRRBs)
55. LAs and AFRS can use their current powers under the relevant fire safety legislation listed above, to informally or formally take actions to progress cladding remediation and addressing building safety related defects associated with fire safety in HRRBs.
56. The Building Act 2022 enables the Building Safety Regulator to call on assistance from local authorities and fire and rescue authorities when regulating higher-risk buildings. It ensures that local authorities and fire and rescue authorities have the legal power to provide assistance requested by the Building Safety Regulator.
57. By way of a written direction from the Secretary of State, the Building Safety Regulator (BSR) may require LA's and or AFRS to do anything for the purpose of facilitating the exercise by the regulator of a relevant function, or enable the relevant authority to facilitate the exercise by the regulator of a relevant function.
58. LA's and the BSR are required to cooperate and share information with each other in the exercise of their relevant functions. This includes the sharing of information about an identified risk in a relevant building. As well as working together to ensure that the appropriate action is taken to manage and mitigate the risk identified, using whichever organisation's expertise and powers are best suited to resolving the issue.
59. AFR and the BSR are required to cooperate and share information with each other in the exercise of their relevant functions. This includes the sharing of information about an identified risk in a relevant building. As well as working together to ensure that the appropriate action is taken to manage and mitigate the risk identified, using whichever organisation's expertise and powers are best suited to resolving the issue.
60. LA's and AFRS are required to cooperate and share information with each other in the exercise of any building function of the regulator and any prescribed function of the public

authority.

## Objective 5

61. To confirm communication strategies and commitment to joint training and support on fire safety issues.
62. The National protocol advocates strategic and tactical level consultation as well as on an individual level.
63. AFRS and LA adopt this approach and will:
  - Meet periodically to review procedural and policy issues and consider if this protocol requires amendment with ad hoc interim meetings if particular issues arise.
  - Meet to discuss operational issues such as inspection programmes.
  - Meet to discuss complex schemes of work or carry out joint inspections where necessary.
64. The LA will provide AFRS with a list of HMOs that are licensed in their areas as appropriate and provide updated information to AFRS if requested. AFRS will enquire on a property-by-property basis how whether or not the FSO is likely to apply and establish if LA are able to make a joint visit to the property.
65. In routine visits to hostels where management issues relating to fire safety are identified, LA will deal with these under the HMO Management Regulations and will inform the AFRS of action taken.
66. Where AFRS visit HMOs at the request of a landlord and there are enquiries relating to LAs Fire Standards, AFRS will signpost to the relevant LA contact number or inbox where appropriate.
67. AFRS and LA commit in principle to carry out joint training on fire safety issues.
68. AFRS will in principle provide support at Residential Property Tribunal hearings by offering professional opinions on fire safety matters.

## Review of Protocol

69. This protocol will be reviewed periodically alongside procedural and policy issues (see para. 63)

Avon Fire and Rescue Service and the West of England Local Authorities Fire Safety Enforcement Protocol

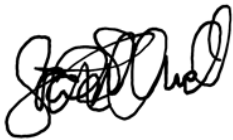
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## Appendix A – Legislative information

The collection of guidance for those with legal duties in relation to fire safety can be found: [Fire safety: guidance for those with legal duties - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/fire-safety-guidance-for-those-with-legal-duties)

### Who has responsibility for enforcing the FSO?

The FSO places a duty on AFRS to enforce the provisions of the Order (Article 26(1)).

### Who is responsible for meeting the duties imposed by the FSO?

- The FSO places duties on the person having control of the premises or the owner known as the “responsible person” except to the extent mentioned in Article 3.
- In relation to residential properties the responsible person could be:
  - Landlords – as the owner
  - Managing agents – where they have control of the undertaking
  - Leaseholders – as owners

### Which residential properties does the FSO apply to?

The FSO only applies to domestic premises (Article 6(1)) which do not consist of or comprise in a house which is occupied as a single private dwelling. (Article 31 (10))

A domestic premises is defined as:

“A premises occupied as a private dwelling (including any garden, yard, garage, outhouse, or other appurtenance of such premise **which are not used in common by occupants of more than one such dwelling.**” (Article 2)

This means it does **not** apply to:

- owner occupied houses or
- owner occupied houses with a lodger or lodgers \* single household rented houses; or
- any other domestic premises where there are no parts used in common.

\* for the purposes of this protocol a lodger is a person who lives in a property with the owner and shares the main common areas of the accommodation but will have their own bedroom which may include ensuite facilities.

The Department of Communities and Local Government (DCLG) have interpreted this to mean that the provisions will apply to:

- The common areas of houses in multiple occupation (HMO) (The [LACoRS guidance](#) page 40 has clarified that this does not include HMOs let as shared houses where the tenants have exclusive possession of a whole dwelling; however, it does apply to shared houses with multiple tenancies)
- The common area of flats and maisonettes
- Guest houses and bed and breakfast accommodation

- Hostels
- Refuges (unless a shared house as above)
- Residential conference, seminar and training centres
- Student halls of residence and other areas of sleeping accommodation in other training institutions
- Seminaries and other religious colleges
- The common areas of sheltered accommodation (where care is not provided)
- Areas in work places where staff sleep in as a condition of employment or a business requirement, but doesn't include tied accommodation such as separate flats, houses or apartments
- Hotels and motels
- Residential health and beauty spa centres
- Sleeping accommodation in boarding schools
- Holiday chalets, holiday flat complexes camping and caravan parks (other than privately owned individual units)
- Short term-let accommodation/small paying guest accommodation ([Making your small paying guest accommodation safe from fire - GOV.UK](#))

(DCLG guidance [Fire safety Risk assessment – Sleeping accommodation](#) page 4) The guidance further clarifies HMOs to include:

- Bedsits
- Hostels (eg YMCA, YWCA, youth hostels, bail hostels or homeless persons' accommodation)
- Accommodation above shops
- Shared houses (see above for LACoRS clarification)
- Flats
- Houses partly converted into self contained flats and
- Buildings fully converted into self contained flats where the conversion work does not fully comply with 1991 Building Regulations and where less than 2/3 of the flats are occupied by long leaseholders. (DCLG guidance p 133)

So the FSO applies to the common areas of the above types of properties. The [Fire Safety Act 2021](#) clarified that the external walls, flat entrance doors and structure of buildings are all covered by the FSO and must be accounted for in fire risk assessments.

### **Premises to which the Fire Safety Order applies**

In article 6 of the Regulatory Reform (Fire Safety) Order 2005 ([S.I. 2005/1541](#)) (application to premises) —

- (a) in paragraph (1)(a) (excluded premises), after “except to the extent mentioned in” insert “paragraph (1A) or”;
- (b) after paragraph (1) insert—
- “(1A) Where a building contains two or more sets of domestic premises, the things to which this order applies include—
- (a) the building’s structure and external walls and any common parts;
  - (b) all doors between the domestic premises and common parts (so far as not falling within sub-paragraph (a)).

- (1B) The reference to external walls includes—
- (a) doors or windows in those walls, and
  - (b) anything attached to the exterior of those walls (including balconies).”

### **What duties are imposed on the responsible person by the FSO?**

These are some of the duties covered by Articles 8 to 22 but it should not be taken as an exhaustive list of duties under the order.

Where relevant persons are not employees of the responsible person he must:

- Take such general fire precautions as may reasonably be required to ensure that the premises are safe. (Article 8(b))
- Make a suitable and sufficient risk assessment of the fire safety risks to which relevant persons are exposed. (Article 9(1))

The relevant person is someone:

- who is or may be lawfully on the premises,
- in the immediate vicinity of the premises
- this does not include fire fighters carrying out their emergency duties. (Article 2)

Where there is a licence in force:

- Record the significant findings of the risk assessment including measures to be taken by the responsible person and
- any groups of persons identified as especially being at risk

These are some of the other duties in the FSO which are in brief:

- Principles of Prevention to be applied
- Fire Safety Arrangements
- Elimination or reduction of risks from dangerous substances Fire-fighting and fire detection
- Emergency routes and exits
- Procedures for serious and imminent danger and danger areas Additional Emergency measures in respect of dangerous substances Maintenance
- Safety Assistance
- Provision of Information to employers and the self employed from outside undertakings
- Training
- Co-operation and co-ordination

The [Fire Safety \(England\) Regulations 2022](#) and [section 156 of the Building Safety Act 2022](#) brings in additional duties for Responsible Persons under the Fire Safety Order.

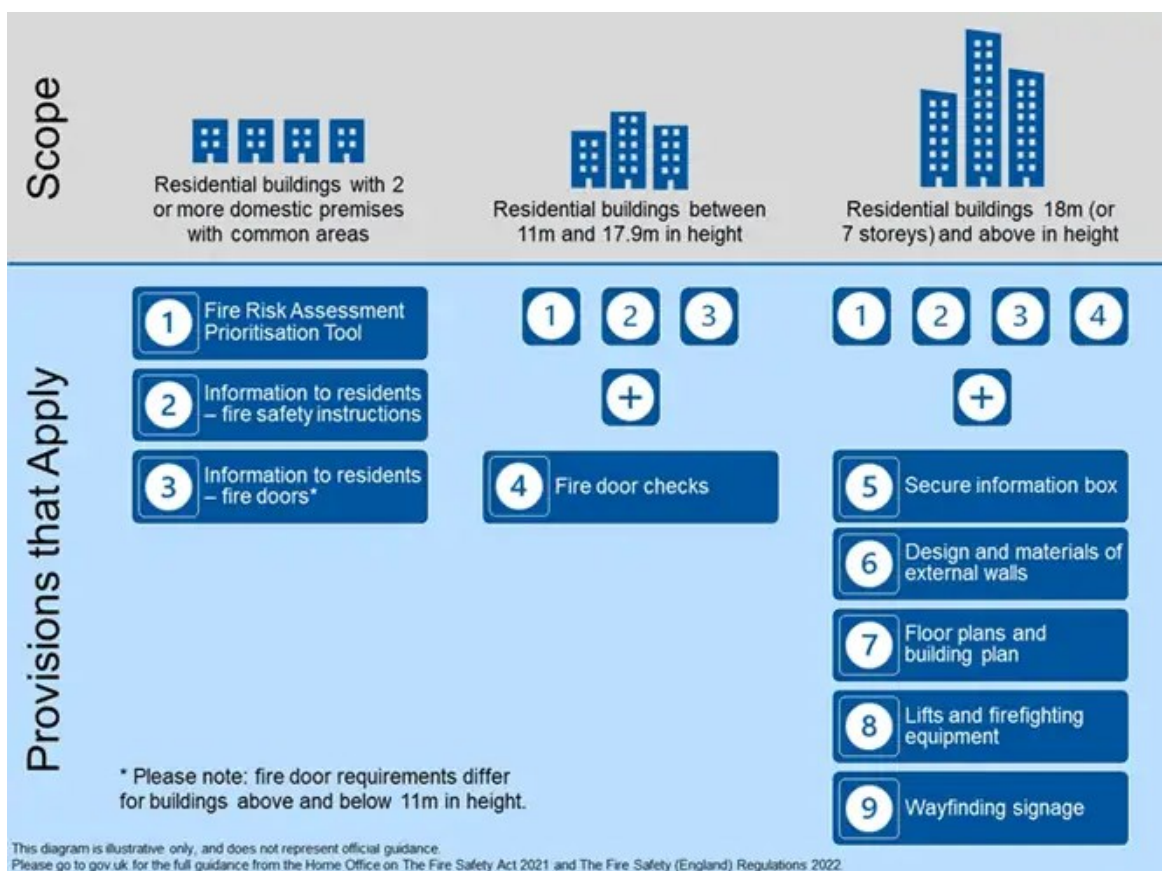
## The Fire Safety (England) Regulations 2022

The Fire Safety (England) Regulations 2022 apply to the following buildings in England and brought in additional duties for Responsible Persons (RPs) under the FSO:

- High-rise residential buildings.
- Residential buildings with storeys over 11 metres in height.
- All multi-occupied residential buildings with two or more sets of domestic premises.

The regulations require RPs in multi-occupied residential buildings to take specific actions including the sharing of relevant information with AFRS, depending on the height of the building:

- Some provisions apply regardless of building height;
- More are needed once a building reaches 11 metres, and
- Further requirements are introduced when a building reaches 18 metres (or 7 storeys) or more.



(Image source: <https://www.esfrs.org/regs>)

## Building Safety Act 2022

Section 156 of the Building Safety Act

The [main changes](#) introduced by the legislation are:

- require that all Responsible Persons must record their completed fire risk assessment, and in full (where previously only specific information was required to be recorded)
- require that all Responsible Persons must record the identity of any individual (their name), and/or if applicable, their organisation (name) engaged by them to undertake/review any or all of the fire risk assessment, and share this with residents of

multi-residential unit premises where applicable.

- require that all Responsible Persons must record their fire safety arrangements (demonstrate how fire safety is managed in your premises)
- require that all Responsible Persons must record (and as necessary update) their contact information, including a UK-based address, and share this, along with the identified fire safety risks, preventative and protective measures, any competent persons nominated to assist with firefighting and detection measures, with other Responsible Persons and residents of multi-domestic unit premises where applicable
- require that all Responsible Persons must take reasonably practicable steps to ascertain the existence of other Responsible Persons who share, or have duties in respect of the same premises, and of Accountable Persons (which are a new legal entity made under the Building Safety Act in the case of higher-risk residential buildings) in relation to the premises – they must then identify themselves to said persons and cooperate with accountable persons so that the accountable persons can carry out duties imposed by the Building Safety Act 2022;
- require that departing Responsible Persons must share all ‘relevant fire safety information’ with incoming Responsible Persons
- require Responsible Persons of a building containing two or more sets of domestic premises to provide residents with relevant fire safety information in a format that is easily understood by the residents
- increase the level of fines for some offences
- strengthen the status of statutory guidance issued under Article 50 of the Fire Safety Order

The Building Safety Regulator was established under The Building Safety Act to:

- regulate higher-risk buildings (at least 7 floors or at least 18 metres in height, with at least 2 residential units)
- raise safety standards of all buildings
- help professionals in design, construction, and building control, to improve their competence

Section 13(1) of the Building Safety Act states:

13 (1) A relevant authority may at the request of the regulator do anything for the purpose of—

- (a) facilitating the exercise by the regulator of a relevant function, or
- (b) enabling the relevant authority to facilitate the exercise by the regulator of a relevant function.

Schedule 3 of the Building Safety Act states:

2 (1) The regulator and a local authority must cooperate with each other in the exercise of their relevant functions.

2 (2) The regulator and a fire and rescue authority must cooperate with each other in the exercise of—

- (a) any building function of the regulator,
- (b) any function of the authority under—
  - (i) section 6 or 7 of the Fire and Rescue Services Act 2004,
  - (ii) the Regulatory Reform (Fire Safety) Order 2005, or
  - (iii) section 13 of this Act, and

(c) any other prescribed function of the authority.

(3) The regulator and an FSO authorised person must cooperate with each other in the exercise of their relevant functions.

(4) A relevant person may disclose information held in connection with any of their relevant functions to another relevant person for the purposes of a relevant function of either of them.

5 “relevant function” means –

- (a) in relation to the regulator, any building function;
- (b) in relation to a local authority, a function under any of the following—
  - (i) the Prevention of Damage by Pests Act 1949;
  - (ii) Part 2 of the Public Health Act 1961;
  - (iii) Part 11 of the Local Government (Miscellaneous Provisions) Act 1982;
  - (iv) the Building Act 1984;
  - (v) Part 3 of the Environmental Protection Act 1990;
  - (vi) Parts 1 to 4 of the Housing Act 2004;
  - (vii) section 13 of this Act;

or any other prescribed function;

- (c) in relation to a fire and rescue authority, a function under any of the following—
  - (i) the Fire and Rescue Services Act 2004;
  - (ii) the Regulatory Reform (Fire Safety) Order 2005;
  - (iii) section 13 of this Act;

or any other prescribed function;

- (d) in relation to an FSO authorised person, any function under—
  - (i) the Regulatory Reform (Fire Safety) Order 2005, or
  - (ii) section 14 of this Act;

“relevant person” means—

- (a) the regulator;
- (b) a local authority;
- (c) a fire and rescue authority;
- (d) an FSO authorised person.

## **Duties of AFRS and LAs to consult with each other**

AFRS is under a duty to:

- Inform the relevant LA of any action they are taking in relation to premises on which there is a licence. (FSO Article 42(1)(b)).
- Before serving an Enforcement Notice consult with the relevant LA. (Article 30(5)(a)).
- Before serving a Prohibition Order on an HMO, where practicable notify the LA of the intention and what they intend to prohibit. (Article 31(6)).

The LAs are under a duty to:

- Ensure that AFRS has the opportunity to make representation before issuing a licence. (Article 42(1)(a)).

Section 10 of the 2004 Act:

10 Consultation with fire and rescue authorities in certain cases

- (1) This section applies where a local housing authority—
- (a) are satisfied that a prescribed fire hazard exists in an HMO or in any common parts of a building containing one or more flats, and
  - (b) intend to take in relation to the hazard one of the kinds of enforcement action mentioned in section 5(2) or section 7(2).
- (2) Before taking the enforcement action in question, the authority must consult the fire and rescue authority for the area in which the HMO or building is situated.
- (3) In the case of any proposed emergency measures, the authority's duty under subsection (2) is a duty to consult that fire and rescue authority so far as it is practicable to do so before taking those measures.

## LA powers and duties

### Housing Act 2004

- Local authorities have powers, under the Housing Act 2004, to calculate the seriousness of certain hazards using the Housing Health and Safety Rating System (HHSRS) and take enforcement action.
- Based on the HHSRS assessment(s), LAs determine the category of hazard and whether or not it has a statutory duty (for category 1 hazards) or a power (category 2) to act and decide on the most appropriate action.
- Also see enforcement table under Objective 2, paragraph 33.
- This government note summarises local authority enforcement powers available for action on high-rise residential buildings with unsafe cladding under the Housing Act 2004: [190206 Note on LA enforcement powers with flowchart FINAL.pdf](#)

### **Smoke and Carbon Monoxide Alarm (England) Regulations 2015 and The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022**

- All relevant landlords must:
  - Ensure at least one smoke alarm is equipped on each storey of their homes where there is a room used as living accommodation. This has been a legal requirement in the private rented sector since 2015.
  - Ensure a carbon monoxide alarm is equipped in any room used as living accommodation which contains a fixed combustion appliance (excluding gas cookers).
  - Ensure smoke alarms and carbon monoxide alarms are repaired or replaced once informed and found that they are faulty.
- Enforcement authorities (LAs) are required to serve a remedial notice where they have reasonable grounds to believe a landlord has not complied with one or more of the requirements. The landlord must comply with the notice within 28 days (unless the notice has been suspended). If they do not comply (and the notice is not suspended or withdrawn), the local housing authority must arrange for an authorised person to carry out the remedial action specified in the notice (where the occupier consents) to ensure the requirements in the regulations are met and can issue a civil penalty of up to £5,000.

- [Smoke and Carbon Monoxide Alarm \(Amendment\) Regulations 2022: guidance for local authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/smoke-and-carbon-monoxide-alarm-amendment-regulations-2022)



## Appendix B

### Contact details

LA officers are not available out of hours. Within standard office working hours:

- Bath and North East Somerset Council  
Housing Standards & Improvement Team,  
Lewis House, Manvers Street, Bath, BA1 1JG  
Tel: 01225 396444  
Email: [housing@bathnes.gov.uk](mailto:housing@bathnes.gov.uk)
- Bristol City Council  
Private Housing Service  
Private Housing (100TS), PO Box 3399, Bristol City Council, Bristol, BS1 9NE  
Tel: 0117 3525010  
Email: [private.housing@bristol.gov.uk](mailto:private.housing@bristol.gov.uk)
- North Somerset Council  
Private Rented Housing Team  
Town Hall, Walliscote Grove Road, Weston-Super-Mare, BS23 1UJ  
Tel: 01934 426 885  
Email: [privaterented.housing@n-somerset.gov.uk](mailto:privaterented.housing@n-somerset.gov.uk)
- South Gloucestershire Council  
Private Sector Housing Team  
Department for Place, PO Box 1954, Bristol, BS37 0DD  
Tel: 01454 864503  
Email: [psehousing@southglos.gov.uk](mailto:psehousing@southglos.gov.uk)
- Avon Fire and Rescue Service  
37 Valley Road, Portishead, Bristol, BS20 8JJ  
Tel: 0117 9262061  
Email: [fire.safety@avonfire.gov.uk](mailto:fire.safety@avonfire.gov.uk)

### Emergency housing advice

All four West of England Authorities use the out of hours Social Services Emergency Duty Team run by S Gloucestershire tel. 01454 615165 for emergency housing advice, contact could be made by the persons affected or by AFRS:

<https://www.bristol.gov.uk/residents/social-care-and-health/emergency-duty-team>

In working hours (and other out of hours services) housing advice is provided as follows:

- Bath and North East Somerset Council
- Housing Options & Advice Team
  - Tel: 01225 396 296
  - Online at <https://beta.bathnes.gov.uk/contact-us-housing-advice>

- Bristol City Council
  - Persons should present themselves at the Citizen Service Point at 100 Temple Street, Bristol, BS1 6AG. 09.00-17.00pm (Monday, Tuesday, Thursday and Friday), 10.00-17.00pm (Wednesdays).
  - Online at <https://www.bristol.gov.uk/residents/housing/finding-a-home/homeless-or-at-risk-of-being-homeless/homeless-or-worried-about-becoming-homeless>
  
- North Somerset Council
  - An appointment can be made with the Housing Advice Team Tel: 01934 426 330. For emergencies out of hours Tel; 01934 622 669.
  
- South Gloucestershire Council
  - Persons should contact the Home Choice Team, Monday to Friday 9.00 - 3pm at: Civic Centre, High Street, Kingswood, South Gloucestershire, BS15 9TR
  - Tel: 01454 868005.