

Regulatory Reform (Fire Safety) Order 2005

Standard Operating Procedure No. TFS 018

Document Overview: -

This document gives a summary of the change to fire safety legislation as from 1 October 2006 and its practical application by Wiltshire Fire & Rescue Service (Wiltshire FRS) personnel.

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1.0 Introduction

- 1.1 The Regulatory Reform (Fire Safety) Order 2005 (RRO) came into effect as from midnight on 1 October 2006. Wiltshire & Swindon Fire Authority are the enforcing authority within Wiltshire and Swindon.
- 1.2 Wiltshire Fire & Rescue Authority are responsible for the enforcement of the RRO and do so using the Enforcement Concordat that sets out principles to ensure consistent, transparent and fair enforcement. Methods of enforcement available include prosecution, prohibition and enforcement notices. Less formal methods include Notification of Deficiencies and general advice.
- 1.3 The Regulatory Reform (Fire Safety) Order 2005 uses the Regulatory Reform Act 2001 to replace all previous fire safety legislation and enlarges its requirements to cover all premises with the exception of single private dwellings. The aim of this new order is "to reduce the impact to businesses of multiple and overlapping legislation".

2.0 History

- 2.1 Previous legislation, The Fire Precautions Act 1971 and The Fire Precautions (Workplace) Regulations 1997 (as amended) ran for a number of years side by side and have caused problems in understanding for both Fire & Rescue Services and the owners and occupiers of businesses. Fire Certificates issued under the Fire Precautions Act were prescriptive and relatively inflexible. The regime created by the Workplace Regulations introduced a risk-based method for employers to achieve a safe workplace for their staff.
- 2.2 The RRO has been designed to continue risk-based fire precautions, aligned with existing Health & Safety legislation and expand the types of premises it relates to.

3.0 Types of Premises

- 3.1 The RRO applies to all premises except:
 - a) Domestic premises, except to the extent mentioned in article 31(10) of the Regulatory Reform (Fire Safety) Order 2005.
 - b) An offshore installation within the meaning of regulation 3 of the Offshore Installation and Pipeline Works (Management and Administration) Regulations 1995.
 - c) A ship, in respect of the normal ship-board activities of a ship's crew which are carried out solely by the crew under the direction of the master.
 - d) Fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking's main buildings.
 - e) An aircraft, locomotive or rolling stock, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994.

- f) A Mine within the meaning of section 180 of the Mines and Quarries Act 1954, other than any building on the surface at a mine.
 - g) Borehole sites to which the Borehole Sites and Operations Regulations 1995 apply.
- 3.2 Therefore in practice this includes several previously unaffected types. Examples include:
- a) Small hotels and bed and breakfast premises previously exempt from fire certification.
 - b) Small family run businesses with no employees.
 - c) Common parts of blocks of flats and Houses in Multiple Occupation (HMO).
 - d) Premises where persons work but are unpaid so to do (charity shops, volunteer organisations).
 - e) Outdoor and temporary events.
 - f) Churches.
- 3.3 Properties with Crown immunity (army properties, jails, courts etc.) do have to comply with the RRO but Wiltshire Fire & Rescue Service do not have a duty to enforce the standard.

4.0 Significant Changes

- 4.1 There are changes in terminology and descriptions within the RRO that differ from previous legislation that are explained in the sections below.
- 4.2 Responsible Person - This is the person defined by the RRO who is ultimately responsible for ensuring fire safety measures are completed. In a workplace the employer is the responsible person. In non-workplaces the owner or person who has control of the premises is the responsible person. Additional examples could include a fire alarm engineer who, by maintaining a fire alarm system on behalf of an owner, becomes a responsible person. The RRO makes the responsible person ultimately responsible for managing fire safety in the property and for reducing the risk in as low as reasonably practicable. This is expanded in section 6.
- 4.3 Competent Person - The competent person is defined as a person with enough training and experience or knowledge and other qualities to enable them properly to assist in undertaking the preventive and protective measures. The responsible person must appoint one or more competent persons, depending on the size and use of the premises, to carry out any of the preventive and protective measures required by the Order.

- 4.4 Relevant person - Previous legislation protected mainly the employees within premises. 'Relevant persons' is now defined as "any person who is or maybe lawfully on the premises or persons within the immediate vicinity who is or maybe at risk from fire". A "responsible person" therefore must ensure the safety of "relevant persons" in case of fire. In other words anybody that uses the premises.
- 4.5 Risk Assessment - Previous legislation required responsible persons to complete a "suitable and sufficient" risk assessment. The RRO is no different. A risk assessment should be completed and significant findings (significant risks, measures to reduce or control risk or persons at risk) should be recorded if 5 or more employees are employed or if a licence or alterations notice is in force.
- 4.6 Alterations notice - This is a new enforcement measure. An alterations notice can be issued to prevent a responsible person from making changes to premises without first consulting with the Fire & Rescue Service. In practical terms this could mean a premises relying on a fire-engineered solution, for example excessive travel distance compensated by sprinklers, where removal of the sprinkler system would place relevant persons at risk from fire.
- 4.7 Fire Certificates - From 1st October 2006, Fire Certificates ceased to have legal effect. Premises that have previously relied on a Fire Certificate forming their fire plan will be required to risk assess their premises and decide what fire safety measures are necessary.
- 4.8 General Fire Precautions - In simple terms the following areas should be assessed by the responsible person and implemented where necessary. The inclusion or not of these measures should be justified by the risk assessment.
- a) Measures to reduce the risk of fire on the premises and the risk of the spread of fire on the premises.
 - b) Means of escape - Identification and maintenance of sufficient routes and exits to allow persons to safely evacuate in the event of fire.
 - c) Means of warning and detection - That the premises are, to the extent that it is appropriate, equipped with appropriate with fire detectors and alarms. It is for the responsible person to determine what is appropriate based on their fire risk assessment.
 - d) Measures to fight fire - The provision of adequate and suitable firefighting media (Hose reels, extinguishers, fixed installations etc.) and sufficient numbers of staff trained in its use.
 - e) Arrangements for action to be taken in the event of fire - This covers the training of staff and recording of what to do in the event of fire, procedures for evacuation, instruction for emergencies and liaison between site and emergency services.

5.0 Guidance Documents

- 5.1 To assist the responsible person in fulfilling their responsibilities under the RRO a suite of guidance documents has been published. They are tailored to suit specific types of premises. The guides are available to purchase or as a free download from www.firesafetyguides.communities.gov.uk . The titles of the guides are:
- a) Sleeping Accommodation.
 - b) Factories and Warehouses.
 - c) Shops and Offices.
 - d) Small and Medium Places of Assembly.
 - e) Educational Premises.
 - f) Theatres and Cinemas.
 - g) Large Places of Assembly.
 - h) Outdoor Events.
 - i) Residential Care.
 - j) Healthcare Premises.
 - k) Transportation.
- 5.2 The guidance documents are only guidance documents. Therefore they have no legal status. The guidance documents provide a suggested method of complying with the RRO but any suitable equivalent standard may be accepted subject to that which is deemed reasonable (see section 6).
- 5.3 The guidance documents have been written to provide guidance for a responsible person for less complex properties. However if the responsible persons are unable to apply the guidance they should seek expert advice from a competent person. More complex premises will probably need to be assessed by a person who has comprehensive training or experience in fire risk assessment.

6.0 Transference of Risk

- 6.1 As previously stated, this is a self-managing piece of legislation that is aligned to health and safety legislation. Consequently the responsibility for the risk and to comply with the fire safety duties under the RRO lays solely with the responsible person.
- 6.2 Therefore, traditionally, where fire safety inspectors have dictated the work required, now it is for the responsible person to demonstrate 'due diligence' and to prove that it was not practicable or reasonably practicable to do more than that which was done

to satisfy the duty or requirement. Due Diligence is that the responsible person did all that is reasonable to avoid committing an offence.

- 6.3 The self-compliance responsibility of the responsible person is underpinned by the enforcement actively of Community Safety Inspectors. The RRO details a number of offences, from covering fire safety duties and other offences including obstructing an officer, to making false entries and knowingly giving false information.
- 6.4 Community Safety Inspectors audit premises in line with a risk-based inspection scheme. This identifies the highest risk premises within the Wiltshire & Swindon area. During an audit, compliance is determined against the RRO and not the guidance document. Table 1 gives an indication of the level of enforcement in relation to the offence and actions of the responsible person.
- 6.5 Sample auditing of lower risk premises is also conducted to ensure consistency. In addition the top 10 premises within each group for unwanted fire signal activation will also attract an audit.

7.0 Operational Procedures

- 7.1 The roles and competency of personnel within Wiltshire Fire & Rescue Service underpins enforcement of the RRO. As stated in Section 6.0, the responsibility for the risk in a particular building lies with the responsible person. Therefore Wiltshire Fire & Rescue Service cannot take on any part of the risk by making recommendations which tell the responsible person what to do. Wiltshire Fire & Rescue Service cannot be seen to enforce its own work. The [Post Incident Inspection SOP](#) has been revised to accommodate that principle. Table 2 details the extent to which fire service personnel not employed within a specialised fire safety role can offer advice to members of the public.

Table 1 Description of Offence with Expected Enforcement Action

Compliance Level	Description	Enforcement Expectation
Compliance Level 5	<ul style="list-style-type: none"> • Dangerous conditions resulting in serious risk to persons in case of fire <p style="text-align: center;">Follow up audit always required</p>	Prohibition
Compliance Level 4	<ul style="list-style-type: none"> • Generally premises risk rating very high/high • Serious deficiencies that require structural alterations • Requirement for comprehensive major systems • Poor management with numerous high/medium contraventions of fire safety legislation. • Disregard for fire safety issues with bad housekeeping and no risk assessment or records of training or testing. • Following a fire where greater emphasis is required to address deficiencies • History of previous enforcement or informal action <p style="text-align: center;">Follow up audit always required</p>	<p>Enforcement Notice</p> <p>This equates to a G1.RR4 letter.</p>
Compliance Level 3	<ul style="list-style-type: none"> • Generally premises risk rating medium • Numerous low level deficiencies possibly with history of other minor issues • Poor management evident and inspector has lack of confidence that matters will be adequately addressed • History of previous enforcement or informal action. • Consider referral to CFS if appropriate <p style="text-align: center;">Follow up audit may be required</p>	<p>Enforcement Notice or Notification of Fire Safety Deficiencies.</p> <p>This equates to a G1.RR3 or 4 letter</p>
Compliance Level 2	<ul style="list-style-type: none"> • Generally premises risk rating low • Several low level deficiencies but without a previous history. Inspector has confidence in the overall management of the premises that matters will be adequately addressed. • Consider referral to CFS if appropriate <p style="text-align: center;">Follow up audit not normally required</p>	<p>Notification of Fire Safety Deficiencies.</p> <p>This equates to a G1.RR3 letter.</p>
Compliance Level 1	<ul style="list-style-type: none"> • Generally premises risk rating low/very low or those premises in multi-occupied buildings not selected for a sample audit • Possibly no Risk Assessment carried out/recorded but building generally satisfactory in all other respects • Only very low level deficiencies. Approach to include verbal advice/agreement and information (inspector to record any advice given) • Any situation where premises comply with the order but where additional measures would reduce the risk category • Consider referral to CFS if appropriate. <p style="text-align: center;">No follow up required</p>	<p>Notification of Fire Safety Deficiencies</p> <p>OR</p> <p>Educate & Inform.</p> <p>This equates to a G1.RR2or 3 letter</p>

7.2 Table 2: Operational Advice for After Fire Inspections

Ref.	Do not	Do
7.1	Pass judgement (verbal or written) on the suitability of any fire safety provision (i.e. equipment, facility or arrangement).	Direct the persons to the relevant guidance document.
7.2	Make any comment (verbal or written) on the contents, format or suitability of a fire risk assessment.	Direct the person to either the relevant guidance document or fire gateway at www.fire.gov.uk .
7.3	Make any recommendations (verbal or written) on how to comply with the RRO.	Direct the persons to the relevant guidance document.
7.4	Suggest the responsible person sends their fire risk assessment to the Community Safety Department.	If requested, state only the responsible person can determine whether the fire risk assessment is suitable. Direct them to the to either the relevant guidance document or the fire gateway at www.fire.gov.uk . Only once they have made a demonstrable effort to comply with the RRO would Community Safety staff be able to offer advice. Do make the responsible person aware that if a fire risk assessment is sent in, it may be used to determine whether an audit is carried out on their premises and therefore Wiltshire FRS is duty bound to enforce any offence found on the premises.
7.5	Advise the responsible person to contact Community Safety to request an inspection.	Community Safety staff operate a risk based inspection. Therefore the responsible person will be contacted once their property is identified for audit. If you think that the matter should be brought to the attention of Community Safety staff, please contact the group Community Safety Office via the appropriate email address
7.6	Commit Community Safety staff to inspection.	See above.

7.3 Under no circumstances should operational personnel leave a building they consider to be or is likely to be a Compliance Level 5 (prohibition) standard. If that assessment is made then the Incident Commander (IC) should contact control and a competent fire safety member of staff and a Visual Aids Technician will attend. This is a 24-hour procedure. To ensure that evidence is collected legally and the correct procedures of the Police and Criminal Evidence Act 1984 are followed, once a fire safety member of staff has been requested, the IC and crews should stop their inspection and refrain from asking questions about the offence. Failure to minimise any interaction at this point may jeopardise any case community safety may wish to bring against the responsible person.

8.0 Further Information

- 8.1 Service personnel can find further information about the RRO and current fire safety and community safety activities by contacting the group Community Safety office, intranet or from the following websites.

www.communities.gov.uk/index.asp?id=1162115

www.wfb.gov.uk

www.fire.gov.uk

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