The Regulatory Reform (Fire Safety) Order 2005 – call for evidence

Institution of Occupational Safety and Health (IOSH) response to the Home Office (HO) call for evidence

Introduction

IOSH, the Chartered body for Occupational Safety and Health (OSH) professionals, is pleased to have the opportunity to comment on this important Home Office *Regulatory Reform (Fire Safety) Order 2005 – call for evidence*,[1] which we have also promoted to our members for individual response.

IOSH was also pleased to respond to the *Grenfell Tower Fire Public Inquiry Terms of Reference consultation; Independent Review of Building Regulations and Fire Safety; and Banning the use of combustible materials in the external walls of high-rise residential buildings consultation.* [2, 3 and 4] In addition, we have recently responded to the MHCLG consultation *Building a Safer Future – Proposals for reform of the building safety regulatory system*.

The response that follows incorporates input from IOSH members, including from our Fire Risk Management Group committee. In it we provide a summary position, background, answers to a selection of consultation questions, references and further information about IOSH.

Summary IOSH position

IOSH believes that in order to achieve a holistic outcome, as well as addressing what is termed 'overlap', it is also important to address any gaps or fragmentation and ensure that coverage is competently delivered, adequately resourced and effectively enforced. Competence is a key requirement for all those duty holders involved and one we highlighted to the Dame Judith Hackitt review. [3]

If both regimes (HHSRS and FSO) are to continue to apply, IOSH would support the introduction of a duty to cooperate between fire and rescue services and local authorities, to help ensure that the two regimes work well together.

IOSH believes there should be a duty for persons responsible for different parts of the building under different legislation to cooperate and coordinate their activities to ensure fire and building safety.

We fully support information-sharing, as required under the safety case and golden thread, which we think should link to the occupation stage under the Fire Safety Order, so that duty holders have the information they need for ongoing safe operation.

Background

The Regulatory Reform (Fire Safety) Order 2005 (RR(FS)O) enforcement review by the Government in 2013,[5] found that "Guidance documents in England were described by some as being confusing and conflicting…" It also highlights concerns from fire protection officers and safety consultants that businesses were not aware of their responsibilities under RR(FS)O; questions about the competency of some commercially provided fire risk assessments and some fire protection officers; and reluctance by some fire and rescue authorities to give advice.

In terms of buildings in mixed use, the Communities and Local Government Select Committee report on the private rented sector [6] considered the operation of the Housing Health and Safety Rating Scheme in 2013 and highlighted a survey of private landlords by DCLG in 2010, which found that 85% of landlords had not heard of the HHSRS. The Committee concluded that there was also likely to be a low level of awareness amongst tenants. Some evidence submitted to the Committee raised concerns around the complexity of the HHSRS and the fact that there is limited understanding of its operation outside of professionals in the field. There was a call from some respondents for a new approach to assessing the quality of privately rented housing but no general agreement on what alternative approach to adopt.

In our response to the recent MHCLG consultation (*Building a safer future*), we have been pleased to highlight the link between CDM and fire safety. This is a link we also made in our submission to the HSE consultation on CDM (CD261),[7] in which we made specific reference to the fire safety order, as follows: "…to ensure, so far as is reasonably practicable, that the design of structures meets the relevant health and safety requirements e.g. as contained in Regulatory Reform (Fire Safety) Order; Workplace (Health, Safety and Welfare) Regulations; Building Regulations; and Equality Act."

IOSH answers to selected consultation questions

Q12. What are your views on how we provide clarity in the regulatory framework to ensure fire safety risks are managed holistically in multi-occupied residential buildings?

In order to provide clarity and support a holistic approach, IOSH believes the distinctions between sets of regulations and guidance should be concisely expressed to ensure there is no ambiguity and that accountability and responsibility sit clearly with individuals and organisations. We also advocate requirements for duty holders to cooperate and coordinate their fire safety-related responsibilities to ensure a cohesive whole.

We note the Government's intention to implement the Dame Judith Hackitt Review recommendation for a 'whole-building' approach, with the accountable person obligations extending to all parts of buildings in scope. In order to achieve a holistic outcome, as well as addressing what is termed 'overlap', we believe it is also important to address any gaps or fragmentation and ensure that coverage is competently delivered, adequately resourced and effectively enforced. Competence is a key requirement for all those duty holders involved and one we highlighted to the Dame Judith Hackitt review. [3]

Q13. If both regimes are to continue to apply, how can they be improved to complement each other?

If both regimes (HHSRS and FSO) are to continue to apply, IOSH would support the introduction of a duty to cooperate between fire and rescue services and local authorities, to help ensure that the two regimes work well together.

Q14. How should we ensure the fire safety of a whole building which is in mixed use, where there are two or more persons responsible for respective parts of the building under different legislation?

IOSH believes there should be a duty for persons responsible for different parts of the building under different legislation to cooperate and coordinate their activities to ensure fire and building safety. In the event of new legislation for multi-occupied residential buildings of 18 metres or more, we suggest the new accountable person roles and responsible person roles need to be closely coordinated. To help clarify responsibilities we suggest, for example, a Memorandum of Understanding could be agreed and signed by both parties that clearly identifies who is responsible for what and ensures there are no gaps in terms of responsibility and accountability.

Q46. Do you have any views on how the proposed new requirements at the design and construction stage - such as the safety case and golden thread – could link into the existing regime under the Fire Safety Order at the occupation stage?

IOSH fully supports information-sharing, as required under the safety case and golden thread, and believes this should link to the occupation stage under the Fire Safety Order. This stage will require the ongoing safe operation, maintenance and refurbishment of the building, so it is essential for the duty holder to understand the building's design-features and intent and the characteristics of the materials that have been used during its construction.

References

1. The Home Office. (2019). *Regulatory Reform (Fire Safety) Order 2005 – call for evidence*. London: HO. https://www.gov.uk/government/consultations/the-regulatory-reform-fire-safety-order-2005-call-for-evidence

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6. Communities and Local Government Committee. (2013). *The Private Rented Sector – first report of session 2013-14 (HC50)*. London: CLGC. https://publications.parliament.uk/pa/cm201314/cmselect/cmcomloc/50/50.pdf

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About IOSH

Founded in 1945, the Institution of Occupational Safety and Health (IOSH) is the largest body for health and safety professionals in the world, with around 48,000 members in over 130 countries, including over 13,000 Chartered Safety and Health Practitioners. Incorporated by Royal Charter, IOSH is a registered charity, and an ILO international NGO. The IOSH vision is

"A safe and healthy world of work"

The Institution steers the profession, providing impartial, authoritative, free guidance. Regularly consulted by Government and other bodies, IOSH is the founding member to UK, European and International professional body networks. IOSH has an active research and development fund and programme, helping develop the evidence-base for health and safety policy and practice. Summary and full reports are freely accessible from our website. IOSH publishes an international peer-reviewed journal of academic papers twice a year titled *Policy and practice in health and safety*. We have also developed a unique UK resource providing free access to a health and safety research database, as well other free on-line tools and guides, including resources for business start-ups; an occupational health toolkit; and a risk management tool for small firms.

IOSH has 41 Branches worldwide, including the Caribbean, Hong Kong, Isle of Man, Oman, Qatar, the Republic of Ireland, Singapore and UAE, 18 special interest groups covering aviation and aerospace; broadcasting and telecommunications; construction; consultancy; education; environment and waste management; financial services; fire risk management; food and drink industries; hazardous industries; health and social care; logistics and retail; offshore; public services; railway; rural industries; sports grounds and events; and theatre.

IOSH members work at both strategic and operational levels across all employment sectors. IOSH accredited trainers deliver health and safety awareness training to all levels of the workforce from shop floor to managers and directors, through a professional training network of over 2,000 organisations. We issue around 180,000 certificates per year.

For more about IOSH, our members and our work please visit our website at www.iosh.com. Our five-year strategy WORK 2022 can be viewed at www.ioshwork2022.com and our resources specifically tailored for business can be found here www.iosh.co.uk/ioshmeansbusiness.

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