

# General Introduction

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This guide has been prepared for any person with influence over the building's fire safety arrangements, which includes but is not exclusive to:

- Designers
- Developers
- Occupiers
- Employers
- Building owners
- Responsible Persons (*as required by the Regulatory Reform (Fire Safety) Order 2005*)
- Fire and Rescue Authorities
- Building Control Bodies
- Fire Risk Assessors

It explains the steps involved in approving the fire safety aspects of building work, and the interaction between Building Regulations and other statutory fire safety requirements in England and Wales.

If the procedures described in this guide are followed, developers and designers will be able to receive all the fire safety information relevant to Building Regulations and other statutory approvals, in time to avoid abortive work. Owners and occupiers will also benefit, as this process will generate the basis of their fire safety management procedures and risk assessment.

***There should be no need for extra building work to be undertaken at the end of a building project and before the building can be occupied for its intended purpose.***

Where functional compliance has been achieved by a fire engineered or management approach, there should be no need for Fire Safety Enforcing Authorities to undertake any remedial enforcement action at time of occupation. Developers and designers should have provided owners and occupiers with sufficient information detailing how functional compliance was achieved to enable preparation of suitable fire risk assessment and management arrangements to ensure the building is safe when occupied.

***Throughout this guide it is assumed that applicants are conversant with the technical aspects of fire safety and its regulation, or that they employ professional advisors who have this knowledge.***

Although this guide has no legal force it is intended that all building control bodies and fire safety enforcement authorities should use the consultation procedures described in the guide as a model for arrangements they make, so that procedures will be similar throughout England and Wales.

Throughout this document there are various references to fire risk management, fire risk assessment and fire strategy. It is important to understand the principles of these terms intended within the context of the stage reached in the development process and not be restricted by terminology.

The four main stages of a development that should be considered are:

1. Design Phase – Concept Fire Strategy
2. Construction Phase – Continual Review of Concept Fire Design/Strategy
3. Completion Phase – Preoccupation Fire Safety Assessment / Handover of Fire Safety Information (See Regulation 38 of the Building Regulations)

#### 4. Occupation Phase – Fire Risk Assessment/Fire Risk Management Strategy

### TERMINOLOGY

The following terms are used in the guide:

**Approved Inspectors Regulations** – The Building (Approved Inspectors etc.) Regulations 2010 (S.I. 2010/2215, (as amended)).

**Building Regulations** – The Building Regulations 2010 (S.I. 2010/2214 (as amended)).

**Fire Safety Order** – The Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541)

**Applicant** – the person responsible for obtaining approval, supplying information or making a notification, as the circumstances require. In practice this is likely to be the person carrying out the work where a requirement is imposed by building regulations, while in other circumstances it is likely to be the owner, developer or his agent (e.g. his architect). In this guide the term is used to include anyone acting on behalf of the applicant.

**Building Control Body** – a term used to include both local authority building control and approved inspectors.

**Local Authority** – the local authority empowered to carry out the building control function and to enforce Building Regulations in their area by virtue of Section 91(2) of the Building Act 1984.

**Approved Inspector** – a corporate body or individual approved under Section 49 of the Building Act 1984 to carry out certain building control functions.

**Consultation** – exchange of information and comment between organisations, such as building control bodies and fire safety enforcing authorities, which may include correspondence and face-to-face meetings.

**Fire Safety Enforcing Authority** – the body responsible for enforcing the Fire Safety Order 2005. This will normally be the fire and rescue authority (see Appendix A).

**Fire and Rescue Authority** – the authority discharging the functions of the fire and rescue authority under the Fire and Rescue Services Act 2004 in the area in which the premises are, or will be, situated. In most cases the enforcement responsibilities of fire and rescue authorities are delegated to the fire and rescue service.

**Responsible Person** – the person defined in article 3 of the Fire Safety Order and having the duties for compliance with the Order as prescribed in article 5 (see Appendix B).

**Full Plans** - A Full Plans application is necessary when using a local authority building control service for work in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the building work. Detail plans and other documents as necessary are required to show full constructional details of the proposed works. *(Refer to Building Regulation 14 (The Building Regulations 2010 SI 2010 No 2214) for details and particulars for deposit of Full Plans).*

**Building Notice** - A Building Notice application should only be used for work which is not complex and by people experienced in construction. They can only be used for domestic and not commercial work.

The Building Notice procedure is not suitable for persons intending to carry out work in relation to a building to which the Regulatory Reform (Fire Safety) Order 2005 applies, or will apply after the completion of the building work. *(Refer to Building Regulation 13 (The Building Regulations 2010 SI 2010 No 2214) for details and particulars where a building notice is given).*

**Initial Notice** - Where the building control provider is an approved inspector, the approved inspector will submit a document to the local authority known as an Initial Notice. Once the Initial Notice is accepted, the local authority's statutory building control role is suspended and the approved inspector takes on the responsibility for checking compliance with Building Regulations and where necessary, consultation with the FRS.

**Final Certificate** –When a final inspection has been carried out and the building works are completed the Approved inspector will issue a final certificate to the client and Local Authority indicating that they are satisfied that the applicant has complied with the Building Regulations for the work referred to in the initial notice. A final certificate is evidence, but not conclusive evidence that the Building Regulations have been complied with.

**Completion Certificate** – When the work is complete and a final inspection has been carried out the local authority shall, within a specified period, issue a completion certificate where they are satisfied after taking all reasonable steps, that the building complies with relevant provisions of the Building Regulations. A completion certificate is evidence, but not conclusive evidence that the Building Regulations have been complied with.

# SECTION 1:

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## INTRODUCTION

### WHAT LEGISLATION APPLIES

- 1.1 This guide is mainly concerned with the Building Regulations 2010 (as amended), which apply only in England and Wales. There is separate legislation covering building in Scotland and Northern Ireland.

### BUILDING REGULATIONS

- 1.2 The Building Regulations apply to building work as defined in regulation 3 of the Regulations. However, section 4 of the Building Act 1984 provides exemptions for some buildings belonging to statutory undertakers, the United Kingdom Atomic Energy Authority and the Civil Aviation Authority. Schedule 2 of the Building Regulations exempts various types of building according to their use or size. Buildings belonging to, or that are occupied by, the Crown authorities are also currently exempt. Section 5 of the Building Act provides for prescribed public bodies to be exempt from the procedural requirements of the regulations. The Mayor's Officer for Policing and Crime is currently prescribed for this purpose by regulation 10 of the Building Regulations.
- 1.3 Fire safety requirements are given in Part B of Schedule 1 to the Regulations. These cover means of escape, means of early warning, fire spread, and access and facilities for the fire and rescue service. Guidance on some ways of meeting the requirements is given in Approved Document B (Fire safety) which is split into two volumes; Volume 1 – Dwellinghouses and Volume 2 – Buildings other than dwellinghouses.

### THE FIRE SAFETY ORDER

- 1.4 There is a general duty under the Fire Safety Order to take such fire precautions as may be reasonably required to ensure that premises are safe for the occupants and those in the immediate vicinity and a general duty to carry out a fire risk assessment.
- 1.5 The Order applies to all non-domestic premises, which includes the common parts of apartment buildings and both the common and shared parts of Houses in Multiple Occupation. Article 6 of the Order does exclude some premises such as certain mines, vehicles and land forming part of an agricultural or forestry undertaking.

## **PARALLEL APPLICATION**

- 1.6 Most building work, and certain changes of use involving buildings that are subject to the Building Regulations will also be subject to the Fire Safety Order once the work is complete and the building is occupied for its intended purpose.
- 1.7 The parallel application of the fire safety requirements of the Building Regulations and the Fire Safety Order emphasises the need for consultation between the applicant and the administering bodies involved at the earliest opportunity.
- 1.8 The consultation procedures described in this guide are intended to ensure that there should be:
- i) No need for extra building work to be done after the end of a building project and before a building can be occupied for its intended purpose.
  - ii) No unexpected challenges for owners and occupiers in meeting their ongoing fire safety management responsibilities as a consequence of management commitments made by developers and designers to secure functional compliance at application stage.

This aim can only be achieved where all parties take a methodical joint approach to fire safety, whilst discharging their respective statutory duties and responsibilities.

## **THE DIVISION OF RESPONSIBILITY**

- 1.9 There are two main bodies with whom designers, developers and occupiers of buildings may have dealings concerning fire safety: the building control body and the fire safety enforcing authority.
- 1.10 Building control bodies are responsible for checking for compliance with the requirements of the Building Regulations. The Regulations are concerned with building work and with material changes of use (which may give rise to requirements for building work) and the requirements for fire safety will apply to most buildings. These requirements are intended to ensure that the necessary measures for the safe use of the building are incorporated in the design and construction of the building.
- 1.11 The fire safety enforcing authority is responsible for the enforcement of the Fire Safety Order which concerns the safety of people in relation to the operation and use of certain buildings once occupied.

- 1.12 Building work that complies with the Building Regulations requirements for fire safety will normally be satisfactory when the building is occupied. However, where alterations to an existing building are involved, compliance with Building Regulations will not always result in the fire precautions in all parts of that building being upgraded. Building Regulations do not require improvements to be made in areas where before the work starts a relevant requirement does not comply with the regulations but after completion that area will not be any more unsatisfactory. However, there may be hazards and risks associated with the specific operations of the occupier that would not be covered by Building Regulations that need to be taken into account to meet the requirements of the Fire Safety Order. There is obvious practical value in taking these other fire safety matters into account, where possible, in the design and construction phases, although the legislation only becomes applicable on occupation of the building.
- 1.13 During the design and construction phase of a project, the building control body will check on compliance with the requirements of the Building Regulations. In order to facilitate the consultation process they should take a co-ordinating role with fire safety enforcement authorities and, where appropriate, with other regulatory bodies. Any recommendations and advice given should be channelled through the building control body to the applicant.
- 1.14 Once a building is occupied and in use, the fire safety enforcing authority takes on the co-ordinating role as they have the enforcement role for the Fire Safety Order. Licensing and registration authorities must ensure that the fire safety enforcing authority is consulted about fire safety matters concerning premises that need to be licensed or registered.

### **BUILDING REGULATIONS – COMPLIANCE IN GENERAL**

- 1.15 It is the responsibility of anyone carrying out building work to comply with the relevant requirements of the Building Regulations. The Approved Documents associated with the Regulations provide guidance for some of the more common building situations. However, there may well be alternative ways of achieving compliance with the requirements. The design and construction of building work is subject to checks by a building control body. Applicants can decide whether to apply to the local authority for building control services or to appoint an approved inspector.

## **LOCAL AUTHORITY BUILDING CONTROL**

1.16 Where the applicant chooses to use the local authority there will generally be a choice of two routes: the full plans procedure, or the building notice option. A full plans application involves seeking formal approval of plans. Approval or rejection must be given within a five week time limit (or two months if the applicant agrees), and there is a facility to request a determination of disagreements from the Secretary of State (see Appendix D). A building notice, however, is simply given to the local authority at least two clear working days before work begins.

Where the building is to be put to a use where the Fire Safety Order applies (see 1.5) or will apply after completion of the work then the full plans procedure must be used (see Regulation 12 of the Building Regulations).

## **APPROVED INSPECTOR BUILDING CONTROL**

1.17 If an approved inspector is engaged, the person intending to carry out the work and the inspector must jointly give to the local authority an initial notice. The local authority has five days in which to accept or reject the notice. If the local authority have neither accepted nor rejected the notice by the end of that period, the notice is deemed to be accepted.

1.18 Once the notice has been accepted the approved inspector is responsible for supervising the work. If the applicant wishes to have detailed plans of the work certified as complying with the Building Regulations, and the approved inspector is satisfied with the plans, a plans certificate may be issued to the applicant and the local authority by the approved inspector. There is a facility to request a determination of disagreements from the Secretary of State. (See appendix D). When the work is complete the approved inspector must give the local authority a final certificate. (It would also be helpful to send a copy to the fire authority).

## **LIAISON BETWEEN BUILDING CONTROL BODIES**

1.19 It is not uncommon for different building control bodies to deal with different parts or different stages of a single development (e.g. the construction and then fit out of a shopping centre). In such circumstances it is important that building control bodies are made aware of any fire protection arrangements/strategy which are outside the scope of their responsibility but which could have an impact on the works that they are dealing with. Responsibility for ensuring there is adequate liaison between building control bodies lies with the applicant. Building control bodies should make the applicant aware of this responsibility.

## **FIRE RISK ASSESSMENT AND THE FIRE SAFETY ORDER**

- 1.20 By virtue of the Fire Safety Order, the Responsible Person (see Appendix B) is required to ensure a fire risk assessment is carried out of their premises. This must be a suitable and sufficient assessment of the hazards and risks to which relevant persons are exposed for the purpose of identifying the general fire precautions that need to be taken to comply with the requirements under the Order.
- 1.21 If there are 5 or more employees or the premises is subject to a licence or an alterations notice (see Appendix G) then the significant findings of the fire risk assessment, the fire precautions put in place to address the significant findings and any group of persons identified by the assessment as being especially at risk must all be recorded. This information should be presented on request to the fire safety enforcing authority.
- 1.22 Although these requirements are applicable to a building whilst in operation, it would be useful for the designers of a building to develop a concept fire strategy as part of the design process. The level of detail of this strategy will vary depending on the amount of information available to the designer and whether or not the eventual occupier of the building is known at the design stage.
- 1.23 When a fire strategy is provided as part of ~~for~~ the Building Regulations submission this can assist the fire safety enforcing authority in providing advice at an early stage as to what, if any, additional provisions may be necessary when the building is first occupied. The fire strategy, where it exists, can eventually be passed on to the Responsible Person along with the other relevant fire safety information required at the time of completion as required under Regulation 38 (see 2.30). It will also assist the Responsible Person when developing their fire risk assessment for the purposes of the Fire Safety Order, and it will act as a record of the rationale behind the fire safety design of the finished building.
- 1.24 It is fundamental to the principle of the Fire Safety Order that fire precautions may need to change and evolve with the building throughout its life. Fire risk assessments should be dynamic and kept constantly under review to make sure that precautions are adequate and effective.



## **OCCUPIED BUILDINGS**

- 1.25 Responsibility for ensuring that a building once occupied is provided with appropriate fire safety arrangements rests with the Responsible Person. It is essential therefore, that, when occupying new buildings or existing buildings that have had building works completed, or when contemplating alterations or extensions to existing buildings the Responsible Person ensures that a fire risk assessment has been carried out. The Responsible Person should ensure that the fire safety arrangements in place are adequate and comply fully with the requirements of the Fire Safety Order.
- 1.26 When considering the fire safety measures for the building in use the fire safety enforcing authority should have regard to any fire safety information produced that may have been undertaken as part of the design and approvals processes and subsequently by the Responsible Person in the discharge of their duties under the Fire Safety Order. Consultation between the designer/applicant, the building control body and the fire safety enforcing authority, and the recording of risk assessments and other relevant information, throughout the design, approvals and construction process, should ensure that any subsequent need for a variation in the fire safety measures provided is avoided, or kept to a minimum.
- 1.27 Additional fire safety measures should only become necessary because of hazards and risks that were not identified or known about prior to occupation of the building, or at the time of the building regulation approval and consultation process. It is essential therefore, that the fire safety enforcing authority is fully consulted on all relevant matters during the design and construction process and that their advice on the fire safety measures for the building is incorporated, if appropriate, into the final building design.
- 1.28 If, in an effort to achieve an acceptable level of fire safety which will ensure relevant legislative compliance, the views of the fire safety enforcing authority and the building control body differ and cannot be resolved, then the building control body should ensure that the applicant is made fully aware of the concerns of the fire safety enforcing authority. The BCB must also inform the applicant that there may be the possibility that the fire safety enforcing authority may take enforcement action under the Fire Safety Order upon occupation of the building.

## CONSULTATION

1.29 When a building is likely to be used for a purpose that is subject to the fire safety requirements of other legislation, consultation between the relevant bodies is an essential part of the building control procedure. Whilst there are clear distinctions of jurisdiction between building work and an occupied building, it is often impossible when considering the overall level of safety in a building to separate physical fire safety measures and the way in which the building will be managed when occupied.

Effective fire safety management becomes increasingly important if designers and developers intend to propose management solutions to achieve functional compliance in lieu of physical fire safety measures (or the physical fire safety measures are complex in their nature). See 2.30 & 2.31

1.30 This guide describes the statutory consultations that fire safety enforcing authorities and building control bodies are obliged to carry out. It also indicates where discussions may be needed to consider fire safety proposals at an earlier stage than those required for statutory consultation so as to keep all parties informed and avoid delays. These discussions may be between the applicant and the building control body only, or they may also involve the fire safety enforcing authority.

Designers and developers who intend to propose complex fire safety solutions with commensurately complex management commitments upon occupation should involve the future occupier in discussions at the earliest possible stage. Future occupiers may not have the desired capacity to take on complex management arrangements.

1.31 Where a building control body is formally engaged in checking the compliance of building work with the Building Regulations and the building in question is to be put to a use to which the Fire Safety Order applies (see 1.5) or will apply after completion of the work, there are statutory requirements to consult the fire safety enforcing authority at certain stages of the process.

1.32 These consultations are necessary so that the fire safety enforcing authority is aware of the erection or alteration of buildings in which they may have a direct or indirect interest or responsibility. They also provide an opportunity to make the applicant aware of action that may have to be taken on non-building regulation matters in order to satisfy any other fire safety legislation once the building is occupied.

- 1.33 Fire safety enforcing authorities and building control bodies will often hold useful information relating to the design of existing buildings. The consultation process provides an opportunity to share this information with the other parties (see paragraph 1.19).
- 1.34 There may be occasions where more than one building control body is dealing with different building work within the same building. In these circumstances it is advised that they consult with each other, as necessary, to avoid any conflict that might otherwise arise.
- 1.35 Consultation with all relevant parties can also help to achieve consensus where alternative technical or passive fire protection solutions may be available, such as during the specification of fire detection and fire alarm systems. As an example, a fire risk assessment, agreed by the relevant parties, may assist in determining the fitness for purpose of alternative means of providing a fire alarm, which could significantly reduce or even remove false alarms e.g., a shouted warning or a simple electrical alarm or a fault monitored electrical alarm. Effective decisions made at the specification stage can save considerable rectification costs if corrective action proves necessary after completion of the building work.
- 1.36 The fire safety enforcing authority must also consult with the local authority and, where an initial notice is in force, the relevant Approved Inspector before issuing an enforcement notice under the Fire Safety Order that would oblige a person to make an alteration to a premises.
- 1.37 The nature and timing of consultations and their statutory basis are described in detail in Section 2.

## **CONSULTATION – OTHER LEGISLATION**

### **LOCAL ACTS**

- 1.38 There are provisions in other primary legislation and, in some places, in Local Acts (see Appendix H) which require consultation to take place between local authorities and fire authorities. This guidance should also be used in those instances.

- 1.39 Under regulation 12(5) of the Approved Inspectors Regulations, an approved inspector must consult the fire safety enforcing authority if a Local Act would have required the local authority to do so had they been undertaking the building control function. The applicant should check with the building control body to see whether there are any Local Acts in force. These Acts are usually enforced by the local authority only.
- 1.40 Many premises are controlled through a licensing procedure in which fire safety matters are an important concern. Article 43 of the Fire Safety Order has the effect that conditions of licence can have no effect on fire safety matters that could be addressed by the Order. Before issuing a licence in relation to premises to which the Fire Safety Order applies, the licensing authority must first consult with the fire safety enforcing authority (article 42).

# SECTION 2

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## INTRODUCTION

- 2.1 This section describes the consultation procedures that should be followed at different stages of the building control process. During these stages the building control body is the co-ordinating authority, as explained above, and their consultation with the fire safety enforcing authority is crucial. It is very important that all parties should respond within agreed timescales, and that they should play an active part in maintaining good communications. Notification should be provided where parties are unable to meet the agreed timescales with an indication of when a response will be provided.
- 2.2 The consultation process should be conducted to ensure that both the building control body and the fire safety enforcing authority fulfil their roles in an efficient and effective way. Where local arrangements exist which already fulfil the aims of this guide it may not be necessary to adopt all the procedures suggested here.
- 2.3 The plans approval process is likely to be delayed if designs are presented without prior consideration of fire safety. Where local authorities undertake building control there are statutory time limits on the period for consideration of plans and so delays may lead to rejection of plans.
- 2.4 The left hand column describes actions of direct concern to the designer or applicant. The right hand column provides commentary or describes actions which deal with interactions between enforcing authorities and so may be of less direct concern to the applicant. Although the process is presented in a chronological sequence this may vary in practice and some of the stages will not be relevant in all cases.

## PRELIMINARY DESIGN STAGE ADVICE & CONSULTATION

- 2.5 At the early stages of a project the designer may wish to seek advice about the fire safety aspects of the scheme. Involving building control bodies and fire authorities at an early stage can often result in reduced costs for the applicant. However, the advice given by the building control body and the fire safety enforcing authority does not extend to providing design consultancy. The designer's first approach should preferably be to the building control body.
- 2.5.1 *Whatever body is contacted first should determine, as far as it is able, which other authorities or bodies are likely to have an interest and inform the applicant of the necessary application or consultation procedures. Therefore, at the earliest opportunity the applicant should be informed of the likely interest of the other organisations and the necessary application or consultation procedures.*
- 2.5.2 *In responding to an independent approach from a designer or occupier, for goodwill advice under the Fire and Rescue Services Act 2004 (see Appendix F) the fire safety enforcing authority should point out that in respect of the Building Regulations, or other legislation for which they are not directly responsible, they can offer only observations. They should refer the applicant to a building control body, and where appropriate other enforcing authorities, for guidance on what may be required to meet the legislation for which those bodies or authorities are responsible*
- 2.5.3 *Any advice the fire safety enforcing authority does give, including informal advice, should be in writing and should clearly indicate which matters in their opinion:*
- *may need to be addressed to ensure compliance with the Fire Safety Order when the building is occupied; or*
  - *are only advisory and not enforceable under legislation.*
- 2.6 If the building or part of the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5) the fire safety enforcing authority will have powers that may

influence the design of the building.

- 2.7 In such cases, if there are aspects of the design which follow an unusual or complex approach to fire safety, it may be desirable for the designer to request a joint meeting with the fire safety enforcing authority and the building control body at the earliest opportunity so as to negate the potential for additional works or onerous management procedures to comply with the fire safety order
- 2.8 At this meeting the building control body should take the coordinating role. A record of the main points of the meeting should be circulated to all parties, which clearly distinguishes between:
- Building Regulations' requirements
  - requirements of the Fire Safety Order
  - advice which is not enforceable under legislation.

## STATUTORY CONSULTATION

2.9 Where a building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5), building control bodies are required to consult with the fire safety enforcing authority at certain stages within the process as prescribed by legislation.

2.9.1 *Whilst the legislation and associated procedures for local authorities and approved inspectors may be different, the purpose of consultation is the same, that is to seek the comments of the fire safety enforcing authority regarding the fire safety measures that will be necessary to meet the legislation (other than the Building Regulations) that will apply to the building once it is in use and management procedures put into place. This should allow them to reach mutually compatible views on whether plans/design and building work is satisfactory from the standpoints of the Building Regulations and of fire safety measures for buildings in use.*

**Note** *In addition to giving such comments, the fire safety enforcing authority may wish to offer observations to the building control body in relation to the Building Regulations. These should be clearly and separately identified.*

2.9.2 *Consultation also provides the opportunity for the fire safety enforcing authority and the building control body to make recommendations regarding the provision of fire precautions that it believes would be advisable but that are not required by legislation.*



2.10 Even if there is no formal requirement to consult, consultation may still be desirable in many cases such as:

- Where the building control body proposes to accept measures which are unusual or complex or which deviate from the general guidance for requirement B5 of the Building Regulations. For example large single private dwellings where access and facilities for fire-fighters is more complex.
- Where the size or location of the development might have implications for the disposition of fire and rescue service resources. For example some sport stadia
- Where the fire safety enforcing authority is not the fire and rescue authority and the size or location of the development might have implications for the disposition of fire and rescue service resources.
- Where vulnerable person(s) are to be housed and the Fire Safety Enforcing Authority may wish to be notified in order to provide appropriate Community Fire Safety advice.

2.11 To facilitate consultation the building control body may need two extra copies of those drawings that demonstrate compliance with Part B. In some cases the two extra copies will be needed for statutory consultation purposes.

In cases where no statutory consultation is involved, the Building Control Body may still choose to consult the fire safety enforcing authority. In either case the two extra copies allow the fire safety enforcing authority to keep a set of drawings while returning the other to the building control body, marked up with any comments.

*2.11.1 Under regulation 14 of the Building Regulations, if plans are being submitted to a Local Authority for building work to which Part B of Schedule 1 to the Building Regulations is applicable, unless the building concerned is a house or an individual/self-contained flat, two extra copies of those plans which demonstrate compliance with Part B are required to be provided by the applicant for consultation purposes. The fire safety enforcing authority may accept the electronic submission of drawings.*

*2.11.2 Under regulation 12 of the Approved Inspectors Regulations, an approved inspector, when consulting in relation to an initial notice, must provide the fire safety enforcing authority with a set of plans which demonstrate compliance with Part B. When consulting in relation to a plans certificate, an approved inspector must provide the fire safety enforcing authority with two copies of the plans to which the certificate will relate. Approved inspectors will need to make arrangements to ensure that sufficient copies are available. The fire safety enforcing authority may accept the electronic submission of drawings.*

2.12 Where plans are deposited with a local authority for approval and the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5) the local authority is required to consult with the fire safety enforcing authority in accordance with article 45 of the Fire Safety Order before passing or conditionally passing the plans.

*2.12.1 Section 16 of the Building Act 1984 only allows local authorities 5 weeks, or 2 months if agreed in writing, to pass or reject plans. The fire safety enforcing authority must therefore, respond in good time (see 2.16).*

2.13 Where approved inspectors have been appointed and the building is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5) they are required to consult with the fire safety enforcing authority preferably before or as soon as is practicable after issuing an initial notice and before giving a plans certificate or final certificate to the local authority.

*2.13.1 Approved inspectors may not give a plans certificate or final certificate until 15 working days have elapsed from the date on which they consulted with the fire safety enforcing authority, unless the authority have replied before the end of the 15 days (regulation 12 of the Approved Inspectors Regulations). Where projects are complex and are likely to require more detailed scrutiny by the Fire Authority, early consultation is advised.*

2.14 If the building control body is not satisfied that the proposals comply with Building Regulations, they may send the applicant a list of amendments or additional information considered necessary. They should not normally consult the fire safety enforcing authority until they are reasonably satisfied that compliance with Building Regulations is shown. If the deficiencies are minor they may decide to proceed with consultation, attaching a copy of their list of the necessary amendments (clearly identified as such) with the information they send the fire safety enforcing authority. However the building control body may wish to arrange, where practicable and in agreement with the local fire and rescue service, a pre-consultation meeting with the fire authority if they are aware of very specific issues which they wish to discuss prior to formal consultation.

2.15 *Once the building control body is reasonably satisfied that the proposals comply with the Building Regulations they will send to the fire safety enforcing authority two copies of drawings which relate to compliance with Part B, i.e. which identify the intended physical fire precautions, together with any supporting documentation they consider useful. That might include correspondence they have had with the applicant. It may also be helpful at this point for the building control body to advise the fire safety enforcing authority of any unusual aspect of the design. The fire safety enforcing authority may accept the electronic submission of drawings.*

2.14.1 *If the proposals need substantial amendment or the information provided is inadequate then the process may be delayed. It is therefore very important that the application shows that full account has been taken of Part B's requirements, if such delays are to be avoided.*

2.14.2 *In some cases a local authority may be prepared to consider relaxing or dispensing with a requirement under regulation 11 of the Building Regulations, in which case additional consultation with the fire safety enforcing authority may be required (see Appendix E).*

2.15.1 *Building control bodies should time their consultations and provide such information to the fire safety enforcing authority as necessary to satisfy the purpose of the consultation (see 2.9.1).*

2.15.2 *If the building control body is aware of any information that may assist the fire safety enforcing authority or if they have given goodwill advice on additional precautions that are advisable but not enforceable under legislation (see Appendix F) then the building control body should include this information with the consultation documents. The building control body should make it clear which documentation has been used to assess compliance (e.g. Part B or BS)*

2.16 The fire safety enforcing authority should make its comments to the building control body in writing and within 15 working days or such period as may be agreed so that the building control body can meet its own obligations and local authorities can issue a decision within the timescales laid down in the Building Act 1984 (5 weeks from date of deposit or maximum 8 weeks with applicants agreement).

2.17 The fire safety enforcing authority's comments must clearly distinguish between matters:

- which have to be complied with under the Fire Safety Order when the building is occupied.
- which have to be complied with to meet other fire safety legislation other than Building Regulations.
- which are only advisory and not enforceable under legislation (see Appendix F).

**Note** In addition to giving such comments, the fire safety enforcing authority may wish to offer observations to the building control body in relation to the Building Regulations. These should be clearly and separately identified.

2.18 The building control body must have regard to the fire safety enforcing authority's comments before reaching its decision on plans or in the case of an approved inspector before deciding on a final or plans certificate. In giving their decision, building control bodies should include a copy of any comments from the fire safety enforcing authority so that the applicant is fully aware of the possibility that the fire safety enforcing authority may require additional works on occupation of the building (see 2.22).

*2.17.1 If, in the effort to achieve an acceptable fire safety package, the views of the fire safety enforcing authority and the building control body are incompatible (as a result of the differing scope of their respective powers), the building control body and the fire safety enforcing authority should seek to resolve the matter quickly and simply with the applicant.*

*2.17.2 Failing this then the fire safety enforcing authority should set down its concerns and recommendations in a formal written case, which may include details of any enforcement action it may take upon occupation of the building, to the building control body who should retain a copy and ensure that a copy is provided to the applicant.*

## APPROVAL OF PLANS AND SUPPORTING DOCUMENTATION

- 2.19 Having plans approved by either the local authority or certified by an approved inspector can give protection from enforcement action under Building Regulations where the approved plans have been followed.
- 2.19.1 *A local authority cannot give a notice under Section 36 of the Building Act 1984 requiring alterations if building work conforms to plans that have been approved by the local authority. In cases where an initial notice ceases to be in force without a final certificate having been given, the local authority may not give a notice under Section 36(1) in relation to work that conforms to plans that are the subject of a plans certificate issued by the approved inspector.*
- 2.20 When, after any necessary consultations with the fire safety enforcing authority, the building control body is satisfied that the plans comply with the requirements of Building Regulations they may issue a notice or certificate approving the plans.
- 2.20.1 *Where a full plans application has been submitted to a local authority they must issue a decision notice within the statutory time limit. They may reject the plans, approve them or issue a conditional approval. See note to 2.20.2 below*

*2.20.2 In cases where an approved inspector is undertaking building control, if an applicant requests a plans certificate, the approved inspector must give one if the approved inspector is satisfied that the plans comply with the Building Regulations (see Section 50(1) of the Building Act 1984). See Note below.*

**Note:** *Although great emphasis is given to approving plans it is often impossible to do this where the plans in isolation do not show a functionally compliant solution. In some cases, particularly where management or fire engineering solutions are proposed, supporting documentation is required to demonstrate that functional compliance has been achieved by some other means. Such documents are of significant value to the Fire Safety Enforcing Authorities as they form a fundamental component of future occupier's fire safety arrangements including the systematic risk assessment and management procedures.*

2.21 If a statutory consultation is involved, the building control body should also send a copy of the notice or certificate (or some other mutually acceptable written notification) to the fire safety enforcing authority.

2.22 The building control body should supply the applicant with a copy of the comments and advice provided by the fire safety enforcing authority described in paragraph 2.17.

*2.22.1 In the exceptional event that the fire safety enforcing authority propose to require physical changes in plans or work that are beyond the requirements of the Building Regulations, the building control body should make the applicant aware.*

## AMENDED PLANS AND SUPPORTING DOCUMENTATION

- 2.23 On many projects the design of the building will change during both the design and construction stages. Plans may be amended a number of times before and after the statutory consultation stage is reached. If the applicant submits amended plans, following a statutory consultation and before or after the plans are approved, because of changes relating to fire safety, the building control body should, as a matter of good practice, consult the fire safety enforcing authority.
- 2.23.1 *The fire safety enforcing authority should be sent two copies of amended plans, one to put comments on and one to keep. Any comments from the fire safety enforcing authority should be in writing, and should follow the format described in paragraph 2.17, and should be relayed to the applicant by the building control body. It would be good practice to clearly identify what changes have been proposed to facilitate a more timely response from the fire safety enforcing authority. Note: The fire safety enforcing authority may accept the electronic submission of drawings.*
- 2.24 Where an approved inspector has been appointed, some proposed changes in a building project may require the giving of an amendment notice to the local authority, altering the description of the work given in the original initial notice. The approved inspector will then need to formally consult with the fire safety enforcing authority again, under regulation 12 of the Approved Inspectors Regulations 2010, if work introduced by the amendment notice concerns a building which is to be put to a use where the Fire Safety Order applies or will apply after completion of the work (see 1.5) and is subject to Part B requirements.
- 2.24.1 *The procedures for statutory consultation detailed above should be followed. It may be possible to streamline this procedure if the fire safety enforcing authority has been kept up to date during the design process.*

## **ALTERATIONS NOTICES**

- 2.25 Where, under article 29 of the Fire Safety Order, an alterations notice has been served in respect of any premises then the Responsible Person must notify the fire safety enforcing authority before making any changes to the premises (as specified within the alterations notice), to any services, fittings or equipment in the premises or to the quantity of dangerous substances present in the premises which may result in a significant increase in risk. When notifying the fire safety enforcing authority the Responsible Person may be required to provide details of the changes proposed and a copy of the relevant fire risk assessment if this is stated within the alterations notice (see Appendix G).

Fire safety enforcing authorities may issue alterations notices under the Fire Safety Order where it is felt the management or fire engineered approach proposed to secure functional compliance is so onerous that they require the occupier to inform them before any changes are made to any fire safety arrangements.

## **CONSTRUCTION**

- 2.26 As work proceeds the building control body will normally make inspections as appropriate based upon the risk. The purpose of these inspections is to assess the works as they progress with regard to compliance with the Building Regulations, which relate to fire safety and other requirements of the Building Regulations for the finished building only.



- 2.27 Building Regulations do not address the risk of fire during the construction work, which is covered by the Construction (Health, Safety and Welfare) Regulations 1996.
- 2.28 When construction work is being carried out on an existing building and part of the building remains occupied, other than the construction site area, the fire safety enforcing authority are responsible for the enforcement of the occupied building under the Fire Safety Order and the construction site under the Construction (Health, Safety and Welfare) Regulations in respect of fire. Where the building is unoccupied, the Fire Safety Order will still apply and the Health and Safety Executive are responsible for its enforcement (see Appendix A A1.b.iv).
- 2.27.1 *HSE have issued the following fire safety guidance on these regulations: Construction information Sheet No 51 Construction Fire Safety; and HSG 168 Fire safety in construction work (ISBN 0-7176-1332-1).*
- 2.28.1 *The fire safety enforcing authority enforce parts of the Construction (Health, Safety and Welfare) Regulations relating to fire safety matters in existing buildings undergoing construction works, by virtue of regulation 33 of those regulations . As a result fire safety enforcing authority officers may, from time to time, inspect occupied premises undergoing works of construction to ensure that the fire safety provisions and measures are and remain adequate for the risk presented.*

## **COMPLETION**

- 2.29 Whilst completion logically falls before occupation it is not unusual for a building to be either fully or partly occupied before it is formally recognised as complete. Paragraphs 2.37 to 2.43 give guidance on the occupation of buildings.

2.30 Where a building to which the Fire Safety Order applies (see 1.5), or will apply on completion of work, is erected or extended, or is subject to a material change of use the applicant must assemble a package of 'as built' information which records the fire safety design of the building.

At or before completion of building work or any occupation of the building, whichever occurs first, the applicant must pass this fire safety information to the Responsible Person (see Appendix B), and send written confirmation to the building control body when this has been done.

*2.30.1 Regulation 38 of the Building Regulations provides that where a building is erected or extended, or is subject to a material change of use, and that building will be put to a use where the Fire Safety Order applies (see 1.5), or will apply on completion of building work fire safety information must be provided to the Responsible Person by the applicant. The information is essential to assist the Responsible Person meet their legal obligations in term of undertaking a suitable and sufficient fire risk assessment for the building.*

*2.30.2 This information must be passed to the Responsible Person by the applicant no later than the date of completion of the work or the date of occupation, whichever is the earlier.*

*2.30.3 Whilst it is not a statutory requirement to produce fire safety information where Regulation 38 does not apply, it may often be good practice to do so.*

2.31 The information provided should include all fire safety design measures in appropriate detail and with sufficient accuracy to assist the Responsible Person to operate and maintain the building in reasonable safety. Where a fire strategy has been prepared this should also be included (see 1.23).

The exact amount of information and level of detail necessary will vary depending on the nature and complexity of the building's design (further guidance on what information should be provided is given in Appendix G of Approved Document B – Volume 2).

2.32 When the building work is complete the applicant must notify the Building control body.

2.33 If the local authority is satisfied that the work complies with the requirements of the Building Regulations, they should issue a completion certificate  
Local authorities, as a matter of good practice, may consult at this stage. Such consultations need not necessarily involve additional plans

*2.31.1 Regulation 38 defines 'fire safety information' as information relating to the design and construction of the building or extension, and the services, fittings and equipment provided in or in connection with the building or extension which will assist the responsible person to operate and maintain the building or extension with reasonable safety. The applicant is responsible for ensuring that the accuracy and detail of the information provided is sufficient to comply with Regulation 38.*

*2.31.2 Building control bodies should not give completion certificates (in the case of local authorities) or final certificates (in the case of approved inspectors) unless they have written confirmation from the applicant that the appropriate information required by Regulation 38 has been provided to the Responsible Person. See regulation 17 of the Building Regulations and regulation 8) of the Approved Inspectors Regulations respectively.*

*2.32.1 Where a local authority is supervising the work regulation 16(4) of the Building Regulations requires that the local authority should be notified of the completion of the building work not more than 5 working days after completion. Approved Inspectors should advise the applicant what notification arrangements should be followed.*

- 2.34 Approved inspectors must consult with the fire safety enforcing authority before issuing a final certificate (regulation 12 of the Approved Inspectors Regulations).
- 2.34.1 *Approved inspectors must give the local authority a final certificate following completion of the work, if satisfied that the work complies with the applicable requirements of the Building Regulations. Approved inspectors are subject to a statutory time limit for the issue of a final certificate starting from occupation (see paragraph 2.38.2).*
- 2.35 The building control body should send a copy of the completion/final certificate to the fire safety enforcing authority including, where available, a copy of the As-built Fire Strategy.
- 2.35.1 *The fire safety enforcing authority should have regard to the completion/final certificate when reviewing the fire safety provisions of an occupied building under the Fire Safety Order.*
- 2.36 If, having been notified of completion, the building control body cannot issue a completion certificate or final certificate, they should explain, in writing, the applicant why this is so
- 2.36.1 *A copy of this explanation should be sent to the fire safety enforcing authority where fire safety issues are involved. If necessary the fire safety enforcing authority and the building control body should meet to discuss any inadequacies that are thought to exist in the means of escape or structural fire precautions and consider what options are available for advice or enforcement*

## **OCCUPATION**

- 2.37 Prior to occupying the building the owner or occupier must ensure that where relevant the statutory obligations set out in paragraphs 2.38 -2.41 are met.
- 2.38 If it is proposed to occupy a building where the building control body has not issued a completion or final certificate then, in certain circumstances, the building control body must be notified of the timing and extent of the occupation in advance.
- 2.38.1 *Where a local authority is supervising work involving the erection of a building, regulation 16(5) of the Building Regulations requires the applicant to notify the local authority at least 5 working days before any occupation prior to completion. In accordance with Section 92 of the Building Act 1984 any such notice should be in writing.*

*2.38.2 Where an approved inspector is engaged and an initial notice including work involving the erection, extension or material alteration of a building to which the Fire Safety Order applies or will apply after completion of the work (see 1.5) and the building (or relevant part) is occupied and no final certificate is given, the initial notice will cease to have effect after a grace period of 4 weeks. This grace period is extended to 8 weeks for buildings consisting solely of flats or where the Order does not apply, then Building control will then usually revert to the local authority, unless the local authority agree to extend the period.*

2.39 Where a building is erected or extended, or is subject to a material change of use (as defined in the Building Regulations), and that building will be put to a use where the Fire Safety Order applies (see 1.5), or will apply on completion of building work, the applicant must pass the fire safety information, as described in paragraph 2.30, to the Responsible Person before that building is occupied (see Appendix B) and should send confirmation to the building control body when this has been done.

*2.39.1 Regulation 38 of the Building Regulations requires, in specified circumstances, the person carrying out the work to provide fire safety information to the Responsible Person (see 2.30.1).*

## THE FIRE SAFETY ORDER

- 2.40 Where the Order applies (see Appendix A) prior to occupation of the building or part of it, the Responsible Person must ensure that they have effective fire safety arrangements in place. This includes the systematic approach to a fire risk assessment and the implementation of the provisions required to address the identified associated hazards and risk.
- 2.40.1 *There is no period of grace for the Responsible Person to have effective fire safety arrangements in place. This includes written fire safety arrangements and a suitable and sufficient fire risk assessment. The documentation must be in place on the first day that the building is occupied.*
- 2.40.2 *There may be additional hazards and risks associated with the logistics of moving an organisation into a new building that should be addressed by the Responsible Person.*
- 2.41 If the designer has used a management / fire engineered solution as part of the design and approvals process this should form part of the Responsible Person's fire safety arrangements and be evaluated by the fire risk assessment together with any other information provided under regulation 38.

# APPENDIX A

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## ENFORCING AUTHORITY

- A.1 For the purposes of the Fire Safety Order, “enforcing authority” means:
- a. the fire and rescue authority for the area in which premises are, or are to be, situated, in any case not falling within any of sub-paragraphs (b) to (e);
  - b. the Health and Safety Executive in relation to:
    - i. any premises for which a licence is required in accordance with section 1 of the Nuclear Installations Act 1965 or for which a permit is required in accordance with section 2 of that Act;
    - ii. any premises which would, except for the fact that it is used by, or on behalf of, the Crown, be required to have a licence or permit in accordance with the provisions referred to in sub-paragraph (i);
    - iii. a ship, including a ship belonging to Her Majesty which forms part of Her Majesty’s Navy, which is in the course of construction, reconstruction or conversion or repair by persons who include persons other than the master and crew of the ship;
    - iv. any workplace which is or is on a construction site within the meaning of regulation 2(1) of the Construction (Health, Safety and Welfare) Regulations 1996 and to which those Regulations apply, other than construction sites referred to in regulation 33 of those Regulations (see 2.28).
  - c. the fire service maintained by the Secretary of State for Defence in relation to:
    - i. premises, other than premises falling within paragraph (b)(iii), occupied solely for the purposes of the armed forces of the Crown;
    - ii. premises occupied solely by any visiting force or an international headquarters or defence organisation designated for the purposes of the International Headquarters and Defence Organisations Act 1964;

- iii. premises, other than premises falling within paragraph (b)(iii), which are situated within premises occupied solely for the purposes of the armed forces of the Crown but which are not themselves so occupied;
- d. the relevant local authority in relation to premises which consist of:
  - i. a sports ground designated as requiring a safety certificate under section 1 of the Safety of Sports Grounds Act 1975 (safety certificates for large sports stadia);
  - ii. a regulated stand within the meaning of section 26(5) of the Fire Safety and Safety of Places of Sport Act 1987 (safety certificates for stands at sports grounds);
- e. a fire inspector, or any person authorised by the Secretary of State to act for the purposes of this Order, in relation to:
  - i. premises owned or occupied by the Crown, other than premises falling within paragraph (b)(ii) and (c);
  - ii. premises in relation to which the United Kingdom Atomic Energy Authority is the Responsible Person, other than premises falling within paragraph (b)(ii).



# APPENDIX B

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## RESPONSIBLE PERSON

- B.1 Article 3 of the Fire Safety Order defines Responsible Person for the purposes of the Order as;
- a. in relation to a workplace, the employer, if the workplace is to any extent under his control;
  - b. in relation to any other premises:
    - i. the person who has control of the premises (as occupier or otherwise) in connection with the carrying on by him of a trade, business or other undertaking (for profit or not); or
    - ii. the owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking.
- B.2 Article 5(1) places a duty on employers to ensure that the requirements of the Order and any regulations made under it are complied with in respect of the premises. This responsibility reflects the employer's responsibility under European Community law to ensure the safety of his employees. Article 5(2) imposes a similar duty on the Responsible Person in relation to non-workplaces. In such cases, the Responsible Person is under a duty to ensure that the requirements of the Order and any regulations made under it are complied with in respect of the premises, so far as they concern matters within his control.
- B.3 Article 5(3) also imposes a similar duty on any person other than the Responsible Person who has to any extent control of the premises (the duty extending only so far as the extent of control). This could, for example, apply to a contractor who is responsible for maintaining a fire alarm system or for the supply, fitting and maintenance of any passive fire protection.

## FIRE SAFETY INFORMATION

B.4 Where Regulation 38 of the Building Regulations applies, the applicant is required to provide 'as built' fire safety information to the Responsible Person. In many cases, at the time of occupation or completion, whichever occurs earlier, the identity of the Responsible Person will be clear. However, there will be some cases where there may be more than one person with responsibility for the premises in question, in other cases the identity of the Responsible Person once the premises become occupied for the first time may not yet be known. In such situations, the following guidance may be of assistance.

For some premises there may be more than one person who will have control of the premises and it may not always be possible clearly to identify every person to whom the information should be given. The applicant should endeavour wherever possible to pass the information on to the person most likely to benefit from and be able to act upon the information provided.

Article 22 of the Fire Safety Order requires that where two or more Responsible Persons share, or have duties in respect of, the same premises they must cooperate with each other. This could include sharing any relevant information they may have been provided with in accordance with Regulation 38 of the Building Regulations.

For example,

- a. in the case of work to an individual retail unit in a shopping centre it may be more appropriate to provide the information to the operator of that unit, while information relating to works carried out in the common parts of the centre should be provided to the centre management. However, in both cases the respective Responsible Persons would be expected to communicate any relevant information that may affect the other.
- b. In situations where the person who will have control of the premises when it is first occupied is not known at the time of completion, then the relevant information should be provided to whoever has control of the premises at that time. The information can then be passed on to the appropriate person once they become known.

# APPENDIX C

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## DETERMINATION – THE FIRE SAFETY ORDER

- C.1 If the Responsible Person, being under an obligation to do so, has failed to comply with any provision of the Fire Safety Order and they cannot agree with the fire safety enforcing authority on the measures which are necessary to remedy the failure Article 36 of the Order provides for a determination by the Secretary of State.
- C.2 Article 36 may only be used to determine a dispute where the fire safety enforcing authority and the Responsible Person both agree that a failure to comply has occurred and agree to refer the question to the Secretary of State or in Wales, to the Welsh Ministers.
- C.3 The application for a determination must clearly set out the provisions of the Order in issue, the steps taken by the Responsible Person to comply with the provision, the extent to which those steps fail to meet the provision and the measures proposed by both parties to remedy the failure to meet the provision. The application must also provide the following information:
- a. The names and addresses of the enforcing authority, the Responsible Person and the address of the premises in question (if different from that of the Responsible Person);
  - b. A copy of all relevant correspondence between the parties; and
  - c. A copy of any other documentation supporting the measures proposed to meet the provision in question, including the relevant guide to accompany the Order or any other applicable guidance.
- C.4 The Secretary of State may require by notice further information from either party. This should be provided within the period specified in the notice, and copied to the other party.
- C.5 Once the decision has been issued, the Secretary of State has no further jurisdiction. The fire safety enforcing authority, however, may not take any enforcement action if the effect of the action would be to conflict with the Secretary of State's determination.

# APPENDIX D

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## DETERMINATION – BUILDING REGULATIONS

- D.1 If the applicant and a building control body disagree about whether plans of proposed work are in conformity with Building Regulations, the applicant can seek a determination of the question from the Secretary of State or in Wales, from Welsh Ministers under either Section 16(10)(local authorities) or Section 50(2)(approved inspectors) of the Building Act 1984.
- D.2 An application for a determination should be sent to the Department for Communities and Local Government or in Wales, to the Welsh Assembly Government, who will charge a fee of half the relevant plans charge subject to a minimum of £50 and maximum of £500.
- D.3 The applicant should explain why they consider the proposal does comply, accompanying the statement of case with relevant drawings and a copy of any rejection notice.
- D.4 “A Guide to Determinations and Appeals” can be found on the Planning Portal website at [www.planningportal.gov.uk](http://www.planningportal.gov.uk)

The Guide explains the purpose of, and the distinction between, determinations and appeals and gives details of how to proceed with an application.

# APPENDIX E

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## DISPENSATION – STATUTORY CONSULTATION

- E.1 The local authority is obliged by Section 15 of the Building Act 1984 to consult the fire safety enforcing authority before relaxing or dispensing with a requirement of Building Regulations that relates to:
- a. structural fire precautions
  - b. the provision of means of escape from buildings in case of fire
  - c. the provision of means for securing that such means of escape can be safely and effectively used at all material times.
- E.2 Local authorities should also consult with the fire safety enforcing authority where they intend to relax or dispense with requirement B5 (access and facilities for the fire service).
- E.3 The consultation should follow the form described in section 2 with the fire safety enforcing authority responding in writing.
- Note** Approved Inspectors do not have the power to dispense with any requirements of the Building Regulations.

# APPENDIX F

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## FIRE AND RESCUE SERVICES ACT 2004

- F.1 Section 6(2)(b) of this Act has particular relevance to this guide. It requires every fire and rescue authority to secure efficient arrangements for giving, when requested, advice in respect of buildings in the area of the fire and rescue authority as to:
- a. fire prevention
  - b. restricting the spread of fire
  - c. means of escape in case of fire.
- F.2 During the consultation process a fire safety enforcing authority may offer goodwill advice to applicants that is not enforceable under legislation. It is important that this advice is clearly differentiated from advice relating to statutory requirements and that the benefits of adopting the advice are clearly explained.

# APPENDIX G

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## ALTERATIONS NOTICES

- G.1 An alterations notice under article 29 of the Fire Safety Order (see 2.25) may be served by the fire safety enforcing authority in relation to high risk premises (or premises which would be high risk if any change is made to them). It alerts the fire safety enforcing authority to any potential problems and allows an intervention before changes are made which significantly increase the risk.
- G.2 Article 35 provides for an appeal to a magistrates' court against the service of an alterations notice. On an appeal, the court may either cancel or affirm the notice (and in affirming it may do so either in its original form or with modifications). There is a further appeal from the magistrates to the Crown Court.
- G.3 Where an alterations notice has been served in respect of premises, the Responsible Person must, before making any of the changes specified in paragraph G.4 which may result in a significant increase in risk, notify the fire safety enforcing authority of the proposed changes.
- G.4 The changes referred to in paragraph G.3 are:
- a. a change to the premises;
  - b. a change to the services, fittings or equipment in or on the premises;
  - c. an increase in the quantities of dangerous substances which are present in or on the premises;
  - d. a change to the use of the premises.
- G.5 An alterations notice may include a requirement that, in addition to the notification required by paragraph G.3, the Responsible Person must:
- a. take all reasonable steps to notify the terms of the notice to any other person who has duties under article 5(3) in respect of the premises;
  - b. record the information prescribed in article 9(7), in accordance with article 9(6);
  - c. record the arrangements required by article 11(1), in accordance with article 11(2); and

- d. before making the changes referred to in paragraph (3), send the fire safety enforcing authority the following:
  - i. a copy of the risk assessment; and
  - ii. a summary of the changes he proposes to make to the existing general fire precautions.

G.6 An alterations notice may be withdrawn at any time and the notice is deemed to be in force until such time as it is withdrawn or cancelled by the court under article 35(2).



# APPENDIX H

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## OTHER RELATED LEGISLATION

Premises where other legislation requires notice to or consultation with the fire safety enforcing authority:

### H.1 ANIMAL ESTABLISHMENTS

Pet Animals Act, 1951

Animal Boarding Establishments Act, 1963

Riding Establishments Act, 1964 (as amended)

Breeding of Dogs Act, 1973

Zoo Licensing Act, 1981.

These premises are controlled by a licensing system operated by local authorities and, in any decision to grant a licence, the licensing authority is obliged to have regard to the protection of animals in case of fire or in an emergency.