

Procedure and Guidance Note 8A

Liaison between Gloucestershire Fire and Rescue Service and Health and Safety Executive

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Amended September 2008

Liaison Between Gloucestershire Fire & Rescue Service And The Health And Safety Executive

Home Office And Health And Safety Commission Agreement On The Demarcation Of Responsibilities For Fire Precautions

1. Overlapping Legislation

In view of the very broad terms of the Health and Safety at Work Act 1974 (HSW Act), the Health and Safety Executive (HSE) inspectors can be regarded as having authority to deal with all aspects of safety. However, where HSW Act overlaps with more specific legislation it is the policy of the Health and Safety Commission (HSC) to make explicit the demarcation of enforcement responsibility between HSE and other enforcing authorities. The prime responsibility for general fire precautions in places of work rests with the fire authority.

2. General and Process Fire Precautions

The fire precautions required under the RR(FS)O 2006 are often termed "general fire precautions".

(1) Within the RR(FS)O "general fire precautions" in relation to premises means, subject to paragraph (2)—

- (a) measures to reduce the risk of fire on the premises and the risk of the spread of fire on the premises;
- (b) measures in relation to the means of escape from the premises;
- (c) measures for securing that, at all material times, the means of escape can be safely and effectively used;
- (d) measures in relation to the means for fighting fires on the premises;
- (e) measures in relation to the means for detecting fire on the premises and giving warning in case of fire on the premises; and
- (f) measures in relation to the arrangements for action to be taken in the event of fire on the premises, including—
 - (i) measures relating to the instruction and training of employees; and
 - (ii) measures to mitigate the effects of the fire.

(2) The precautions referred to in paragraph (1) do not include special, technical or organisational measures required to be taken or observed in any workplace in connection with the carrying on of any work process, where those measures —

- (a) are designed to prevent or reduce the likelihood of fire arising from such a work process or reduce its intensity; and
- (b) are required to be taken or observed to ensure compliance with any requirement of the relevant statutory provisions within the meaning given by section 53(1) of the Health and Safety at Work etc 1974

(3) In paragraph (2) "work process" means all aspects of work involving, or in connection with—

- (a) the use of plant or machinery; or
- (b) the use or storage of any dangerous substance

The term "process fire precautions" is often used and is also undefined. For the purposes of this Guidance it is intended to mean fire precautions required:

3. Enforcement Responsibilities

In most cases it will be clear who should give advice and, if appropriate, take enforcement action. In practice, general fire precautions are usually matters that reduce the risk to life in the event of fire. These include means of escape, means for securing that the means of escape can be safely and effectively used, means for fighting fire (including sprinkler systems provided for life safety), arrangements for giving warning in the event of a fire and relevant training in all these matters. On the other hand, process fire precautions are normally those that place some form of control on the hazardous process of work activity in order to prevent the outbreak of a fire or to reduce the spread of fire with the aim of allowing people to reach safety. These include precautions in relation to systems of work, eg control of stock, housekeeping, storage arrangements (eg, separation), and control of ignition sources.

Plant may be provided with fixed and/or inbuilt firefighting equipment primarily to limit loss rather than necessarily contribute to life safety. This may be regarded as part of the process fire precautions. Examples include automatic gas flooding systems (eg carbon dioxide) which may introduce a risk of suffocation in the event of discharge. It would therefore normally be for HSE to check that this risk is addressed in such installations.

It is important that any manual operation of such systems is catered for in staff training and staff routines. It is also important that those who may have to fight fires on the premises are familiar with the equipment which has been provided.

A fire authority may wish to specify standards of separation from means of escape for the storage of flammable materials as part of its audit process. In such cases the following may be used as a guide to the relative responsibilities of health and safety enforcing authorities and fire authorities:-

- If separation or containment of stored materials is required to safeguard the means of escape in case of fire, enforcement will largely be a matter for the fire authority.
- If separation or containment of stored materials is required specifically under HSE Act or more generally for fire precautions not directly related to means of escape (eg for fire prevention and process control or prevention of the spread of fire), enforcement will be a matter for the HSW Act enforcing authority.

The duty of fire authorities, under the RR(FS)O to make arrangements for giving advice if requested, applies to buildings and other property. HSE inspectors and employers may therefore approach fire authorities for advice on general fire precautions and fire prevention matters.

Enforcement responsibility for process fire precautions in places of work and in premises where explosive or highly flammable substances are kept and used lies with HSE or such other enforcing authorities as determined by the Health and Safety (Enforcing Authority) Regulations 1989, the Petroleum (Consolidation) Act 1928 (Enforcement) Regulations 1979 and the Explosives Act 1875.

The Construction (Health, Safety and Welfare) Regulations 1996, Enforcement Responsibilities:-

- Fire Safety Officers are responsible for enforcement of regulations:-

Regulation:	19	Emergency routes and exits;
"	20	Emergency procedures and
"	21	Fire detection and firefighting

When the site is contained within or forms part of **premises occupied by any persons not carrying out the construction work or any activity arising from it.**

- **HSE inspectors** are responsible for enforcement of Regulations 19, 20 and 21, **when the premises are not in occupation.** It is anticipated that most construction sites will remain the enforcement responsibility of HSE.

Process fire risks will remain the enforcement responsibility of HSE.

4. Liaison Between HSE Areas And Fire Authorities

The arrangements set out relate to liaison in respect of premises to which the RR(FS)O applies, HSE inspectors and employers may approach fire authorities for advice under the FS Act whether or not the RR(FS)O applies.

The overlap of certain responsibilities for fire precautions means that HSE areas and fire authorities should maintain close links to ensure a free exchange of information. HSE inspectors should remember fire authorities' interest in process hazards because of their possible effect on general fire precautions in premises, fire authorities' duties to familiarise themselves with premises in their area to give fire prevention advice when requested and to attend fires when they occur. HSE inspectors have a clear interest in any requirements that a fire authority may impose concerning general fire precautions which may affect matters within their responsibilities.

Examples of the need for liaison between HSE inspectors and fire authorities are:-

- When HSE inspectors become aware of deficiencies in general fire precautions which are matters of evident concern (appendix 1);
- When fire authority inspectors become aware of deficiencies in process fire precautions which are matters of evident concern (appendix 2).
- When the issue of a prohibition notice or an improvement notice which might affect general fire precautions is being considered by an HSE inspector.
- When the issue of a prohibition notice or imposition of a requirement which might affect process fire precautions or any other aspect of safety is being considered by the fire authority;
- To meet requirements for consultation as required by legislation, particularly HSW Act s.23(4) and RR(FS)O Art 30 (5) (6)

5. Action by Fire Authorities in Connection with Fire Precautions

Fire authorities who become aware of deficiencies in process fire precautions which do not affect the general fire precautions but are of evident concern, should draw them to the attention of HSE in the following way:

- Where an immediate risk to life appears to be involved, notify the local HSE office by telephone to enable the HSE inspector to consider taking enforcement action under HSW Act. The HSE inspector should inform the fire authority subsequently of the action decided;
- Where an immediate risk to life is not involved, notify the local HSE office in writing.

6. Action by HSE Inspectors in Connection with General Fire Precautions

HSE inspectors who become aware of deficiencies in general fire precautions which are of evident concern, should draw them to the attention of the fire authority in the following way:

- Where an immediate risk to life appears to be involved, notify the fire authority by telephone to enable the fire authority to consider issuing a prohibition notice under RR(FS)O Art 31. The fire authority should inform HSE subsequently of the action decided;
- Where an immediate risk to life is not involved, notify the fire authority in writing.

If these matters are within the responsibility of another enforcing authority the fire authority will forward the notification as appropriate and advise the HSE inspector. The initiative for any further action to rectify any inadequacy of the general fire precautions then rests with the appropriate authority.

If there are significant process fire precaution defects which overlap with general fire precautions, joint action may be appropriate. However, the initiative for further action on general fire precautions, or liaison with any other enforcing authority, rests with the fire authority once the matter has been notified as above.

7. Consultation by Fire Authorities

RR(FS)O Art 30 (5) (6) requires fire authorities to consult the enforcing authority under HSW Act before requiring alterations to buildings used as a place of work. This requirement parallels the requirement for fire authorities to consult building authorities to ensure that there is no conflict with building regulations and it is similarly intended to ensure that there is no conflict with HSW Act.

In cases where HSE is the enforcing authority for HSW Act, fire authorities will consult HSE by sending a copy of the schedule of work required to the appropriate area office.

It has been agreed with the Home Office that when HSE has no comments to make, no response to the fire authority will be necessary. It is therefore essential that any reservations should be expressed promptly. Any comment or reservation should be sent to the fire authority as soon as practicable within a maximum of 2 weeks of receipt.

A fire and rescue authority has power to arrange under the RR(FS)O Art 26 (3) with the Health and Safety Commission for such of the authority's functions under this Order as may be specified in the arrangements to be performed on its behalf by the Health and Safety Executive, as the case may be, (with or without payment) in relation to any particular workplace

(Information obtained from OM 217/2, issued to all HSE Inspectors, October 1993 and the Construction (Health, Safety and Welfare) Regs 1996).

Appendix 1

Matters of Evident Concern in Connection With General Fire Precautions

The matters listed below are intended as illustrations of matters which might cause an HSE inspector evident concern. Such matters may be self-evident or may be drawn to an inspector's attention, eg by a safety representative. HSE inspectors are not expected to make inquiries to seek information on such matters.

1. Means of Escape in Case of Fire

Fire exits which cannot be easily and immediately opened from the inside, eg by panic bolts, or other suitable emergency fastening.

Significantly obstructed exit doors, passageways, gangways or staircases.

Open stairways in multi-storey buildings containing significant quantities of flammable materials.

The keeping of flammable materials in locations or circumstances such that they may prejudice the means of escape in case of fire.

Significant breaches of fire resisting enclosures, such as missing or permanently open fire doors on escape routes.

2. Means for Fighting Fire

The absence, or clearly inadequate provision or maintained, of fire extinguishers or other equipment for general firefighting purposes.

3. Fire Alarms

The lack of a fire alarm in a large building or in a building where there are significant quantities of explosive or highly flammable materials, where the building or a substantial part of it, is not licensed by HSE under the Explosives Act 1875.

Fire alarms that are not in working order.

4. Fire Routine and Staff Training

The absence of, or clearly inadequate, fire routine procedures and staff training in the actions to take in the event of fire.

Appendix 2

Matters of Evident Concern In Connection With Process Fire Precautions

These examples are illustrative of deficiencies on which Fire Safety Officers may consider liaison with HSE inspectors is necessary. The list is not intended to be exhaustive.

- Highly flammable liquids: clearly unsatisfactory conditions of storage or use; lack of control of solvent fume; poor control of sources of ignition; substantial spillages of any highly flammable liquid.
- Gas cylinders containing flammable gases: clearly unsatisfactory conditions of storage or use; poor control of sources of ignition; substantial escape of any flammable gas.
- Hot work on vessels which have contained flammable and which have not been adequately cleaned.
- Flammable gas generation or compression plant situated inside buildings.
- Substantial quantities of polyurethane foam in work rooms.
- Excessively dusty conditions involving flammable dusts.
- Excessive deposits of flammable solids or liquids. Examples include cooking oils and fat in and around extraction ductwork in catering establishments and lubricating oils and grease around machinery.
- Radioactive substances which are high fire risks: unsatisfactory conditions of storage and use. This category might include certain highly flammable liquids which have radioactive properties.