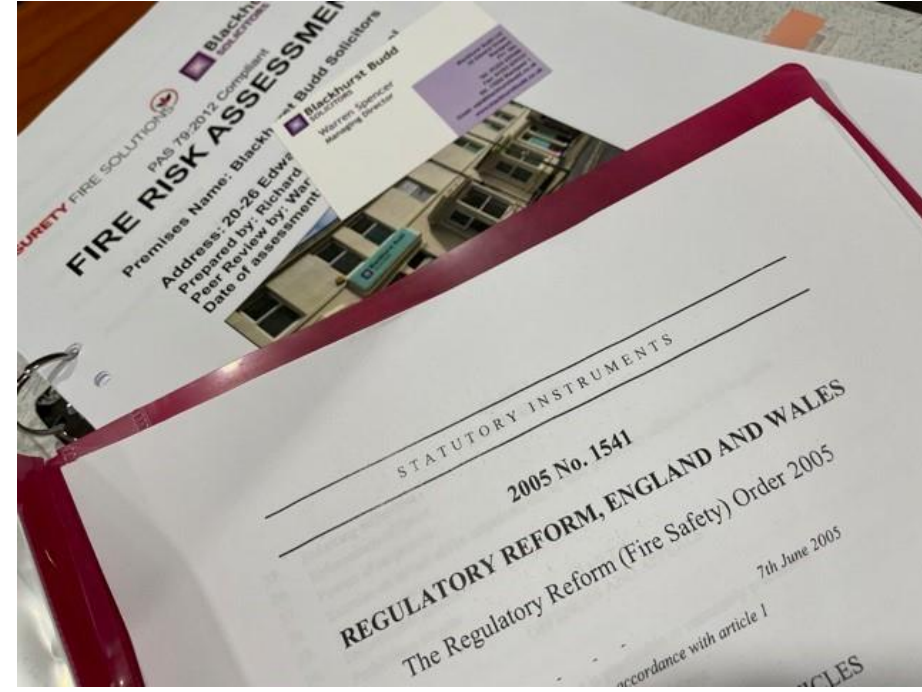
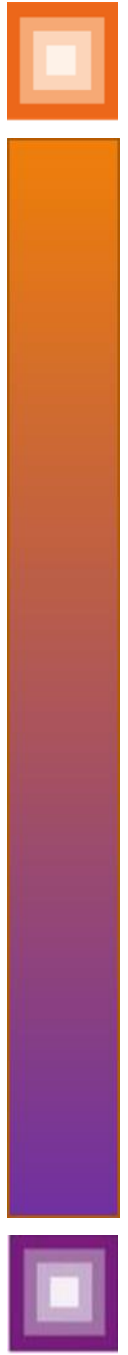


20 Years of The Regulatory Reform (Fire Safety) Order 2006



Warren Spencer
1 June 2026



Warren Spencer

- Qualified 1993 – Solicitor
- Crime – prosecution & defence;
- Blackhurst Budd Limited – Managing Director
- First Fire Safety case 2005
- First FSO case February 2007
- Prosecuted/Defended over 250 FSO cases
- Prosecuted for 12 Fire & Rescue Services
- Higher Courts Advocate
- Part-Time Tribunal Judge
- Chair – Police Disciplinary Proceedings
- Former Assistant Coroner, Blackpool
- Lectures; Articles; Briefings



2004 – Deputy Prime Minister

2005 Draft Order

1 October 2006 Order Comes into effect

April 2009 – Government Statistics begin

March 2015 - S.85 Legal Aid Sentencing and
Punishment of Offenders Act 2012 came into force

February 2016 Health & Safety Sentencing Guidelines

2002 – Deputy Prime Minister

14 June 2017 – Grenfell Tower disaster

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December 2017 – Hackitt report

1 October 2006 Order Comes into effect

2018 HMI Inspections

??? BSA S.156(4) Competency

April 2009 – Government Statistics begin

2021 – Fire Safety Act

1 February 2016 Health & Safety Sentencing Guidelines

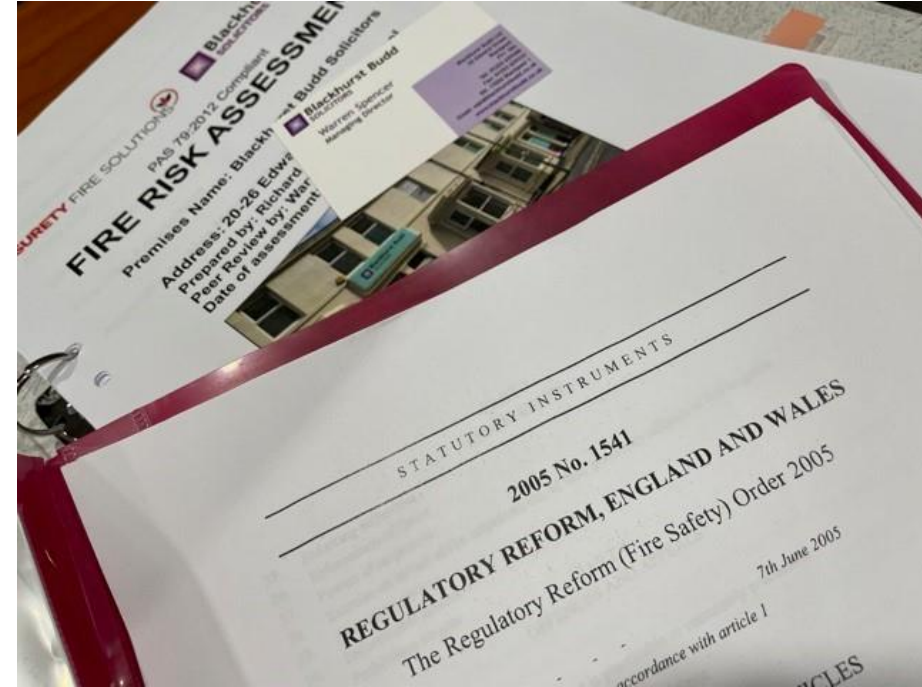
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20 Years of The Regulatory Reform (Fire Safety) Order 2006

Let's start at the very
beginning....



2004 – Deputy Prime Minister Statement

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February 2016 Health & Safety Sentencing Guidelines

The Draft Order – Statement 19/4/2004

THE REGULATORY REFORM (FIRE SAFETY) ORDER STATEMENT BY THE OFFICE OF THE DEPUTY PRIME MINISTER

INTRODUCTION

1. This statement is laid before Parliament in accordance with section 6 of the Regulatory Reform Act 2001 ("the 2001 Act") together with the draft of the Regulatory Reform (Fire Safety) Order 2004 ("the draft Order") which is proposed to be made under section 1 of that Act. The purpose of the draft Order is to reform the law relating to general fire safety in non-domestic premises.
2. The aim of the proposed reform is to reduce burdens on business that are caused by the existence of multiple, overlapping general fire safety regimes – and consequently overlap of the responsibilities of enforcing authorities. The proposed order would consolidate and rationalise much existing fire safety legislation (currently scattered across a large number of statutes and secondary legislation) into one order. In doing so it would reduce the number of enforcing authorities dealing with general fire safety matters. The reform would maintain and enhance the protection afforded to users of premises (and others who might be affected by a fire on the premises) by the existing legislation.



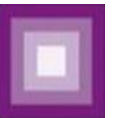
The Draft Order – Statement 19/4/2004

“Existing fire safety legislation has developed in piecemeal fashion, often as a response to particular tragic fires in which large numbers of lives were lost. As a result, fire safety provision is scattered among many pieces of legislation. It is sometimes inconsistent and can be difficult even for fire safety professionals to understand. For the lay person who has to comply with the legislation, it can be bewildering.”



The Draft Order – Statement 19/4/2004

5. The aim of the reform is to simplify, rationalise and consolidate existing legislation. It would provide for a risk based approach to fire safety allowing more efficient, effective enforcement by the fire and rescue service and other enforcing authorities.



The Draft Order – Statement 19/4/2004

- so far as possible, the reform should create one simple fire safety regime applying to all workplaces and other non-domestic premises;-
- the regime should be risk assessment-based with responsibility for the fire safety of the occupants of premises and people who might be affected by a fire resting with a defined responsible person;
- there should be no separate formal validation mechanism for higher risk premises. Fire authorities would base their inspection programmes on their assessment of the premises they considered to present the highest risk;
- there should be a duty to maintain those fire precautions required under building regulations, and other similar legislation, which are for the use and protection of fire-fighters;
- there should be a new statutory duty on fire authorities to promote community fire safety, for powers of entry for the investigation of fires, and for a power to take away samples for testing.

The Draft Order – Statement 19/4/2004

318. The draft Order would impose burdens on the “**responsible person**”, other persons who have control of the premises, employees and public authorities. The responsible person is defined in article 3.

Where the premises are a workplace, the employer would be the responsible person if the workplace is, to any extent, under his control. In non-workplaces, the person who has control of the premises in connection with the carrying on by him of a trade, business or other undertaking (for profit or not) would be the responsible person. Where there is no such person, the owner would be the responsible person.

The Draft Order – Statement 19/4/2004

83 Other responsible persons would bear responsibility to the extent they can exercise control. In some premises more than one person might have some level of responsibility.

“Any other person” would include contractors who take responsibility for **installation and maintenance** of fire precautions or preventative measures.

The Draft Order – Statement 19/4/2004

320 Article 5(3) would impose a burden by imposing 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 would, for example, apply to a contractor who was responsible for maintaining a fire alarm system.

Note – no mention of Article 5(4)

Note – the example given – fire alarm engineer

The Draft Order – Statement 19/4/2004

Article 5

(4) Where a person has, by virtue of any contract or tenancy, an obligation of any extent in relation to-

- (a) the maintenance or repair of any premises, including anything in or on the premises; or
- (b) the safety of any premises

That person is to be treated....as being a person who has control of the premises to the extent that his obligation so extends.



The Draft Order – Statement 19/4/2004

354 The measures in the draft Order are those which are necessary to achieve the required level of protection **but in most cases they are goal setting requirements rather than prescriptive** - leaving a degree of discretion for the responsible person to determine how the obligations will be met.

At the heart of the new system is **the requirement to carry out a risk assessment**. This places the primary responsibility for determining what the risks are and how they will be minimised on the responsible Person...



The Draft Order – Statement 19/4/2004

336 The extent of the duty imposed on persons other than the responsible person is also **limited by the extent of that person's control** of premises. In relation to non-employers, article 5 ensures that obligations are only imposed to the extent of the person's control of those premises.



The Draft Order – Statement 19/4/2004

But don't worry...

- 357 An example of fair balance is the requirement in article 9 to carry out a risk assessment. As noted above, this is at the heart of the new system. It would impose a burden on the responsible person by requiring that person to make a suitable and sufficient risk assessment, to review and keep it up to date and to record the significant findings of the assessment in certain circumstances. **The burden would not be particularly onerous...**

The Draft Order – Statement 19/4/2004

But don't worry...

- **The burden would not be particularly onerous...**



The Draft Order – Statement 19/4/2004

- 359 The reduction in the burdens on persons and the other beneficial effects set out above generally make it desirable that the draft Order be made.



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1 October 2006 Order comes into effect

Early cases

Enforcement Notice appeals

Living accommodation “above the shop”

Risk assessments?



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**April 2009 – Government
Statistics begin**

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Guidelines

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**Number of National Prosecutions
under the
Regulatory Reform (Fire Safety) Order 2005
(the FSO) since 2006**

Beware the Stats!



**Number of National Prosecutions
under the
Regulatory Reform (Fire Safety) Order 2005
(the FSO) since 2006**

What is a prosecution?
When did it occur/finish?
What type of premises?



**Number of National Prosecutions
under the
Regulatory Reform (Fire Safety) Order 2005
(the FSO) since 2006**

Circa 953



20 Years of Prosecutions The Fire Safety Order

- The Stats:

only available from March 2009 – March 2025

- 930 prosecutions from official stats*
- (My cases Oct 2006 – March 2009 – 23)

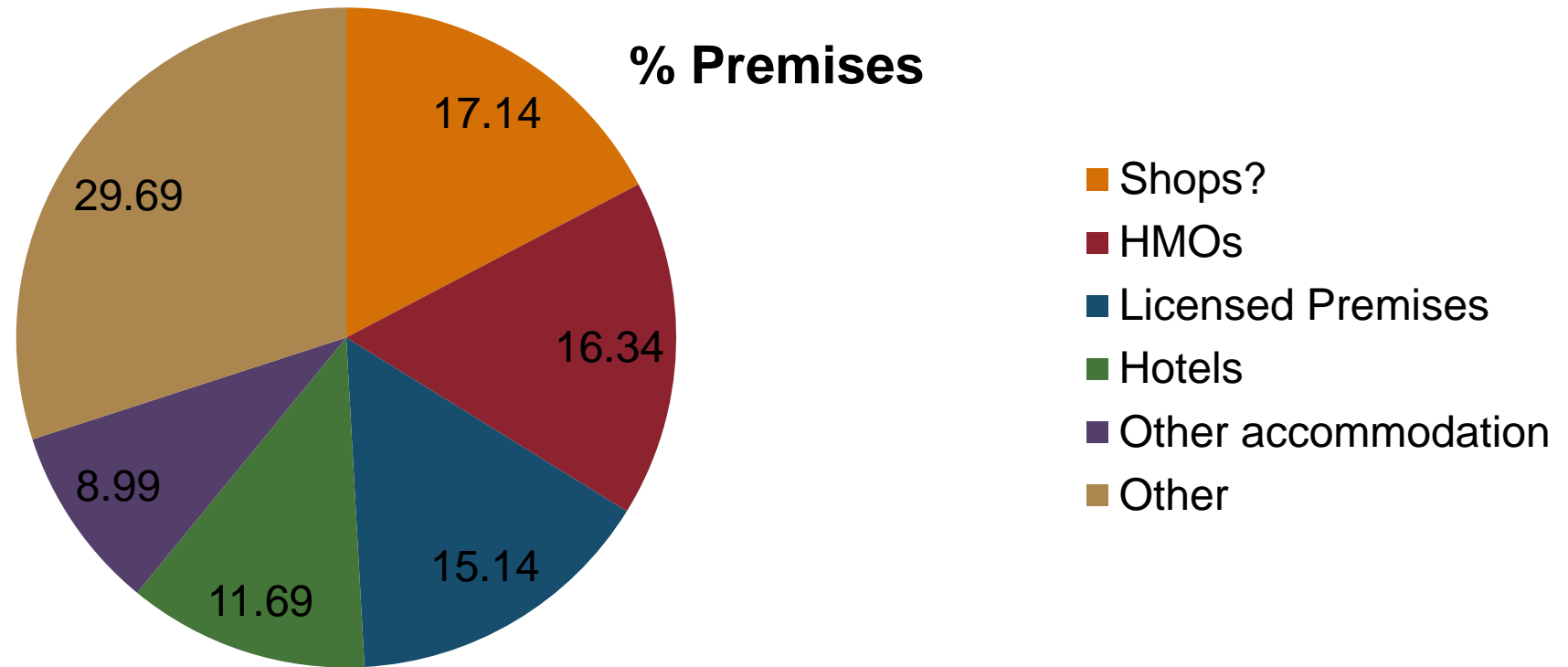


20 Years of Prosecutions The Fire Safety Order

Types of Premises Prosecuted

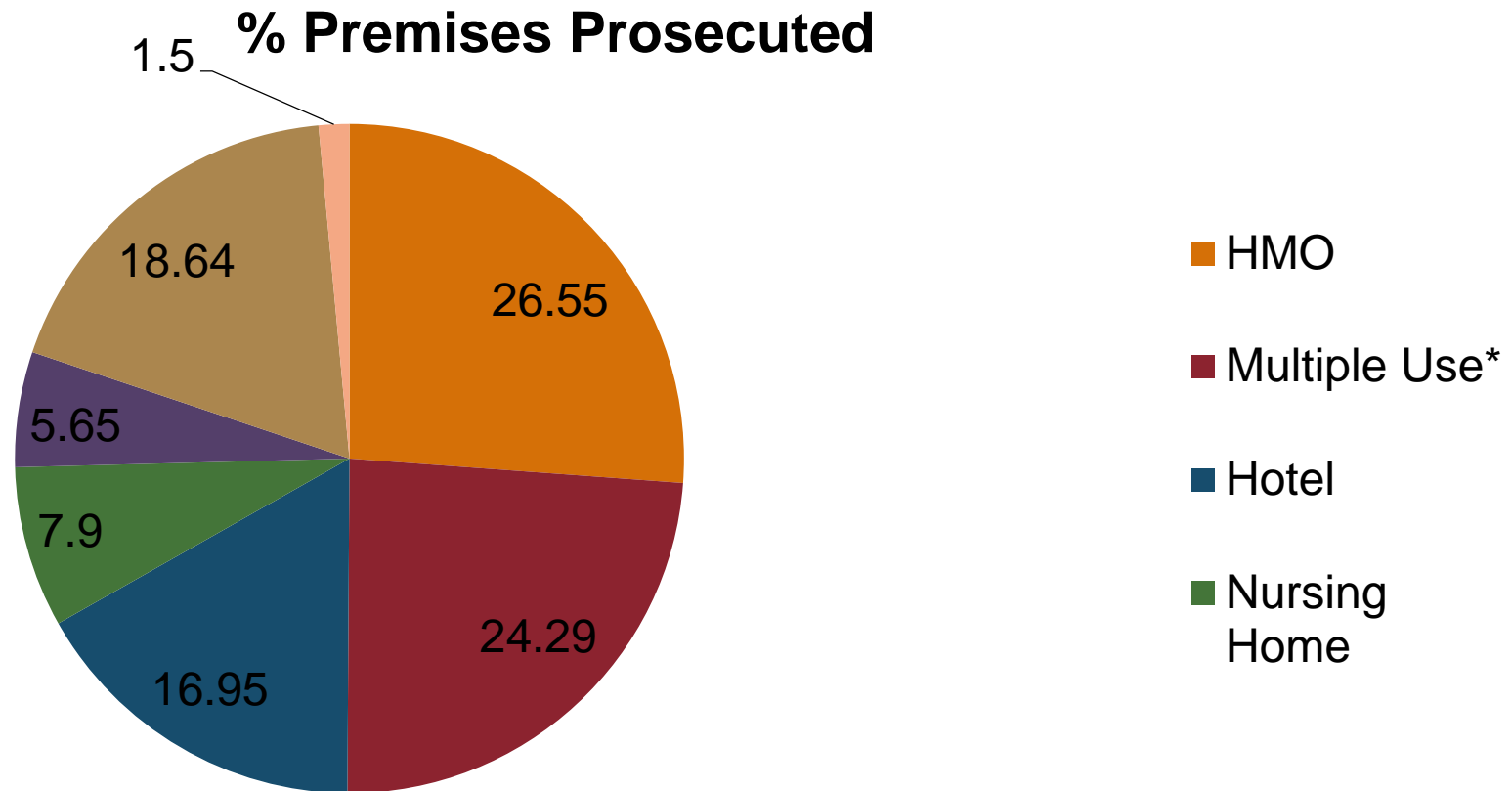


Most commonly Prosecuted Type of Premises Government Statistics 2009-2025



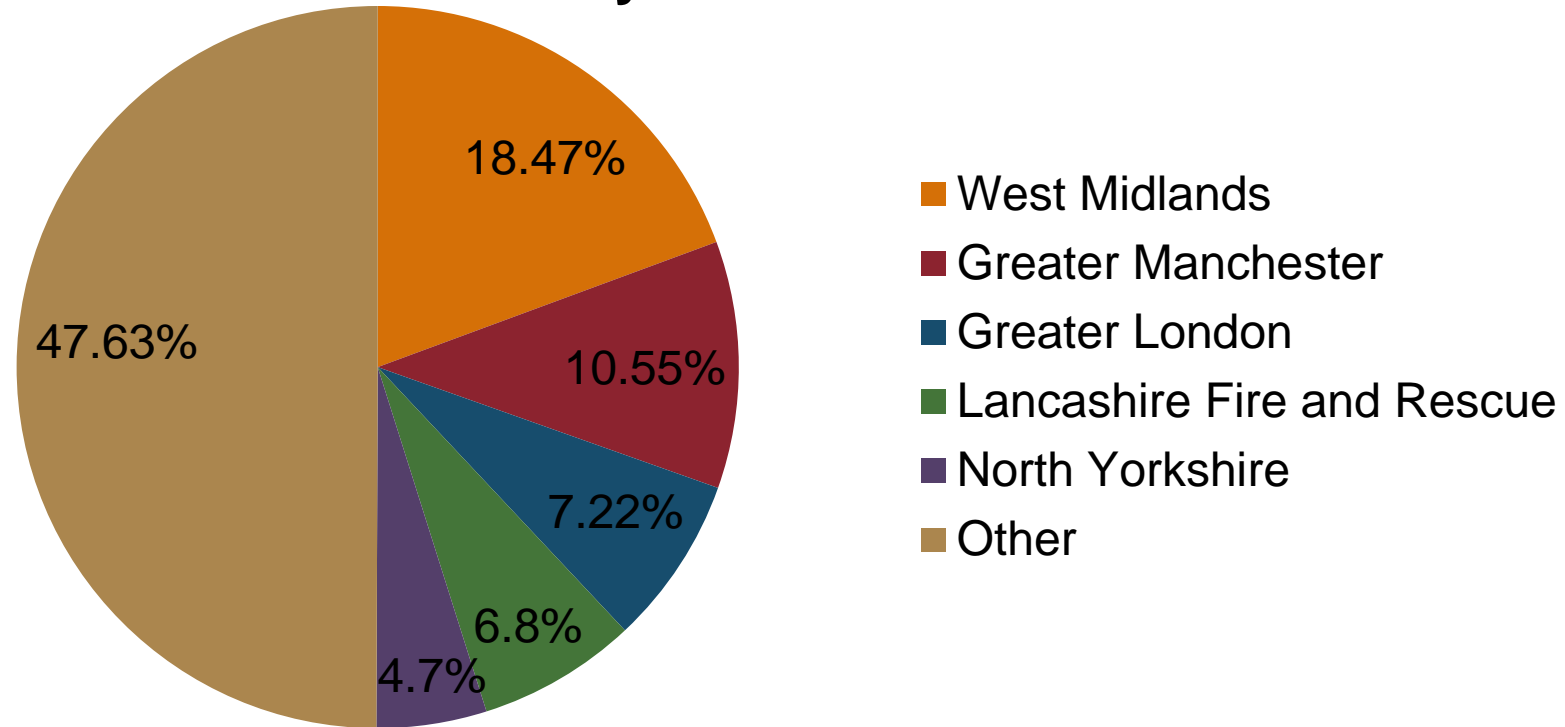
Most commonly Prosecuted Type of Premises

Warren Spencer Statistics 2009-2026

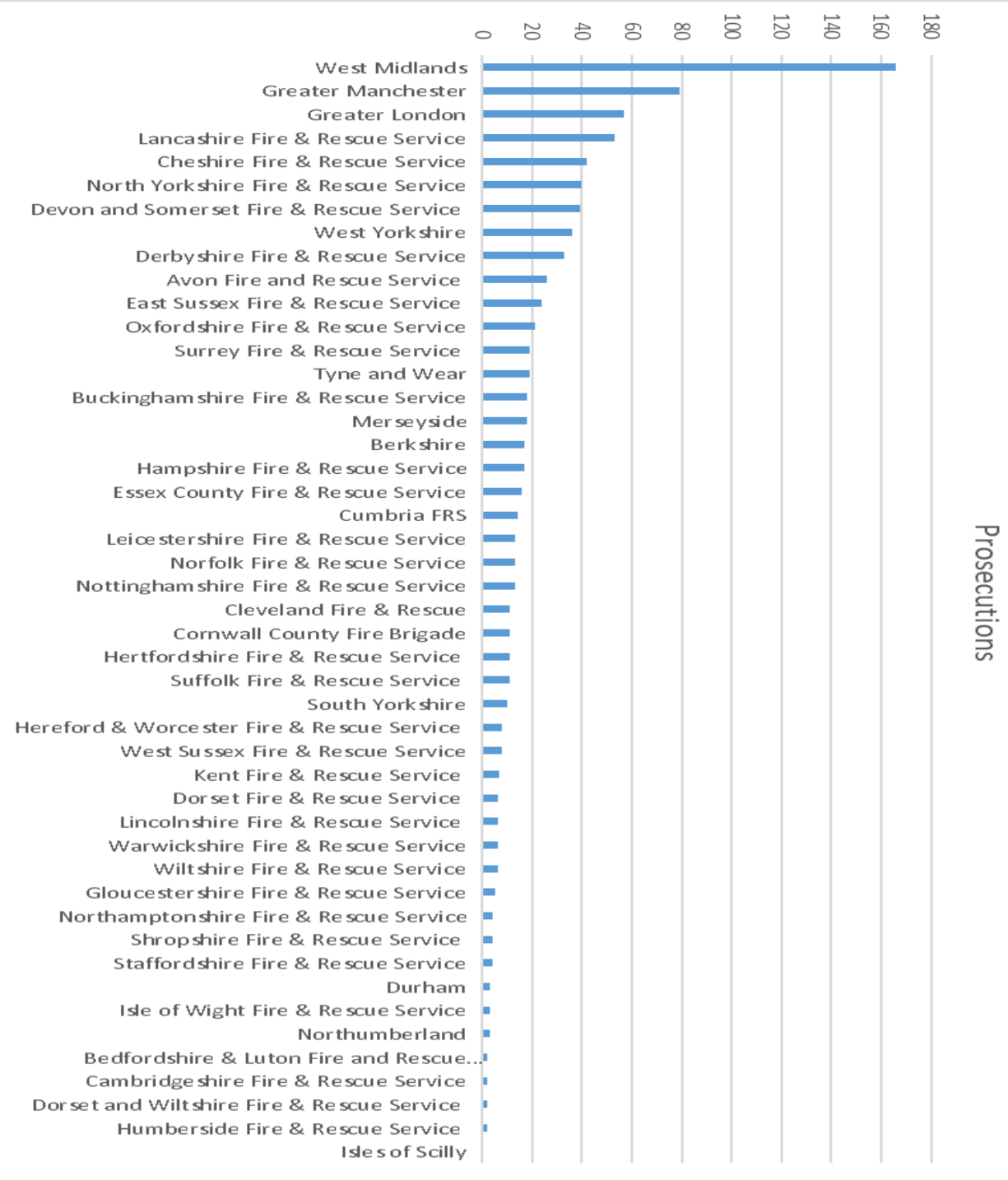


Prosecuting Fire Services

Prosecutions by Fire Service 2009-2025



2006-2025 Fire Service Enforcement



2006- 2025 Fire Service Enforcement

Prosecuting Fire Services – Top 10

West Midlands	166
Greater Manchester	79
Lancashire FRS	76
London FB	58
Cheshire FRS	42
Devon and Somerset FRS	39
North Yorkshire FRS	38
Derbyshire FRS	33
West Yorkshire FRS	29
Avon FRS	26

2006- 2025 Fire Service Enforcement

West Midlands	166
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Devon and Somerset FRS	39
North Yorkshire FRS	38
Derbyshire FRS	33
West Yorkshire FRS	29
Avon FRS	26

Prosecuting Fire Services

- West Mids - 18%
- Top 10 FRS - 63.6%
- 7 FRS - ≤ 3
- 20 FRS - 10 or less

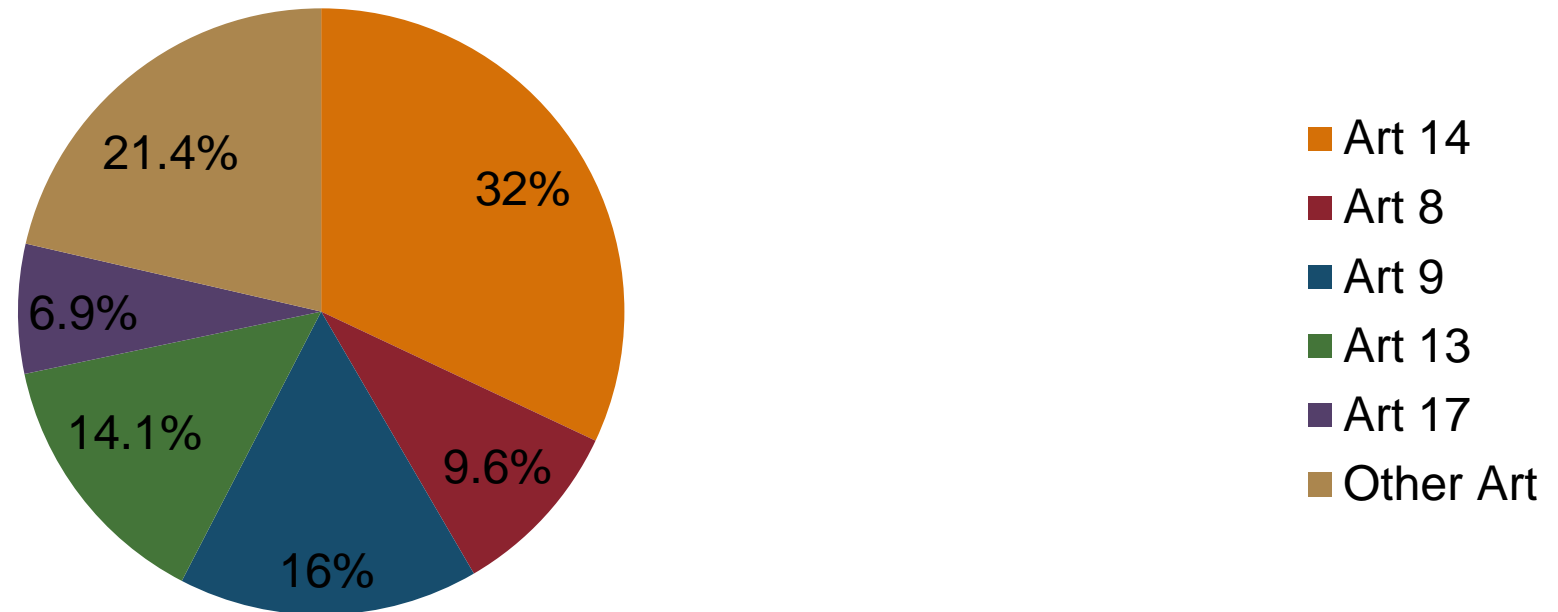
20 Years....



250 Cases in Review: How the FSO HAS BEEN BREACHED

Warren Spencer Statistics 2009-March 2025

% of Prosecutions



20 Years of Prosecutions The Fire Safety Order

The top 5 FSO Articles which have led to convictions are:-

- | | | |
|----|---|-----|
| 1. | Article 14 - emergency routes and exits | 474 |
| 2. | Article 8 - duty to take general fire precautions | 343 |
| 3. | Article 9 - risk assessment | 327 |
| 4. | Article 13 - firefighting and fire detection | 282 |
| 5. | Article 17 - maintenance of premises | 206 |



20 Years of Prosecutions The Fire Safety Order

The top 5 FSO Articles which have led to convictions are:-

1. Article 14 - emergency routes and exits 474

- Place of safety
- Evacuate as quickly as possible
- Number, dimensions distribution of route – max. number of people
- Direction of emergency doors
- Emergency doors not locked
- Signage
- Emergency lighting



20 Years of Prosecutions The Fire Safety Order

Types of Premises

One third of prosecutions – Sleeping Accommodation



20 Years of Prosecutions The Fire Safety Order

My Cases

48 Custodial Sentences
39 Suspended



The Regulatory Reform (Fire Safety) Order 2005

A risk assessor's charter?



**Was it ever envisaged that fire risk assessors
would/could be criminally liable?**



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Sentencing



Sentence and the Fire Safety Order

- Total handed out in fines is circa , £1,350,000*
- Total costs ordered is circa £900,000.00*
- Average fine per case is £10,520.00*
- Average Costs order is £5,661.00*



Sentence and the Fire Safety Order

- Grenfell Effect? – Fire Safety taken far more seriously now
- S.85 Legal Aid Sentencing and Punishment of Offenders Act 2012 (came into force March 2015) – removed the £5,000.00 limit on Magistrates Court, fines are now unlimited
- Individuals can only be fined, according to their means...
Companies are usually fined in proportion to their profits and turnover – Health & Safety Sentencing Guidelines March 2016
- Unfortunately, the government statistics do not provide any information in relation to the sentences passed by the Courts in relation to the prosecutions brought by the various Fire Services

Sentence and the Fire Safety Order

- **Health & Safety Sentencing Guidelines February 2016**
 - The Response to Consultation produced prior to the drafting of the Guidelines (at page 15) clearly states:
 - *‘Other offences which were suggested for inclusion included fire safety offences. These were suggested by 5 respondents, including the London Fire and Emergency Planning Authority. **The Council considered the inclusion of these offences, but decided against it.** The Council felt that applying the factors in the guideline to offences involving risk of fire had the potential for distorting sentence levels.’*

Sentence and the Fire Safety Order

- **Health & Safety Sentencing Guidelines February 2016**
 - **R v Sandhu 2017**

“The Guidelines might provide a useful check for considering whether a sentence arrived at ...has produced a sentence which is either unduly lenient or manifestly excessive”



Sentence and the Fire Safety Order

- **Health & Safety Sentencing Guidelines February 2016**

- **R v Butt 2018**

“Prosecutions under the Order – Harm risked will be at the highest level.

Culpability will vary depending on the circumstances of the offending.

Likelihood of harm – will depend upon the chances of fire breaking out...severe penalties do not depend upon enhanced risk. It's presence would be a seriously aggravating factor.”



Sentence and the Fire Safety Order

- **Health & Safety Sentencing Guidelines February 2016**

- **R v Butt 2018**

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Sentence and the Fire Safety Order

• Health & Safety Sentencing Guidelines February 2016

Step One - CULPABILITY

- Very high** - deliberate breach of/or flagrant disregard the law
- High** - offender fell far short of the appropriate standard
failing to put in place measures that are recognised standards in the industry
ignoring concerns raised by employees or others
failing to make appropriate changes following fire incidents exposing risks to H&S
allowing breaches to subsist over a long period of time
serious and/or systemic failure within the organisation to address risks to health and safety
- Medium** - offender fell short of the appropriate standard
systems were in place, but these were not sufficiently adhered to or implemented
- Low** - significant efforts were made to address the risk although they were inadequate on this occasion
there was no warning forward/circumstance indicating a risk to health and safety
failings were minor and occurred as an isolated incident



Sentence and the Fire Safety Order

• Health & Safety Sentencing Guidelines February 2016

Step Two - HARM

Always Level A – Risk of Death or Serious Injury

HARM Category

High likelihood - Harm category 1

Medium likelihood - Harm category 2

Low likelihood - Harm category 3

AGGRAVATING FEATURES

- Risk to workers/public – the greater the number the greater the risk of harm
 - Actual harm
- if these exist - move up harm category?



Sentence and the Fire Safety Order

- Health & Safety Sentencing Guidelines February 2016

Step Two - HARM

Starting Point and Category range

Companies – annual accounts; Turnover; Profit before tax; director's remuneration....

Company size

Large	-turnover or equivalent: £50 million and over
Medium	-turnover or equivalent: between £10 million and £50 million
Small	-turnover or equivalent between £2 million and £10 million
Micro	-turnover or equivalent: not more than £2 million

- level of fine should reflect extent to which offender fell below required standard
- fine sufficiently substantial to have real economic impact-bring home to management and shareholders need to comply with health and safety legislation
- step back-review-adjust initial fine to ensure it fulfils general principles



Sentence and the Fire Safety Order

- **Health & Safety Sentencing Guidelines February 2016**

Large Turnover or equivalent: £50 million and over		
	Starting point	Category range
Very high culpability		
Harm category 1	£4,000,000	£2,600,000 – £10,000,000
Harm category 2	£2,000,000	£1,000,000 – £5,250,000
Harm category 3	£1,000,000	£500,000 – £2,700,000
Harm category 4	£500,000	£240,000 – £1,300,000
High culpability		
Harm category 1	£2,400,000	£1,500,000 – £6,000,000
Harm category 2	£1,100,000	£550,000 – £2,900,000
Harm category 3	£540,000	£250,000 – £1,450,000
Harm category 4	£240,000	£120,000 – £700,000
Medium culpability		
Harm category 1	£1,300,000	£800,000 – £3,250,000
Harm category 2	£600,000	£300,000 – £1,500,000
Harm category 3	£300,000	£130,000 – £750,000
Harm category 4	£130,000	£50,000 – £350,000
Low culpability		
Harm category 1	£300,000	£180,000 – £700,000
Harm category 2	£100,000	£35,000 – £250,000
Harm category 3	£35,000	£10,000 – £140,000
Harm category 4	£10,000	£3,000 – £60,000

Sentence and the Fire Safety Order

• Health & Safety Sentencing Guidelines February 2016

Step One - CULPABILITY - Individuals

- Very high** - deliberate breach of/or flagrant disregard the law
- High** - actual foresight of, or wilful blindness to, risk of offending risk taken nevertheless
- Medium** - offence committed through act or omission which a person exercising reasonable care would not commit
- Low** - Little fault-significant errors were made to address risk, but inadequate on this occasion.
No warning/circumstance indicating risk to health and safety
Failings were minor and occurred as an isolated incident



Sentence and the Fire Safety Order

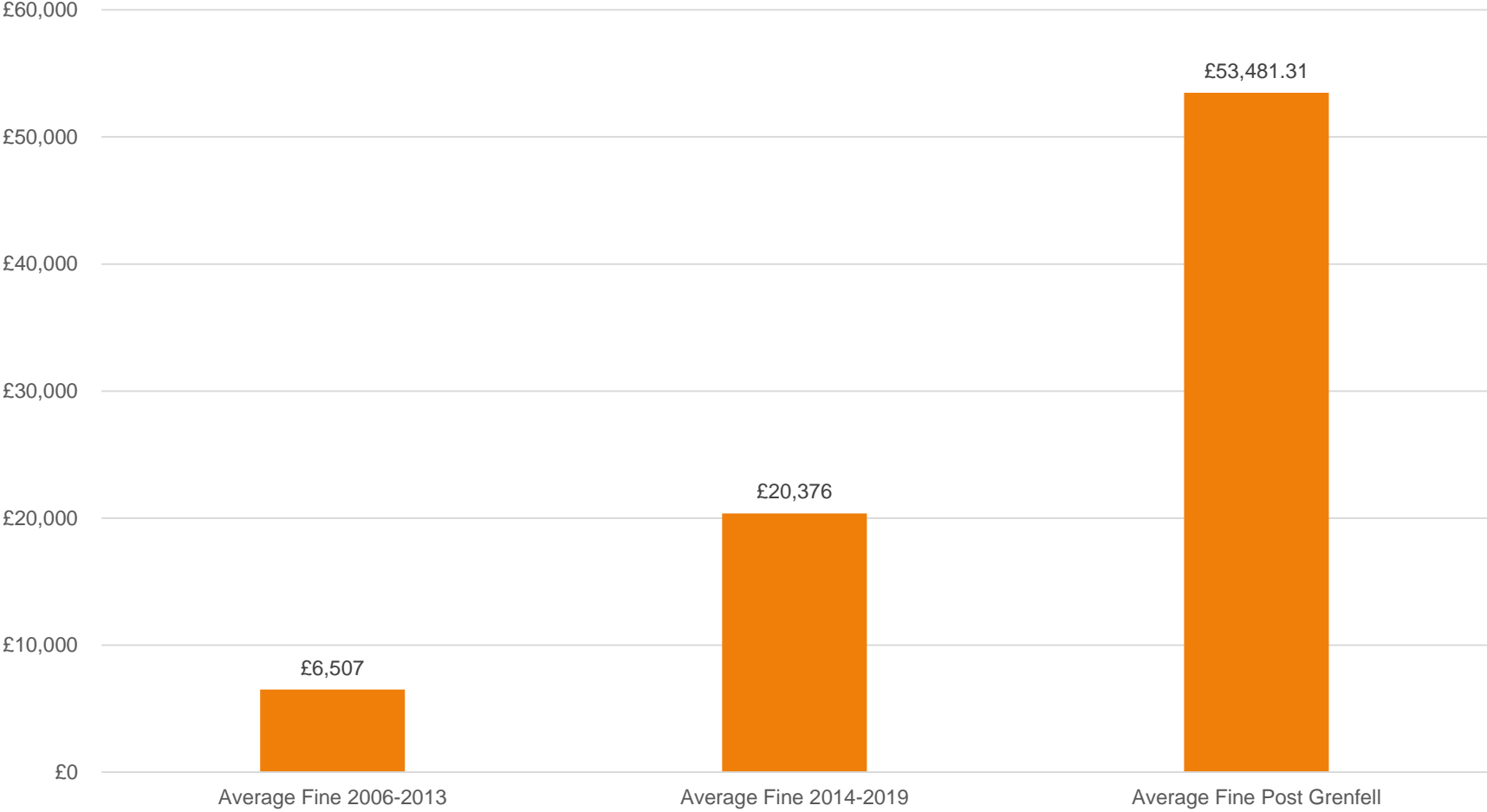
• Health & Safety Sentencing Guidelines February 2016

Step One - CULPABILITY - Individuals

Please refer to the guidelines on the Sentencing Council website www.sentencingcouncil.org.uk

	Starting point	Category range
Very high culpability		
Harm category 1	18 months' custody	1 – 2 years' custody
Harm category 2	1 year's custody	26 weeks' – 18 months' custody
Harm category 3	26 weeks' custody	Band F fine or high level community order – 1 year's custody
Harm category 4	Band F fine	Band E fine – 26 weeks' custody
High culpability		
Harm category 1	1 year's custody	26 weeks' – 18 months' custody
Harm category 2	26 weeks' custody	Band F fine or high level community order – 1 year's custody
Harm category 3	Band F fine	Band E fine or medium level community order – 26 weeks' custody
Harm category 4	Band E fine	Band D fine – Band E fine
Medium culpability		
Harm category 1	26 weeks' custody	Band F fine or high level community order – 1 year's custody
Harm category 2	Band F fine	Band E fine or medium level community order – 26 weeks' custody
Harm category 3	Band E fine	Band D fine or low level community order – Band E fine
Harm category 4	Band D fine	Band C fine – Band D fine
Low culpability		
Harm category 1	Band F fine	Band E fine or medium level community order – 26 weeks' custody
Harm category 2	Band D fine	Band C fine – Band D fine
Harm category 3	Band C fine	Band B fine – Band C fine
Harm category 4	Band A fine	Conditional discharge – Band A fine

Warren Spencer Average Fines under the FSO



20 Years of Prosecutions - The Fire Safety Order

9 cases involving a fatality



20 Years of Prosecutions - The Fire Safety Order

My Cases

48 Custodial Sentences

39 Suspended

Highest Fines

Unlimited Fines:

Highest sentences – £450,000 APP;
HC-One £500,000;
BUPA £937,500



Warren Spencer - Sentencing and Fire Safety Order

- Maximum sentence under the Fire Safety Order is 2 years imprisonment and this can only be imposed at the Crown Court
 - Unlimited Fines
- Out of 250 cases conducted - only 10 trials (less than 5%)... All 10 defendants were found guilty after trial
 - 11 immediate custodial sentences



Warren Spencer - Sentencing and Fire Safety Order

Sentences were harsher in cases where:

- relevant persons had been injured
- where fire service rescues had taken place.
- breaches of Enforcement or Prohibition Notices
- Previous involvement of Fire Service
- Relatively low number of imprisonments... Political factors?

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The Impact of the Hackitt Report

December 2017!



Direction of Travel

Competence

‘There is a need to raise levels of competence and establish formal accreditation of those engaged in the fire prevention aspects of the design, construction, inspection and maintenance of high-rise residential and complex buildings.’



Direction of Travel

Conclusion

In summary, this is a call to action for an entire industry and those parts of government that oversee it. True and lasting change will require a universal shift in culture. The industry has shown this is possible in the way the health and safety of construction workers has seen a positive transformation in culture and practice over the last decade. This change needs to start now.



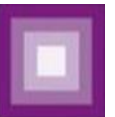
Findings to date

1.20 In particular, for fire risk assessors undertaking risk assessments on complex and high-risk buildings there are no statutory registration or accreditation requirements.



Direction of Travel

1.73 The professional and accreditation bodies have an opportunity to demonstrate that they are capable of establishing a robust, comprehensive and coherent system covering all disciplines for work on such buildings. If they are able to come together and develop a joined up system covering all levels of qualification in relevant disciplines, this will provide the framework for regulation to mandate the use of suitable, qualified professionals who can demonstrate that their skills are up to date.



Direction of Travel

1.73 The professional and accreditation bodies have an opportunity to demonstrate that they are capable of establishing a robust, comprehensive and coherent system covering all disciplines for work on such buildings. ***If they are able to come together and develop a joined up system covering all levels of qualification in relevant disciplines, this will provide the framework for regulation to mandate the use of suitable, qualified professionals who can demonstrate that their skills are up to date.***



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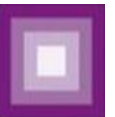
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2018 HMI Inspections



About us ▾ **Police** ▾ **Fire and rescue** ▾

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Fire and Rescue

In July 2017, HMICFRS extended its remit to include inspections of England's fire and rescue service. We now assess and report on the efficiency, effectiveness and people of the 44 fire and rescue services in England.

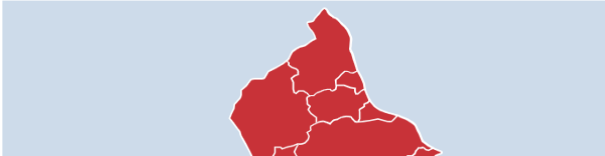
To find our methodology, judgment criteria and other information about these inspections, please see the [How we inspect section](#).

Map of fire and rescue services in England

Each fire and rescue service in England is assigned to one of five geographic regions.

Each region is overseen by one of His Majesty's Inspectors of Fire & Rescue Services.

Choose your area below to find out more about your local service or browse news items and reports.



Find your fire and rescue service

Select your fire and rescue service:

Select your area... ▾

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Fire Safety Act 2021

Application to premises

6.—(1) This Order does not apply in relation to —

- (a) domestic premises, except to the extent mentioned in paragraph (1A) or article 31(10);
- (b) an offshore installation within the meaning of regulation 3 of the Offshore Installation and Pipeline Works (Management and Administration) Regulations 1995(1);
- (c) a ship, in respect of the normal ship-board activities of a ship's crew which are carried out solely by the crew under the direction of the master;
- (d) fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking's main buildings;
- (e) an aircraft, locomotive or rolling stock, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994(2) or a vehicle exempted from duty under that Act;
- (f) a mine within the meaning of section 180 of the Mines and Quarries Act 1954(3), other than any building on the surface at a mine;
- (g) a borehole site to which the Borehole Sites and Operations Regulations 1995(4) apply.

(2) Subject to the preceding paragraph, this Order applies in relation to any premises.



Fire Safety Act 2021

Application to premises

6.—(1) This Order does not apply in relation to —

- (a) domestic premises, except to the extent mentioned in paragraph (1A) or article 31(10);
- (b) an offshore installation within the meaning of regulation 3 of the Offshore Installation and Pipeline Works (Management and Administration) Regulations 1995(1);
- (c) a ship, in respect of the normal ship-board activities of a ship's crew which are carried out solely by the crew under the direction of the master;
- (d) fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking's main buildings;
- (e) an aircraft, locomotive or rolling stock, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994(2) or a vehicle exempted from duty under that Act;
- (f) a mine within the meaning of section 180 of the Mines and Quarries Act 1954(3), other than any building on the surface at a mine;
- (g) a borehole site to which the Borehole Sites and Operations Regulations 1995(4) apply.

(2) Subject to the preceding paragraph, this Order applies in relation to any premises.



Fire Safety Act 2021

Application to premises

6.—(1) This Order does not apply in relation to —

(a) domestic premises, except to the extent mentioned in paragraph (1A) or article 31(10);

(1A) Where a building contains two or more sets of domestic premises, the things to which this order applies include—

(a) the building's structure and external walls and any common parts;

(b) all doors between the domestic premises and common parts (so far as not falling within sub-paragraph (a)).

(1B) The reference to external walls includes—

(a) doors or windows in those walls, and

(b) anything attached to the exterior of those walls (including balconies).

(2) Subject to the preceding paragraph, this Order applies in relation to any premises.



Fire Safety Act 2021

Application to premises

6.—(1) This Order does not apply in relation to —

(a) domestic premises, except to the extent mentioned in paragraph (1A) or article 31(10);

(1A) Where a building contains two or more sets of domestic premises, the things to which this order applies include—

(a) the building's structure and external walls and any common parts;

(b) all doors between the domestic premises and common parts (so far as not falling within sub-paragraph (a)).

(1B) The reference to external walls includes—

(a) doors or windows in those walls, and

(b) anything attached to the exterior of those walls (including balconies).

(2) Subject to the preceding provisions, this Order applies in relation to any premises.



Fire Safety Act 2021

3. Risk based guidance about the discharge of duties under the Fire Safety Order

(1) **Article 50** of the Regulatory Reform (Fire Safety) Order 2005 (S.I. 2005/1541) (guidance) is amended as follows.

(2) After paragraph (1) insert—

“(1A) Where in any proceedings it is alleged that a person has contravened a provision of articles 8 to 22 or of regulations made under article 24 in relation to a relevant building (or part of the building)—

(a) proof of a failure to comply with any applicable risk based guidance may be relied on as tending to establish that there was such a contravention, and

(b) proof of compliance with any applicable risk based guidance may be relied on as tending to establish that there was no such contravention.”

Fire Safety Act 2021

3. Risk based guidance about the discharge of duties under the Fire Safety Order

(4) In this article 'relevant building' means a building...containing two or more sets of domestic premises

'risk based guidance' prioritise discharge of duties by reference to risk.'



2002 – Deputy Prime Minister

2004 Draft Order

1 October 2006 Order Comes into effect

April 2009 – Government Statistics begin

1 February 2016 Health & Safety Sentencing Guidelines

March 2015 - S.85 Legal Aid Sentencing and Punishment of Offenders Act 2012 came into force

14 June 2017 – Grenfell Tower disaster

December 2017 – Hackitt report

2018 HMI Inspections

2021 – Fire Safety Act

2023 Building Safety Act – s156

January 2023 - Fire Safety (England) Regulations 2022



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S156 Building Safety Act 2022



S156 Building Safety Act 2022

New fire safety guidance comes into force on 1 October 2023

Commencement regulations for new fire safety legal provisions within section 156 of the Building Safety Act 2022 have been laid in Parliament.

From: [Home Office](#)

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Getty Images



S156 Building Safety Act 2022

- Improving cooperation and coordination between responsible persons
- Increasing requirements in relation to the recording and sharing of fire safety information does creating a continual record throughout buildings lifespan
- Making it easier for enforcement authorities to take action against non-compliance
- Ensuring residents have access to comprehensive information about fire safety in their building



S156 Building Safety Act 2022

Making it easier for enforcement authorities to take action against non-compliance



S156 Building Safety Act 2022

What was it all about?

- Articles 9 and 11 – requirement to record
- New Article 21A – information to residents (domestic premises)
- New Article 22(A1) – information to other responsible persons
- New Article 22A – information to new responsible person
- New Article 22B – co-operation with accountable persons
- Article 27 – unlimited fines for non-compliance



S156 Building Safety Act 2022

What's it all about?

- Fire Risk Assessment/Management plan must always be recorded
- RP must keep records of the “relevant fire safety matters”
- Extends duties in relation to domestic premises
- Requires cooperation between RP and Accountable Person
- Increased penalties for failing to comply with A27.
- **New offences**



S156 Building Safety Act 2022

The application of the amendments depends upon the nature of the premises:

All Premises

Domestic Premises

High Risk Premises



Application	All Premises	Domestic Premises (a building containing two or more sets of domestic premises)	High Risk Premises (a building at least 18m high or at least 7 stories AND contains at least 2 residential units)
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Amendments	All Premises	Domestic Premises	High Risk Premises		
<p>FRA = Fire Risk Assessment</p> <p>RP = Responsible Person</p> <p>DH = Duty Holder</p>	A9	requirement to record FRA			
	A11	requirement to record plan of action (plan to reduce hazards and risks identified an implementation of necessary protection measures			
	A22(A1)	information to other RPs - RP must take such steps as are reasonably practicable to ascertain whether any other RP shares, or has duties in respect of the premises - inform the other RP/DHs concerned of that person's name and address - inform the other RP/DHs of the part of the premises for which that person considers themselves to be an RP, and keep a record of that information;	A21A	The responsible person must give residents of the domestic premises comprehensible and relevant information about the relevant fire safety matters. (a) the risks to residents of the domestic premises identified by the risk assessment; A9 (b) the preventive and protective measures; A11 (c) the name and an address of the responsible person (d) the identity of any person appointed by the responsible person to assist them with making or reviewing an assessment under article 9; (Fire Risk Assessor) (e) the identity of any persons nominated by the responsible person under article 13(3)(b); (Fire Alarm Engineer? Extinguishers?) (f) any risks of which the responsible person has been informed under article 22(1)(c); (g) any other matters specified in regulations made by the relevant authority. (eg how to report a fire; evacuation strategy; emergency plan)	
	A22A	'Relevant fire safety Information' must be given to new RP (RP details; FRA and assessor details; Reg 38 information)		A22B	Co-operation with accountable persons - The responsible person must take such steps as are reasonably practicable to ascertain whether there are one or more other persons who are accountable persons in relation to the premises. - RP must co-operate with each accountable person for the purpose of the accountable person carrying out their duties under the Building Safety Act 2022.
	A22A(5)	RP must keep records of 'relevant fire safety information'	<ul style="list-style-type: none"> All of the above should be recorded 	A22A	Identity of Accountable Person must be passed on to a new RP
A50	applicable risk based guidance must be followed				

A5(1) Workplace – RP must ensure any duty under A8-22B is complied with

A5(1) Non Workplace – RP must ensure any duty under A8-22B is complied with, so far as requirements are within his control



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??? BSA S.156(4) Competency

April 2009 – Government Statistics begin

2021 – Fire Safety Act

1 February 2016 Health & Safety Sentencing Guidelines

2023 Building Safety Act – s156

March 2015 - S.85 Legal Aid Sentencing and Punishment of Offenders Act 2012 came into force

January 2023 - Fire Safety (England) Regulations 2022

FSO 2006

So - s156(4) BSA 2022:

- 9A Risk assessment: assistance
- (1) The responsible person must not appoint a person to assist them with making or reviewing an assessment under article 9 **unless that person is competent.**
- (2) **A person is to be regarded as competent for the purposes of this article where the person has sufficient training and experience or knowledge and other qualities to enable the person properly to assist in making or reviewing the assessment.**
- (3) Where the responsible person appoints more than one person, the responsible person must make arrangements for ensuring adequate co-operation between them.



How will Competency be defined?



How will Competency be defined?

How to find a competent fire risk assessor

It is important that the person who carries out the fire risk assessment is competent. There are two principal methods by which people can demonstrate their competence:

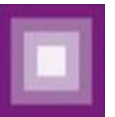
- Professional Body Registration schemes
- Certification by a Certification Body that is UKAS accredited for the activity.

It is also important that the company for whom the fire risk assessor works has adequate management systems in place, even if the fire risk assessor is self-employed.

Competence of a company to deliver fire risk assessments can be demonstrated by third party certification of the company by a UKAS accredited Certification Body.

Appendix 1 contains a list of Professional Bodies that operate Registration schemes and Certification Bodies that operate Certification schemes for fire risk assessors and fire risk assessment companies

It is recommended that only fire risk assessment companies, including sole traders, which are third party certificated to appropriate schemes operated by Certification Bodies which have been UKAS accredited to certificate against such schemes are used.



How will Competency be defined?

- **BS 8674:2025** is the British Standard that establishes a formal competency framework for individual fire risk assessors
- **Foundation:** Assessors competent to evaluate simple, low-risk premises (e.g., small shops, small offices, and simple single-use buildings).
- **Intermediate:** Assessors who handle moderately complex properties (e.g., multi-occupied workplaces, medium-rise residential buildings without high-risk features, and larger public venues)
- **Advanced:** Highly experienced assessors qualified to evaluate high-risk, complex premises (e.g., large high-rise residential buildings, specialist housing, care homes, and buildings with unusual hazards)

• ANY QUESTIONS



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