

February 2005

Presentation on "The New Fire Regulations" by Clive Raybould, Commercial Training Manager, West Midlands Fire Service

Clive started by saying that his presentation drew upon 25 years service in the Fire Service, 15 years of which had been in the Fire Safety Section. There are currently about 150 pieces of legislation and the proposals were attempting to streamline these considerably. He commented that the new legislation would not be based on radically new principles, because 95% of them existed already, but their implementation would become more effective. In describing the overview of the existing law, he said that the Fire Precautions Act was very prescriptive but that the Fire Precautions (Workplace) Regulations, linked to the Management of Health and Safety at Work Regulations, placed a DIY responsibility on Employers for Risk Assessment!

He commented that many fires were aggravated by bad design that left holes in building compartment walls above false ceilings! Another flaw in fire prevention was the work done to remove asbestos in compliance with one set of legislation, without sufficient thought about the detrimental effect that this might have in spread of fire! ~Added to this was the fact that the requirement to notify the Fire Officer of alterations to buildings was the most abused provision of all.

He went on to say that the goal-based Fire Precaution Regulations 1997 carried some important guidance. The consideration of fire fighting, fire detection, fire alarms, fire exits and escape routes were all dealt with in Fire Certificates and could be used as benchmarks. Similarly, maintenance of fire safety measures could be enhanced by Fire Safety Audits and it was important to record these for future reference. The Development of an Emergency Plan was an essential by-product of all of these deliberations and this was only as effective as the quality of training and instruction given to nominated staff. All of this had to be communicated to staff in the form of a rigorous Fire Policy.

Clive emphasised the point that legislation in the Criminal courts was not such a good 'driver' of fire safety as civil litigation under Common Law, where compensation payments could be much larger than fines. Significantly, this had recently been reinforced by the 2003 amendment, enabling civil action for statutory breaches of duty.

Dealing with the specific provisions of the proposed **Regulatory Reform (Fire Safety) Order 2004**, these are: -

- Applies all workplaces and other non-domestic premises.
- New - One simple fire safety regime.
- Existing fire legislation deleted / amended.

- Risk assessment - based. (This also applies to the Fire Services, who are shifting resources to deal with domestic fatalities)
- Protection for persons inside building and anyone affected by a fire.
- Prevent fire starting.
- Prevent Fire Spread
- Maintain Fire Precautions to protect Fire Brigade as required by Building Regulations.

Important Legislations to be Repealed or Amended are: -

- Fire Precautions Act 1971 - Repealed
- Fire Certification – Repealed (This was a mixed blessing anyway)
- Fire Precautions (Workplace) Regulations 1997 + Amendment Regs 1999
- Fire Certificate (Special Premises) Regs 1976 – Repealed
- Construction (Health, Safety & Welfare) Regs 1996 - Amended

Altogether, about 100 pieces of legislation would be affected!

Clive said that the new regime would apply to virtually all work places and places to which the public have access, but not domestic premises. It will also apply to self-employed persons (but not where they work at home) and the voluntary sector e.g. Scout Hut. As in all legislation, the crucial aspect was the definition of the Responsible Person for implementation of the requirements. This could be: -

- The Employer
- Person in overall management
- Occupier
- Owner (Includes empty buildings)
- Landlords
- Contractors (e.g. Installation engineers)

With responsibility for employees, anyone on the premises, plus anyone who may be affected by a fire. Duties included the mitigation of effects of fire, i.e.: -

- Reasonable protection to people in vicinity of fire, as well as occupants
- Achieved by preventing fires from starting or preventing fires spreading. These are well known principles. Insurers will drive their implementation by cutting claims, as in a recent case where only 20% of a claim was paid because a fire door had been left open!
- Reducing impact of fires on the environment
- Reducing property damage
- Reducing risks to fire fighters

There are also good existing measures for Procedures for Serious and Imminent Danger and for Danger Areas: -

- Establish procedures to follow
- Nominate sufficient people to implement the system e/g/ Fire Marshals

- Control access to areas where it is necessary to restrict access on safety grounds, unless an individual has received adequate instruction. training e.g. Flammable Area (The DSEAR would also apply)

It is vital to appoint one or more competent persons to assist with compliance. The number of people, time, resources, and access to information is important. They must have suitable training experience and knowledge to undertake the task and should preferably be an employee than outsourced. A vital **new requirement** is that facilities that may have been provided under the building Regulations for the protection of fire fighters **MUST** be maintained. This applies to Dry Riser, Fire fighting shafts, Ventilation and access/egress for Fire Appliances

Enforcement will be based on the simple principle that the Employer/Responsible Person has responsibility/ownership for fire safety in their premises and the people who use them. The Responsible Person will be expected to determine how to comply with the law and written guidance is being produced to assist with this process. The burden of proof is, as always, for the accused to show that it was not practicable to do more than was done.

The contentious issue of use of fire extinguishers is most important matter to clarify. An attack on a small fire is a justifiable method of **controlling fire spread, providing protection and assistance to others and mitigating the detrimental effects of fire**. It is crucial that nominated staff are trained to use them and are given the opportunity to operate them. Only then can they be considered competent! At a general level, staff training must be carried out: -

- On recruitment
- When new or increased risks occur
- On changing responsibilities or being transferred.
- When new or altered work equipment is introduced
- On the introduction of new technology
- When a new or revised system of work is introduced

It should include: -

- Instruction on necessary precautions
- Instruction and training on action to take to safeguard themselves and others
- Periodic refreshers
- Take place during work hours
- Be free to employee

In summary, the provisions cover the duty to prevent fires and fire spread, place responsibility for fire safety on the responsible person – **not the fire service**, reduce environmental impact, property damage and dangers to fire fighters.

As far as the future goes, the proposals may become law in October 2005. But guidance has to be provided first – starting with the first model section from the

ODPM. The remaining sections are to be produced by the Building Research Centre and could follow either of these formats: -

- A simple guide, OR
- An in-depth Technical guide, OR
- A combination of the two in two documents.

Clive concluded by posing several questions that may have to be addressed following a fire: -

- Did you fail in your duty to prevent a fire?
- Was there a failure to prevent fire spread?
- Will there be an automatic inspection after a serious fire?
Yes there will!
- Is there an automatic assumption of contravention?
- Will employees claim for injury compensation?
- Audit trails become vital – are they adequate?
- How secure are your records from fire?

Members' Questions

Bob Jones of Birmingham City Council Housing Department asked if everyone in the workforce should be trained to use Fire Extinguisher. Clive said that depended on what the evacuation instructions said on the wall notices. If, say, everyone was told to evacuate without attempting to fight any fires, then there was no need to use fire extinguishers. Many employers took the view, however, that Fire Marshals should ensure complete evacuation first but then, if the opportunity arose, without putting themselves at risk, it was sensible to use a fire extinguisher to tackle small fires. Bob's colleague then asked what the position was if all fire extinguishers were removed. Clive replied that there was no categorical answer to this as the top priority was always to evacuate all persons. It made sense, however, to train a select few, say fire marshals, in order to prevent the business going up in flames, just for the want of a few seconds' simple fire fighting.

Andy McCluskey of SKANSKA asked if insurance companies would provide guidance. Clive said that he didn't know, but that he was awaiting definitive guidance from the Office of the Deputy Prime Minister.

Peter Evans made the point that in his years of completing fire surveys for an insurer, he concluded that normal occupiers were unable to introduce mitigation of fires with the materials at their disposal. Clive agreed and on the additional question of multi-occupation and levels of mitigation, he said that he was waiting to see if the guidance would ask for internal mitigation, or Building-to-Building standards.

A representative from **Wolverhampton City Council** asked if the response times from the Fire Service would be affected by the altered resource levels under the new legislation. Clive said that the closures of 25 Fire Station Stations, recently announced in the WMFS, took account of the response times as part of the **Integrated Fire Risk Assessment Plan**. It was important to understand, he added, that the legislation concerned itself with saving of lives, whereas Businesses were more interested in property damage. He went on to emphasise that the Fire Service was not attending to evacuate persons, either, that is the duty of the Responsible Person! **Mike Ware of Edge Tancred** commented that this strategy could mean that appliances might not turn up if they were needed for a more serious situation.

Malcolm Rabett of M.J.Gleeson asked about employers' responsibility for home workers. Clive stated that they were no different to other employees and Mark Hoare commented that Councils did carry out home assessments. **(Secretary's Note: So does the HSE!)**

A representative of **Kidderminster College** asked if the Responsible Person should be expressly identified and Clive replied it should be in writing. On the question of delegating duties, Clive confirmed that the alternative person must be trained, as well!

Bob Green of the Engineering Employers Federation asked if the Fire Services were to be the only enforcers under the new legislation and Clive replied that the HSE would also have an enforcement duty.

Sinead Farrell asked how it was possible to assess the competence of Fire Safety Auditors. Clive said that you should find out something about their background experience, check if they were on the National List, ask questions and if they had Professional Indemnity Insurance.

Peter Evans commented that some firms evacuated as an initial priority and then returned to the building to assess the fire fighting requirements. Clive agreed that some firms did do that, but emphasised that the return must be controlled and written into the fire risk assessment plan.

Steve Essex of A.C.Lloyd (Builders) asked if there was a need for sprinklers to be fitted in houses, where most deaths occur. Clive agreed that it would be a good idea and wished they would.

With that, Warwick closed the meeting at the end of a massive question session and asked the meeting to show their appreciation in the usual way.