

APPENDIX 1

Protocol between Lancashire Fire and Rescue Service (Chorley Fire Safety) and Chorley Council Local Authority Housing Enforcement Officers to improve fire safety.

A national protocol exists (See appendix 2 in the LACORS Guide to Housing Fire Safety) which establishes the principles and joint working arrangements between Local Housing Authorities and Fire and Rescue Authorities to deliver the objective of improved fire safety. It is a framework which provides the basis for detailed local arrangements whilst encouraging collaboration at a regional level.

This document is intended to expand on the ‘**detailed local arrangements**’ and is intended to assist Fire Safety and Housing Officers within the Chorley District to deliver the objectives of the national protocol in the spirit of effective local partnership working.

The underlying principles of the national protocol are:

- To ensure appropriate standards of fire and other safety provisions are provided and maintained in residential premises
- To develop data sharing arrangements
- To assist landlords and other providers to understand the legal framework which they operate under
- To encourage opportunities for offering joint training and awareness sessions
- To recognise the needs and limitations of Fire and Rescue Authorities and Local Housing Authorities and to acknowledge that both authorities will always seek to act in good faith

Which authority should take the lead enforcing role for fire safety?

The table below (taken from the national protocol) lists the Authority that will **normally** take the lead in inspection and enforcement action in different types of property.

| Type of premise | Lead Authority |
|---|-------------------------|
| Single dwelling | Local Housing Authority |
| Shared Houses | Local Housing Authority |
| All House in Multiple Occupation (HMO) whether or not subject to mandatory, selective or additional licensing | Local Housing Authority |
| All self contained flats, whether purpose built or converted | Local Housing Authority |
| Premises with mixed commercial and associated residential accommodation and sheltered housing | Fire Authority |
| Hostels ₃ /B&B/Hotels | Fire Authority |
| Local Housing Authority | Fire Authority |

The national protocol goes on to say:

‘Nevertheless, all Fire and Rescue Authorities are under an obligation to reduce fire deaths in line with their risk based enforcement policies and will undertake planned proactive inspections in any identified type of premises or in a particular locality as they deem necessary. Prior to starting any such series of inspection programmes, consultation should take place to ensure that duplication of inspection and enforcement does not occur. Any such programmes may, subject to local agreement take place individually, collaboratively or jointly and should complement the inspection programme of the Local Housing Authority. Where necessary emergency action will be taken by either authority to reduce any immediate risk but further remedial enforcement will only be undertaken following consultation with the designated lead authority. Nothing in this protocol will prevent either authority undertaking specific individual monitoring or enforcement action if appropriate’.

It is the content of the forgoing paragraph that necessitates the production of this document.

Lancashire Combined Fire Authority Risk Management Plan (RMP)

The RMP sets out our broad intentions and contains specific targets against key performance indicators for each period. Each year the RMP will be reviewed to ensure that the content remains relevant and that any new pressures or emerging issues are fully understood and appropriate actions planned.

Day-to-day business is co-ordinated through District Risk Reduction Plans and Departmental Plans and subject to the same annual review and refresh process each September.

The District Risk Reduction Plans comprise a locally tailored risk reduction plan for each of the twelve Lancashire districts and the two unitary authorities. Based on published risk profiles, (available for viewing at www.lancsfire.gov.uk), the plans focus on local solutions to local problems and, wherever possible, link to other partners' plans thereby ensuring a joined up approach.

Fire Safety Enforcement (FSE) Inspection Program

LFRS operates a risk based approach to Fire Safety to assist in the achievement of the objectives set out in the Risk Management Plan. This approach is set out in the Fire Safety Enforcement (FSE) Inspection Program. The FSE inspection program may necessitate the following types of activity in any housing premises (or part of housing premises) covered under the provision of the Regulatory Reform (Fire Safety) Order 2005:

1. Inspection following a fire
2. Inspection following receipt of a complaint
3. Planned inspection of premises not previously inspected (intelligence led inspection)
4. Re-inspection of premises based on the level of risk determined on the previous inspection (re-cycled inspection)
5. Inspection following receipt of a Building Regulation consultation
6. Inspection on receipt of a request for advice (the source of the request could conceivably be from any source e.g. tenant / landlord / Strategic Housing officer etc).

Joint Inspections

Not all inspections of premises where housing is provided will warrant the attendance of an officer from both authorities. It will normally be a matter for the officer concerned to determine whether an officer from the other authority should attend based on the information available at the time. It should be borne in mind however that, by their very nature, certain situations will almost certainly warrant the attendance of an officer from both authorities, namely:

1. Inspection following a fire (because fire damage often causes other Housing H&S issues)
2. Inspection following receipt of a complaint (because it is highly unusual to find that poor management is confined only to fire safety issues)
3. Any inspection where it is considered tenants may need to be re-housed (e.g. where a prohibition notice may be served)

In addition to the above LFRS (Chorley Fire Safety) and Chorley Council (Housing Officers) agree to actively target and jointly inspect perceived risks based on local intelligence.

Enforcement Action

Wherever possible, the authority identified in the forgoing table as being the most appropriate for each premises type will lead when enforcement action is taken.

In practice this will often mean officers from LFRS and Local Authority housing officers holding a post inspection 'conference' to determine which agency will enforce on which issues. The outcome of the conference should be a clear delineation of enforcement which should be reflected in the subsequent paperwork which should contain no under or over lapping of issues. Prior to either authority issuing reports/notices it is essential that consultation takes place to confirm that the outcomes determined in the post inspection conference have been reflected in the subsequent paperwork. Consultation may take the form of a telephone conversation, letter, fax, phone call or e-mail. In each case the officers

involved in the process will be responsible for ensuring a suitable form of consultation has been adopted. The need for a full and transparent audit trail must always be uppermost when determining this.

In every case the most effective enforcement route should be adopted taking into account the risk level perceived in the premises in question, and the absolute need to maintain an open and transparent enforcement process which the 'responsible person' (usually landlord) understands.

LFRS officers must be mindful that the Housing Health and Safety Rating System does not always allow officers from the Chorley Council to categorise fire related issues as high priority (consequently improvement works can often be required through informal enforcement with relatively lengthy timescales). In such circumstances, where the risk level warrants it, LFRS should take the lead on fire issues using its own FSE enforcement logic which will facilitate a faster reduction in fire risk.

LFRS officers must be mindful that the Regulatory Reform (Fire Safety) Order 2005 does not apply to domestic premises. As a consequence the RR(FS)O 2005 may not be used to enforce the requirement for early warning smoke alarms within an individual flat or bed-sit. As such a requirement can only be facilitated through the Housing Act, it is anticipated that even when LFRS leads on enforcement action in a particular premises there will nearly always be **an essential part** of the fire alarm provision that can only legally be specified by the Housing Authority. N.B this is not always the case, e.g. in some small premises where the alarms provided to protect the means of escape are also sufficient to provide early warning the occupant/s (e.g. single flat above a shop).

Interim Risk Reduction Measures

It is accepted that remedial works required to reduce fire risk can be costly and time consuming. As a consequence there will always be a period of time between discovery of non compliant premises and the point at which a level of fire safety is achieved which is commensurate with that advocated in the LACORS guide. It is essential that, throughout this time period, persons still using the premises are not exposed to excessive risk from fire.

Therefore, in addition to collating information about the premises and its owners etc one of the first duties of LFRS staff when inspecting housing premises will be to determine whether they are (from a fire perspective) safe for habitation. Although LFRS is mindful of the shortage of social housing and other pressures Chorley Council is subjected to, it must be recognised that some premises may be so non-compliant that habitation can no longer be tolerated. In such circumstances LFRS will instigate Article 31 Prohibition / Restriction procedures and would always liaise with Chorley Council when doing so (in some circumstances it may be appropriate for Chorley Council to use similar powers facilitated by the Housing Act).

In every case LFRS would seek to work with the responsible person (usually landlord) to help them identify what interim fire safety measures could be put in place to avoid a prohibition notice. Judgement as to what constitutes an acceptable level of interim measures is very complex and will vary on a case by case basis (based on height of building, nature of occupancy, availability of alternative escape routes (including window escape), mobility of occupants etc.).

It is normally expected that the responsible person (usually landlord) will provide all the material necessary to implement the interim measures themselves. On occasion however, it may be appropriate for LFRS to provide smoke/heat alarms as an addition to the Home Fire Safety Check Service. In such cases it will always be made clear to the responsible person that although LFRS may have provided such equipment, legal ownership of fire risk (and maintenance of such) rests with the landlord **not** with LFRS.

To assist fire safety and housing officers undertake their duties effectively when the above circumstances occur, LFRS and Chorley Council will agree a joint procedure. From time to time the procedures adopted under such circumstances may be subject to change.

Home Fire Safety Check (HFSC)

Home Fire Safety Checks are carried out by Fire Service personnel and involve visiting private dwellings and giving free fire safety advice to the occupants, fitting smoke alarms where necessary. A Home Fire Safety Check is defined as a visit to a dwelling during which: the property is entered and examined, advice is given regarding fire safety, smoke alarms are fitted as required by procedures and a record is made of the findings. The Home Fire Safety Check is purely voluntary as there is no obligation on the occupier to have one or to act on the advice given. Once an occupier has been given the best advice available on reducing the risk of fire, it is their responsibility whether to accept and act on the advice.

HFSC's are undertaken with tenants not landlords.

LFRS staff frequently discuss the HFSC service with tenants and generate referrals from those who 'opt in' to the service. A local memorandum of understanding has been drawn up between Southern Area Community fire safety (CFS) Team and Chorley Strategic Housing which allows Chorley Strategic Housing staff to undertake exactly the same function in any housing premises even if they are not with an officer from LFRS. Chorley Strategic Housing staff have access to a referral form and these are sent directly to the Southern Area CFS team. In this way it is hoped the effects of the HFSC initiative are devolved as widely and efficiently as possible.

Prosecutions

LFRS and Chorley Council both have systems in place to determine when the bringing of a prosecution is appropriate.

In all such cases it is anticipated that such a decision would not have been made without lengthy consultation with the other authority to ensure the principles of the local government enforcement concordat were upheld and that any potential for 'double-jeopardy' was avoided.

Requests for advice

Staff from either Authority who are contacted by any member of the public seeking help or advice concerning Housing and Fire Safety matters should always be referred to the content of the LACORS guide. Where possible the staff member concerned should act in the best interest of each authority in terms of the advice given but should always be mindful that sometimes the most suitable advice can only be given by the most appropriate authority. In such circumstances the person requesting advice should be supplied the most appropriate contact details for the other authority.

THIS DOCUMENT SHOULD BE INSERTED IN THE REAR COVER OF THE LACORS HOUSING – FIRE SAFETY GUIDE.

THE APPLICABILITY OF THIS DOCUMENT SHOULD BE REVIEWED ON AN ANNUAL BASIS.

SIGNATORIES TO LOCAL PROTOCOL:

| AUTHORITY | NAME | SIGNATURE & DATE |
|----------------------------|------|------------------|
| Lancashire Fire and Rescue | | |
| Chorley Council | | |