



Llywodraeth Cymru
Welsh Government

GUIDANCE

Fire Safety Act 2021

Guidance on the roles and duties of those responsible for fire safety in buildings.

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Introduction

The Welsh Government has produced this guidance to assist those affected by the Fire Safety Act 2021, and to also assist people in finding out whether they are someone affected and were maybe unaware. It applies to premises in Wales. The Home Office has published broadly similar **guidance** for premises in England.

The Fire Safety Act 2021 clarifies the parts of a premises that are covered by the Regulatory Reform (Fire Safety) Order 2005 (or “the Fire Safety Order” or “FSO”).

The Fire Safety Order applies to all non-domestic premises in England and Wales. These include buildings with two or more domestic premises such as blocks of flats, although individual flats themselves are excluded.

Responsibility for complying with the Fire Safety Order largely falls on the ‘Responsible Person’ as described in the Order. This may, for example, be an employer, the freeholder, management company or managing agent depending on local arrangements. If you are unsure if you are a Responsible Person for a

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building this guidance has a section which may help you. It has information on what it means to be a Responsible Person, and about what some of their responsibilities are under the Fire Safety Order.

The Fire Safety Order was originally designed to apply to workplaces, and this meant that how it applied to residential buildings was not entirely clear. As a minimum, it applied (and still does) to the “common parts”, areas for the use of all residents like hallways, staircases and landings. The new legislation clarifies that where a building contains two or more sets of domestic premises, the areas to which the Fire Safety Order applies include:

- the building’s structure and external walls (including doors, windows and anything attached to the exterior of those walls, such as balconies, cladding, insulation and fixings) and any common parts
- all doors between domestic premises and common parts such as flat entrance doors.

These areas should therefore be considered as part of the fire risk assessment carried out by a Responsible Person for a building. Please note that if you currently contract out this work, you must make sure that those engaged to complete the fire risk assessment include those elements detailed above, as you are responsible for complying with the Fire Safety Order.

A Responsible Person's responsibilities also include, amongst other matters, the removal or reduction of fire hazards in the building for which they are responsible, and implementing reasonable measures to ensure the safety of all residents, those employed to work in the building and visitors to the building.

Fire and Rescue Authorities can issue enforcement notices if they decide that Responsible Persons or Duty Holders (who also have some responsibilities under the FSO) have failed to comply with any provisions of the Fire Safety Order. They can also serve alteration or prohibition notices. The Fire Safety Order creates a number of offences, for example it is an offence for a Responsible Person or other Duty Holder to fail to comply with specific requirements imposed by the Fire Safety Order which puts people at risk of death or serious injury from fire.

If you are unsure if you are a Duty Holder as noted in the section, there is also a section in this guidance which provides information on who a Duty Holder could be.

This guide has been issued under article 50 of the Fire Safety Order. It aims to help Responsible Persons and Duty Holders understand and discharge their duties, but it is not the law. Nonetheless, complying with it (or not complying with it) could be admissible as evidence in any legal proceedings relating to breaches of the Order.

Fire safety responsibilities under the Regulatory Reform (Fire Safety) Order 2005

This section will assist you in finding out whether you are a Responsible Person under the Fire Safety Order, and check what responsibilities you have for fire safety.

Please note that this information is not exhaustive but designed to provide you with a high-level summary.

Understand the legislation

The Fire Safety Order is the main fire safety legislation in Wales and England. It applies to a wide range of premises and sets out responsibilities for individuals subject to the Fire Safety Order.

The Fire Safety Order does not stipulate in detail the sort of features that all premises need to have. Instead, it places broad duties to help keep people safe from fire upon, mainly, the Responsible Person. The “Responsible Person” is defined in article 3 of the Regulatory Reform (Fire Safety) Order 2005.

The Responsible Person must carry out an assessment of the fire risks to people who are or may be lawfully on the premises or within its vicinity (these are described as ‘Relevant Persons’ in the FSO). This fire risk assessment helps

identify the fire safety precautions the Responsible Person must take to comply with the Fire Safety Order.

The Fire Safety Order applies to:

- all workplaces and commercial or public buildings
- non-domestic parts of multi-occupied residential buildings (which are buildings that contain two or more sets of domestic premises). This includes those areas clarified by the Fire Safety Act 2021, which include:
 - balconies
 - structures
 - external walls and anything attached to the exterior of those walls
 - front doors of individual flats

Check if you are the Responsible Person in a workplace

A workplace means any premises or parts of premises used by an employer and made available to their employees as a place of work. It includes any place within the premises that an employee has access to while at work and areas used to access the place of work or that provide facilities in relation to the place of work such as:

- rooms
- lobby areas
- corridors
- staircases

You are the Responsible Person if you are the employer and the workplace is to any extent under your control (even if they have never visited the premises or appoint managers to run the business), for example:

- you run the company
- it is a family-owned business
- you are self-employed

If there is no employer who is a Responsible Person for the premises you are

the Responsible Person if you have some degree of control over the premises in connection with the carrying on of your trade, business or other undertaking (whether for profit or not), for example:

- village hall
- scout hut
- charity shop
- place of worship

If neither of the above apply you are the Responsible Person in relation to a premises, or a part of a premises, if you are the owner of the premises.

If you are not sure whether or not you are the Responsible Person you should seek appropriate specialist advice.

Check if you are the Responsible Person in residential premises

You are the Responsible Person for the non-domestic parts if:

- some or all of the premises is a workplace, you are the employer and the workplace is to any extent under your control. In this case you are the Responsible Person for the parts of the premises that are a workplace.

If an employer is not the Responsible Person then you are the Responsible Person if:

- you have control of the premises for the purposes of a business (whether for profit or not), for example you are the freeholder, landlord or managing agent.
- you own the building.

In buildings with two or more domestic premises, managing agents are often appointed by the freeholder to manage the common areas of the building and may have control over this area of the building.

Depending on the circumstances, including the details of any contract, the management company could be the Responsible Person or a Duty Holder.

Also, where there is no other Responsible Person in relation to any premises, or a part of any premises, the owner is the Responsible Person. This can include the non-domestic parts of multi-occupied residential buildings where there is no management agent contracted to manage the building. It also includes unoccupied buildings which the Fire Safety Order applies to.

Further information on the responsibilities of a Responsible Person are provided in this guidance.

Check if you are a Duty Holder

If you are not the Responsible Person you may still be a Duty Holder with responsibilities under the Fire Safety Order. Your responsibilities will depend on the circumstances and level of control you have over the premises. If you are a Duty Holder you are subject to the duties under the Fire Safety Order so far as they apply to the matters within your control.

In addition if a contract or tenancy agreement requires you to maintain or repair the premises or anything in or on those premises, or places an obligation on you in relation to the safety of the premises, then you are deemed to be a Duty Holder.

Examples of Duty Holders may include but are not limited to:

- fire risk assessor
- fire alarm engineer
- managing agent
- duty manager

If these examples (or a similar role) describe your role, you may be a Duty Holder.

Further information on the responsibilities of a Duty Holder are provided in this

guidance.

Shared premises

Shared premises are those which have more than one Responsible Person and or Duty Holder.

For non-domestic parts of the premises, the Responsible Person will probably be the employer or business owner. For the residential parts it is likely to be the landlord, freeholder and or managing agent.

If you are a Responsible Person and or Duty Holder of a shared premises then you must co-operate and co-ordinate with other Responsible Persons and Duty Holders to comply with the requirements of the Fire Safety Order. This is because a fire in one part of the building will often threaten those present in the rest of it. Effective fire safety measures can only be taken if all Responsible Persons understand the risks in the whole building, and act accordingly.

Responsibilities under the Fire Safety Order

This section provides some high-level guidance on the roles and responsibilities for Responsible Persons, Duty Holders and other persons under the Fire Safety Order.

It is designed to help Responsible Persons to carry out their duties under the Fire Safety Order.

It does not cover all circumstances or constitute legal advice. It is meant for non-specialists to assist them in understanding their duties if they are the Responsible Person, or a Duty Holder. If you need further information beyond this guide you may want to seek specialist advice. This guidance should be read in conjunction with the Fire Safety Order.

What a Responsible Person must do

If you are the Responsible Person, then you have the following duties. Note that this is only a broad account of the main duties in the Fire Safety Order, and other provisions of it may also apply to you.

Fire safety measures to be taken

As the Responsible Person, you must comply with articles 8 to 22 and 38 of the Fire Safety Order and any regulations made under article 24 as relevant, which sets out the duties you have under the Fire Safety Order in relation to fire safety throughout your premises including a requirement to complete a fire risk assessment.

You must record the significant findings of this risk assessment, including measures that have been or will be taken, and any groups of persons identified by the assessment as being especially at risk, if any of the following apply:

- you have five or more employees
- there is a licence under an enactment in relation to the premises for example, an alcohol licence
- there is an alterations notice in place in relation to the premises requiring this

However, we would suggest all fire risk assessments are recorded to ensure you have a record of the risks, and for ease of update at the next time an assessment is required.

Undertaking a fire risk assessment

You must undertake a fire risk assessment of the premises and review it regularly.

A fire risk assessment is an assessment of the risks to which Relevant Persons are exposed, the purpose of the assessment being to identify the steps that

must be taken to comply with the requirements of the Fire Safety Order. A fire risk assessment will include, amongst other things:

- a review of the premises to identify any areas where a fire might start
- identified actions needed to reduce the likelihood of fire and to keep people safe if a fire happens
- identified fire safety measures that you need to take to make the premises safe for employees or residents, as well as other 'Relevant Persons'

A Relevant Person is someone who is lawfully allowed to be on the premises, and those in the vicinity of the premises (including outside) who may be at risk from a fire in the premises.

You can either do the risk assessment yourself, if you feel you are competent to do so, or you can get a competent person to do it for you. If you get someone to do it, it is recommended that you choose a person with **Third Party Certification**. Even where you have someone complete it for you, as the Responsible Person, you are legally responsible for the fire risk assessment.

You, or the competent person you appoint, should regularly review the fire risk assessment and update it if there have been any significant alterations to the building, processes or equipment, or where you believe that it is no longer valid. You must review the risk assessment regularly, and particularly if there is reason to suspect that it is no longer valid, or there has been a significant change in the matters to which it relates, for example, changes to the premises.

Examples of actions you should take include but are not limited to:

- minimise the risk of a fire occurring, and take steps to make sure that if a fire starts, it can't spread through the building
- make sure clear, unobstructed and well-lit escape routes are available and that any emergency exit doors can be quickly and easily opened from the inside without needing a key
- where a door is shut for security purposes (such as in the stockroom of a shop), make sure this can be easily opened from the inside by installing push bar devices - these should not be blocked or obstructed
- in a workplace, make sure there is a way to detect fires (like smoke or heat

alarms, or, for larger premises, a full automatic alarm system) and that this raises an alarm to alert everyone to evacuate

- in a workplace, train staff on what to do if a fire happens
- in a residential building, tell the residents what the fire safety measures and evacuation strategy are
- co-operate and co-ordinate with other Responsible Persons (such as a shopping centre or a residential building on top of an office or a shop) this will help make sure that any risks are identified, and agreement reached on how they can be appropriately managed
- check that shared escape routes are always clear for example by making sure a shop does not block the escape routes from a residential building when there is a delivery of stock

This is not a definitive list of actions to make you compliant under the Fire Safety Order. For further advice contact a professional fire safety advisor or seek advice from your local Fire and Rescue Service.

In workplaces: tell staff about the risks

You need, amongst other things, to:

- plan for an emergency
- provide staff with information, fire safety instructions and adequate safety training. The information that must be provided is detailed in the Fire Safety Order and includes the risks to staff identified by the risk assessment, the preventive and protective measures that are in place, and the emergency procedures and the measures in place. Training requirements are also detailed in the Fire Safety Order.

You should also listen, acknowledge and where appropriate act upon information provided by others about fire safety concerns for example staff, customers, or residents.

Where you employ five or more people, you must record the significant findings of your fire risk assessment and any groups identified as being particularly at risk.

If you need more advice, your local Fire and Rescue Service can help you determine exactly what you need to do to keep people safe.

Duty Holder responsibilities

As a Duty Holder you will have some responsibilities for fire safety under the Fire Safety Order.

For example, using the previous examples of a Duty Holder, fire risk assessors or other fire safety professionals may be employed to identify the safety measures required through a fire risk assessment to keep people safe in the event of a fire.

Fire alarm engineers are appointed to maintain, and if necessary, repair a key component of the fire safety measures for the premises.

As a Duty Holder you should be clear on what your responsibilities are under the Fire Safety Order. Your responsibilities may be linked to those set out in any contract or tenancy agreement but this is not necessarily the case.

Employees

As an employee you should follow fire safety measures put in place and you must co-operate with your employer to help them comply with their duties under the Fire Safety Order.

If you identify something dangerous, you must let your employer know. You must also take reasonable care for the safety of yourself and others who may be affected by your acts or omissions at work.

You must not interfere with any measures put in place, for example, removing fire extinguishers from their brackets, propping open fire doors or placing covers over fire detection equipment.

Residents

If you are a resident of a building to which the Fire Safety Order applies (like a block of flats or a house occupied by more than one household) you should:

- comply with any fire safety measures that have been put in place and not interfere with these. For instance you should not tamper with or remove the self-closing device from the fire door at the entrance to your flat, or replace a fire door with one that does not offer proper fire protection.
- report any fire safety defects to the Responsible Person, or their on-site representative (such as the managing agent, or caretaker or concierge if there is one).

Penalties and enforcement

If you are a Responsible Person or Duty Holder and breach the Fire Safety Order, you may be subject to enforcement action.

Fire and Rescue Authorities may inspect premises and can issue alteration and/or enforcement notices telling you about changes you need to make. They may also issue prohibition notices which prohibit or restrict the use of your premises. If you do not comply with these notices, or with your duties under the Fire Safety Order, you may be liable to prosecution and, if found guilty, sent to prison or fined.

Fire and Rescue Service contacts

South Wales Fire and Rescue Service

- Bridgend
- Rhondda Cynon Taf
- Merthyr Tydfil
- Cardiff

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- Vale of Glamorgan
- Caerphilly
- Blaenau Gwent
- Torfaen
- Newport
- Monmouthshire

Telephone: 01443 232000

Mid and West Wales Fire and Rescue Service

- Powys
- Ceredigion
- Pembrokeshire
- Carmarthenshire
- Swansea
- Neath Port Talbot

Telephone: 0370 6060699

North Wales Fire and Rescue Service

- Isle of Anglesey
- Gwynedd
- Conwy
- Denbighshire
- Flintshire
- Wrexham

Telephone: 01745 535250

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