

Risk Assessment, the Need for Quality

Much has been said in the Summer edition of the Journal about Risk Assessment (RA) and the debate is on-going. A conference run under the title “Social Housing and the Regulatory Reform (Fire Safety) Order - Exploring Solutions to Comply” made another plea for a register of Assessors, Firex North at the end of October devoted many seminar sessions to the subject and a group known as “The Risk Assessment Competency Council” is working on a standard. This latter group was set up by the DCLG following the Lakanal House tragedy as Sir Ken Knight’s initial report drew attention to the requirements for good risk assessments. RA was also a major discussion item at the IFPO Horseshoe Forum in August so let’s just take a basic look at the subject again.

The Risk Assessment has become the backbone of fire safety management in buildings. It is not clear if that was the intention of the changes to fire policy that followed the Bain review and led to some amendments to ADB and the implementation of the FSO in 2005/6 but that is certainly the result. An initial assessment is due in a new building from day one and should be based on the contents of a file produced by the developer and his team as set out in Appendix G of ADB. From here the Responsible Person is required to keep that assessment up to date and it needs to be suitable and sufficient to show that the fire precautions are what are needed for safe occupation of the premises at all times.

Enforcement notices have been served on many people including the DCLG itself at Eland House for not having “suitable and sufficient” RAs and around 1500 prosecutions have followed with some jail sentences and heavy fines imposed as highlighted earlier in this Journal. The RA must answer the question “Is this building safe for us to use?” No more and no less than that.

The Force of Law

Following the £400,000 fine imposed on New Look following the fire in Oxford Street the Court of Appeal ruled that the heavy penalties imposed are appropriate and in a statement dated 22nd June on the judgement Law Firm Shoosmiths pointed out that:

“In dismissing the appeal, the Court sent a clear message that those in control of premises subject to the Regulatory Reform (Fire Safety) Order 2005 cannot afford to dedicate fewer resources to ensuring compliance with fire safety obligations than they would in meeting health and safety requirements.”

And further:

“The hefty fine administered extinguishes any doubt that retailers, and other organisations responsible for fire safety, can ill afford complacency when it comes to compliance with the Regulations.

Looking forward, those in control of premises subject to the Regulations may wish to review current policies to ensure compliance. *Consideration should be given to the specific structure and layout of the premises*, as well as the practices performed within it. Changes to any of these should prompt re-examination of the risks posed and the magnitude of the corresponding obligations they create.”

Note the words in (my) italics. That initial RA performed as you move into new or altered premises should include confirmation that the all specified and agreed fire precautions have been provided adequately. You cannot assume that because the building is new it must comply with the guidance in ADB because that is just Guidance and the occupier is responsible for deciding if everything required is there, has been installed correctly and will

work as intended. The enforcement authority no longer checks the building, the occupier must do that in assessing the mitigation of risk in a suitable and sufficient manner. In existing buildings the RP and therefore the RA must show an understanding of the fire strategy and the structure, where the escape routes are, where the fire separating elements are, whether or not compartmentation of the building is complete and will resist the spread of smoke and fire. If alarm systems will warn occupants to allow escape safely and fire fighting shafts will allow the FRS to fight the fire as they expect to do. Responsibility for fire safety rests firmly with the occupier of the building.

How does the RP know precautions are properly installed?

If the advice in ADB has been followed and Third Party Certificated (TPC) installers have been used for the installation of fire precautions in a new building then the Appendix G file should contain Certificates of Conformity from the contractors concerned backed by the Certification body. If it does not the occupier should be aware that the building may not have what was expected by way of fire precautions and the RP (or his Assessor) must act accordingly or be liable for prosecution.

Sir Ken Knight, the Government's Chief Fire and Rescue Advisor (CFRA), in his early report into the Lakanal House tragedy drew attention to the quality of RAs and the competence of those producing them. The checks on the existing RA for Eland House were done by the Crown Premises Inspection Group who come under the remit of the CFRA and the outcome should be seen as a clear message on the quality required for such work.

It should be noted that Shoosmith's briefing on the Appeal Court Ruling also says:

“Procedures and training policies must be comprehensive, up-to-date and kept under review if risks are to be guarded against.”

This makes it clear that the RA is a continual process and any work in premises subject to the FSO should be undertaken, as advised in the DCLG RA Guidance documents, by Third Party Certificated contractors so that the RP can show an audit trail for the quality of any further work to add to the information provided under Regulation 38.

The message is clear; it is up to the building owner, occupier and his team to ensure that the premises are fire safe. This means that the RA must have proper depth. Nick Coombe, speaking for the CFOA at Firex North made the point that just because a person has spent 30 years riding on a big red lorry that does not qualify him to undertake Risk Assessments. In a subsequent interview he was asked for his opinion on the main problem with Assessors. He was unequivocal in saying that it was a lack of knowledge of PFP and its function and that many decided that if you fit a fire alarm you will be all right, when in fact that in isolation may make the situation worse.

In a letter on RAs dated the 21st June to owners of Purpose Built Flats in Brighton, East Sussex FRS and the local Council advised a check list of 21 points as a minimum and in doing so said:

“NB: we have not necessarily covered every possible point, you will need to ensure that your risk assessment is thorough”.

The letter went on to advise the use of an “appropriately qualified fire engineer” to assess the building.

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