

From Stuart Everard
To SASAC committee members
Date 8th September 2011
Subject Duties under the Regulatory Reform (Fire Safety) Order 2005 Act.

As a result of the recent dialogue about our legal position regarding the use of non-flame retardant fabrics in the curtains proposed for the lecture room refurbishment, I became aware of how oblivious I was of the committee's duties under the Regulatory Reform (Fire Safety) Order 2005 Act (subsequently referred to as RRFSO).

I assume that like me, many other members of the committee are also unaware of the situation and this memo is intended as a briefing note to summarise the situation and highlight we do not appear to be compliant with the act with regards to providing evidence of regular and competent risk assessments since the act came into effect. **This situation could potentially invalidate our insurance.** As directors we have a legal duty not to incur liabilities we believe the company may not be able to pay because our directors' personal liability then becomes unlimited.

The RRFSO has been in force for approximately five years and it is believed that as many as a third of businesses are also unaware of their duties under the order. Of those that are aware, it is hard to say how many are taking the law seriously or may be using the assessment approach as a way to go unmonitored in choosing not to spend on fire safety.

Prior to October 2006 Fire Safety in the UK was implemented on a 'Prescriptive basis' to define the minimum level of fire safety to the wide range of premises. The legislation consisted of over 70 pieces of individual pieces of legislation and two major acts - The Fire Precautions Act 1971 and Fire Precautions (Workplace) Regulations 1997. The local fire authority would visit, assess the premises, and if all was found to be in order, would issue a fire safety compliance certificate. This meant in the event of a fire, any subsequent review would find the fire systems that had been in place were lawful. As and when 'holes' in that legislation were highlighted it was amended but meant the many legislation pieces were not always consistent and could be difficult to interpret. The RRFSO was introduced to address the inconsistencies in this previous regulation.

The RRFSO requires a "responsible" person or persons, to carry out a risk assessment of premises in compliance with the published guidelines, and prove there are adequate and reasonable safety precautions are in force specific to their premises. The proof that adequate precautions were taken comes primarily in the form of a risk assessment file of evidence or log book.

The appointment of inexperienced individuals to assess fire safety is an obvious issue. In the event of an incident, any advice or assessments carried out by the "responsible persons" will be under scrutiny as to whether they were competent and qualified to perform that role. When the "responsible persons" are not available in-house there is the option to contract out the position to a fire safety consultant to conduct the risk assessment.

Whilst the "responsible persons" are culpable for any breaches in compliance with the order, as Directors we must ensure the appointed "responsible persons" are competent; their assessments are performed at the appropriate frequency; the evidence of the assessment is recorded and reviewed; and any recommendations are implemented.

We are responsible and individually liable under the HSE regulations and in particular, in event of a death, liable to prosecution under the Corporate Manslaughter and Corporate Homicide Act.

For further information see the following:

<http://www.riskbase.co.uk/public/media/guide/Regulatory%20Reform%20%28Fire%20Safety%29%20Order%202005.pdf>

<http://www.legislation.gov.uk/uksi/2005/1541/contents/made>

<http://www.hse.gov.uk/pubns/indg417.pdf>