

Practical Fire Safety Guidance for existing Specialised Housing and similar accommodation

Business and Regulatory Impact Assessment

January 2020

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1. Purpose and intended effect

1.1 Background

Following the fire at Grenfell Tower in 2017, the Scottish Government established a Ministerial Working Group (MWG) to review building and fire safety regulatory frameworks. The Review of the Fire Safety Regime in Scotland (the Review) was one of three MWG Reviews. The Review found no major gaps in Scottish legislation but made a number of recommendations, including one regarding the introduction of fire safety Guidance for managers of specialised housing. It advocated a “person-centred” approach to meet the needs of all individuals that may need additional help in terms of fire safety.

Specialised housing comprises sheltered and extra care housing mainly for older people who may require a degree of care and support. It also includes supported housing for people with physical, sensory, mental health or cognitive impairments, who live, to varying degrees, independently within the community; in some cases, residents may require significant care and support meriting a high level of fire protection measures. In addition, the Guidance applies to small care homes which have been constructed as domestic dwellings and which accommodate a small number of residents. Those who receive care or support in general needs housing and who are vulnerable to the risk of fire may also find the Guidance useful.

1.2 Aims and Objectives

The aim is to enhance fire safety in specialised housing and similar premises thereby preventing fires and reducing deaths and injuries from fire where they occur. The main objective is to:

- ensure those responsible for fire safety in specialised housing and similar premises are able to determine appropriate fire safety measures for vulnerable people by providing a single source of Guidance covering general fire safety and fire safety risk assessment.

1.3 Rationale for Government intervention

The need for the introduction of Scottish Guidance was identified by the Review of the Scottish Fire Safety Regime and agreed by the Ministerial Working Group.

1.4 National Outcome

This contributes to the Scottish Government’s National outcomes:

We live in communities that are inclusive, empowered, resilient and safe

And the Justice Vision priorities:

We will enable our communities to be safe and supportive, where individuals exercise their rights and responsibilities

2. Consultation

2.1 Within Government and External Stakeholders

This work was initiated and agreed by the Ministerial Working Group on Building and Fire Safety.

2.2 Ministerial Working Group

Name
Aileen Campbell, Cabinet Secretary for Communities and Local Government (Chair)
Kevin Stewart, Minister for Local Government, Housing and Planning
Ash Denham, Minister for Community Safety
Scottish Fire and Rescue Service
Her Majesty's Fire Service Inspectorate
Scottish Government officials

There was input to the Review by an Advisory Group and a Review Team.

2.3 Fire Safety Regime Review: Advisory Group

Organisation
Scottish Government Safer Communities Division
Scottish Government Better Homes Division
Scottish Federation of Housing Associations
Convention of Scottish Local Authorities (COSLA)
Association of Local Authority Chief Housing Officers
Scottish Fire and Rescue Service
Chartered Institute of Housing
Property Managers Association Scotland
Glasgow and West of Scotland Forum of Housing
New Gorbals Housing Association
Fire Brigades Union
Wheatley Group
Society of Chief Officers of Trading Standards in Scotland
Scottish Government Building and Fire Safety Coordination Team
Scottish Government Building Standards Division
Scottish Government Legal Division

2.4 Fire Safety Regime Review: Review Team

Department
Scottish Government Fire and Rescue Unit
Scottish Government Better Homes Division
Scottish Fire and Rescue Service
Her Majesty's Fire Service Inspectorate
Scottish Government Building and Fire Safety Coordination Team
Scottish Government Building Standards Division
Scottish Government Legal Division

Preliminary meetings were held with the following partners and stakeholders prior to drafting the Guidance:

2.5 Other Scottish Government Contacts:

Department
Building Standards Division
Health & Social Care
Housing Services
Better Homes – service policy
Better Homes – supported accom

2.6 Other External Stakeholders

Organisation
Scottish Housing Regulator
Care Inspectorate
COSLA
Coalition of Care and Support Providers in Scotland (CCPS) – Housing Support Enabling Unit
Scottish Federation of Housing Associations (SFHA)

A pre-consultation engagement event was held on 7 June 2019 at Victoria Quay, Edinburgh and invited key stakeholder groups to take part in helping to shape the first draft of the Guidance. Attendees included:

Organisation
SFHA
CCPS - Housing Support Enabling Unit
Glasgow & West Scotland Housing Forum
COSLA
Bield
Blackwood
Hanover
Scotland's Housing Network
Wheatley Group
SFRS
Scottish Care
Social Work Scotland
Care and Repair Scotland

3. Public Consultation

A public consultation on the draft Guidance document took place between 31 July and 22 October 2019. The consultation included questions requesting information and views on any business impacts that the Guidance may have.

38 respondents provided feedback, which included:

- Housing Associations (and umbrella organisations)
- COSLA
- Local Authorities
- Private Housing Providers
- Care Providers
- Health and Social Care Partnerships
- Care Inspectorate
- SFRS
- Fire Safety / protection / insurance companies
- Individuals

During the public consultation period, 3 engagement events took place:

- Presentation / Workshop with CCPS Housing Support Enabling Unit on 27 August 2019
- Presentation and questions with SFRS on 18 September 2019
- Presentation and questions with Wheatley Group and other care/support agencies on 8 October 2019

3.1 Potential Impacts on Business noted by respondents to the consultation

Section 5 of the consultation asks about potential benefits and costs associated with using the Guidance and requests data on a number of areas. Question 28 asks for information and views on any business impacts the respondent considers the Guidance may have.

The potential cost of having to hire a competent person to carry out a premises-based risk assessment was highlighted. However, the most common business impact identified was additional costs to implement appropriate fire safety measures, as a result of the risk assessment process. Another respondent noted the additional pressures that may be faced by care homes if vulnerable people require residential care and are no longer able to live independently at home.

Information was sought in the consultation on:

- Number of people and premises the Guidance will apply to.
- Proportion of people and premises with adequate fire safety measures in place.
- Proportion of people and premises that will need additional fire safety measures.

Only a minority of respondents gave an answer to these questions. There was a wide variation in responses to the number of people and premises affected by the Guidance: 70 – 8000 people and 3 – 5000 premises, reflecting the range of premises that organisations are responsible for.

A few respondents confirmed that the majority (over 50%) of their premises have adequate fire safety measures, taking into account the Guidance or that there are adequate person-centred measures. This could mean that many respondents have still to carry out premises-based fire safety risk assessments in the near future to improve fire safety. In addition, it is not clear whether the responses relating to people imply that the fire safety measures are appropriate, as

determined by a person-centred risk assessment. It is not possible to establish the position overall, given the low number of responses.

There was a low response to the question on the number of people or premises that will need additional fire safety measures, so from this the actual position cannot be established. It is expected that, in practice, this will be dependent on the fire safety risk assessment findings.

Other potential costs identified by respondents include:

- Increased staff requirements
- Retrofitting of measures
- Alternative accommodation
- Increased insurance premiums
- Building modification, maintenance and management
- Training to familiarise staff with the Guidance

Sixteen respondents highlighted fire safety and the reduction of fires and saving lives as main benefits. Further benefits include a structured approach of fire safety to Specialised Housing, the implementation of best practice and fostering a better understanding of resident/tenant needs.

4. Business

The impact on housing and care providers will depend on the current position, the results of the premises based and person-centred risk assessments and the extent, complexity and urgency of any work required. There is no baseline data on the current position so it not possible to establish accurately the impact. Discussions from engagements with stakeholders indicates that many are already undertaking such assessments (particularly where this is required under legislation). The person-centred measures, if not undertaken previously, may have an impact: most measures are not expected to incur major expenditure, except potentially for the highest risk residents.

Scale

To determine scale, it is necessary to identify the number of premises and people that fall within the scope of the Guidance. The numbers below are taken from the best available data.

There are at least **125,000** premises which fall within scope of the Guidance. This is based on available local authority and housing association statistics. The actual number of premises covered by the Guidance is likely to be higher than this. This is because not all forms of supported housing may be included in the data and, additionally, the figures do not include specialised housing or similar premises provided by private landlords.

Premises - Housing Figures Breakdown

Type of Housing	Local Authority (2019)	Housing Association (2019)	Total
Sheltered	14408	12454	26862
Very Sheltered	759	2282	3041
Other, inc supported housing	70007	24698	94705
			124608

Scottish Government figures: taken from Housing Statistics Annual Key Trends (2019)
 Scottish Housing Regulator: Stock Provision for Year end March (2019)

Available figures show the following breakdown for local authority and housing association housing stock:

Figures for local authority housing for older people and those with disabilities (year 2018-2019)

	Housing for older people - sheltered	Housing for older people – very sheltered	Housing for older people - of which wheelchair adapted	Housing for older people - medium dependency	Housing for people with physical disabilities - adapted for wheelchair use	Housing for people with physical disabilities - ambulant disabled	Housing for people with physical disabilities - other adaptations
Scotland	14408	759	1941	5579	2198	19410	2482

Scottish Government figures: taken from Housing Statistics Annual Key Trends (2019)

Local authority figures also show 38397 “other dwellings” for older people with community alarms, which could indicate a vulnerability (and is included in the total figure of 124608).

Figures for housing associations - housing stock for sheltered, very sheltered, medium dependency and disabled adaptations (year 2018-2019)

	Sum of Sheltered self-contained units	Sum of Very sheltered self-contained units	Sum of Wheelchair housing self-contained units	Sum of Medium dependency self-contained units	Sum of Other specially adapted self-contained units	Sum of Ambulant disabled self-contained units
Total	12454	2282	3870	10139	2268	8421

Scottish Housing Regulator: Stock Provision for Year end March (2019)

People

It is very difficult to estimate the number of people who may benefit. Instead it is possible to examine cohorts of people who may, due to their status, benefit from the fire safety guidance. One cohort is those that are in receipt of social care support. The latest data shows that in 2017/18, 230,000¹ (1 in 24) people across all ages in Scotland, are in receipt of some form of social care support. However, not all of those would be regarded as high risk and therefore require a person-centred assessment and additional fire safety measures.

Based on available data where the client group was known, “elderly and frail” accounted for 44% (89,120) of those in receipt of care and support services. The next largest client group “physical and sensory disability” accounted for 36.9% (74,867). The type of social support is varied and can include home care, care homes, meals, day care, social worker, housing support, community alarms/Telecare. Data is available on those which involve local authorities (but not self-funders). In addition, there will be an element of unmet need not accounted for in these figures; that is where people are in need of support but are not currently receiving any due to a variety of reasons including local authority eligibility criteria. Without numbers and more detailed information it is not possible to make an estimate how many of these people would benefit from fire safety measures.

¹ NHS ISD, Insights into Social Care in Scotland, (2019)

Across these categories, those who receive personal care are perhaps the most likely to need support with fire safety. Personal care is support given for a number of areas including, washing and dressing, eating and drinking, medication, and immobility. The latest data shows that in 2017/18 just over 50,500 people in Scotland were in receipt of personal care. This figure excludes Glasgow City, as they did not return detailed data to NHS ISD.

Cost of Fire Safety Measures

Costs for fire safety measures will vary, depending on circumstances, and the outcome of the risk assessment process. The following are cost estimates based on publically available information:

- Suppression: Typical 3 to 4 bed house – Total costs £3000-£3500 equivalent to 1-2% of build costs
- Personal protection systems – Total cost of supply and installation is around £3000 including VAT
- According to The British Automatic Fire Sprinkler Association (BAFSA) the annual maintenance costs of domestic fire sprinkler systems is £50 for a single family home and between £10 - £20 per flat.
- Annual maintenance costs of the personal protection system is around £200.

According to information published on the (CFOA) web site in 2013, the average cost of a fire in a domestic property is estimated at £24,900 . According to a publication from the (CFOA), 380 fire related deaths in Britain in (2011/12), 287 occurred in residential dwellings. DCLG estimate the cost of a fire fatality at £1.65m and £185,000 for a serious injury

(Source: https://www.london-fire.gov.uk/media/1825/sprinkler_toolkit.pdf)

Other person-centred fire safety measures are likely to cost much less:

Fire retardant bedding – less than £10

Safety ashtrays – less than £10

(Source: <https://www.london-fire.gov.uk/media/2238/1-assisted-living-technology-catalogue.pdf>)

5. Options

5.1 Objective

To ensure those responsible for fire safety in specialised housing and similar premises are able to determine appropriate fire safety measures for vulnerable people by providing a single source of Guidance covering general fire safety and fire safety risk assessment.

Option 1; Do nothing

Do nothing was not an option since the need for Guidance was identified and agreed by the Ministerial Working Group.

Benefits: None

Costs: None

Option 2 – Introduce Guidance aimed at those responsible for Specialised Housing

This is the option agreed by the Ministerial Working Group. Guidance will help those responsible for fire safety in specialised housing and similar premises to determine appropriate fire safety measures for vulnerable people in specialised housing.

Benefits: Provides clear direction and straightforward Guidance to establish a consistent approach to fire safety

Costs: It is preferable and financially effective to prevent and reduce the impact of fires. There will be premises where the Guidance and appropriate fire safety measures are not fully implemented. This expansion and improvement to support fire safety in specialised housing is a key policy objective. There may be costs for those responsible for fire safety e.g. to commission an external Fire Risk Assessment to conduct a premises based fire safety risk assessment and to act on its findings or to implement the findings from a person-centred risk assessment for high risk individuals. As far as can be established the costs should not be significant, given the degree of regulation and the emphasis on safety which currently exists in the sector. The person-centred risk assessment will be a new concept for some but costs are not expected to be significant in most cases. Residents at greatest risk may require enhanced measures, such as suppression systems, the cost of which is more significant. For premises outwith the scope of existing legislation, the voluntary nature of the Guidance gives them the chance to prioritise and plan any improvements and raise income over a period of time. For those covered by existing legislation, there should be limited impact as premises based risk assessments are already a legal requirement. Modest additional costs may be incurred for these premises as a result of a person-centred approach (eg small care homes and some forms of supported housing).

Option 3 – Extend the application of fire safety law to all specialised housing

There was no further statutory requirements recommended by the Review. To consider this and draft a Bill can take at least 2 years from inception to being passed by Parliament.

This would be a decision for Scottish Ministers to take forward as part of the legislative programme, and would require detailed public consultation and parliamentary scrutiny.

Person-centred risk assessments are not generally considered necessary in current legislation and so this element would require separate Guidance or a further change in law to make it mandatory.

Benefits: Legislation would require dutyholders to assess risks and to implement measures to ensure life safety. It would also be subject to enforcement by an enforcing authority (usually SFRS).

Costs: Potential costs associated with work to amend legislation. There may be additional costs when establishing and operating under new legislation that would be considered in the pre-legislative process.

6. Scottish Firms Impact Test

The nature of the implementation of the Guidance is unlikely to impact on Scottish firms. The following consumer assessment questions have been considered and it is felt unlikely that any new Guidance will have a significant impact on Scottish firms:

- Will it have an impact on the competitiveness of Scottish companies within the UK, or elsewhere in Europe or the rest of the world?
- How many businesses and what sectors is it likely to impact on?
- What is the likely cost or benefit to business?

Our assessment is this will not impact on competitiveness as the same approach is applied across the sector as a whole, although there may be more opportunities for risk assessment consultancies and fire protection companies as a result of increased awareness of fire safety.

The businesses and sectors this will have an effect on include: housing providers (private landlords, housing associations, local authorities), care providers, commissioners of care services.

From discussions with regulators and specialised housing and care providers, it is not expected that costs will be excessive. Many are already carrying out some form of premises based fire risk assessment and some are already considering person-centred requirements. For most, the Guidance will constitute best practice. In some high risk cases there may be significant costs associated with the provision of suppression systems for the most vulnerable, particularly where staff are not present to assist with evacuation. Such measures will, however, strengthen fire safety by either preventing or reducing the impact of fires, thereby reducing harm from fire and building damage.

7. Competition Assessment

The nature of the implementation of the Guidance is unlikely to impact on competitiveness of Scottish companies within the UK or elsewhere in Europe. The following competition assessment questions have been considered and it is felt unlikely that any new Guidance will have a significant impact on competition:

- Will the Guidance directly or indirectly limit the number or range of suppliers?
- Will the Guidance limit the ability of supplier to compete?
- Will the Guidance limit suppliers' incentive to compete vigorously?
- Will the Guidance limit the choices and information available to consumers?

Our view is that the answer is no to each of these tests. Where Fire Safety equipment, and/or Fire Risk Assessments are required to be purchased, there is potential for businesses already in this market to benefit.

8. Consumer Assessment

The nature of the implementation of the recommendation is unlikely to impact on consumers within the UK or elsewhere in Europe. The following consumer assessment questions have been considered and it is felt unlikely that any new Guidance will have a significant impact on consumers:

- Does the Guidance affect the quality, availability or price of any goods or services in a market?
- Does the Guidance affect the essential services market, such as energy or water?
- Does the Guidance involve storage or increased use of consumer data?

- Does the Guidance increase opportunities for unscrupulous suppliers to target consumers?
- Does the Guidance impact the information available to consumers on either goods or services, or their rights in relation to these?
- Does the Guidance affect routes for consumers to seek advice or raise complaints on consumer issues?

Our view is that strengthening fire safety in specialised housing is service improvement for consumers (point 1). Given the Guidance is based on existing fire safety law and practice, for the remainder of the tests the answer is no.

9. Test run of business forms

It is unlikely that the implementation of the Guidance will result in any new business forms.

10. Digital Impact Test

The nature of the implementation of the Guidance is unlikely to have digital impacts within the UK or elsewhere in Europe. The following consumer assessment questions have been considered and it is felt unlikely that new Guidance will have a significant digital impact:

- Does the Guidance take account of changing digital technologies and markets?
- Will the Guidance be applicable in a digital/online context?
- Is there a possibility the Guidance could be circumvented by digital / online transactions?
- Alternatively will the Guidance **only** be applicable in a digital context and therefore may have an adverse impact on traditional or offline businesses?
- If the Guidance can be applied in an offline **and** online environment will this in itself have any adverse impact on incumbent operators?

Our view is that the answer is no to each of these tests

11. Legal Aid Impact Test

It is considered highly unlikely that the implementation of the Guidance will have any effect on legal aid as the Guidance produced is purely on a best practice basis and has no change to any legislation.

12. Enforcement, sanctions and monitoring

Some of the Guidance may refer to existing legislation that responsible parties must adhere to, and there should already be the appropriate enforcement, sanctions and monitoring in place for this where appropriate.

Outside of this, the Guidance is best practice only and does not introduce new legally required actions. This means there is no statutory requirement for adherence and therefore there cannot be any measures to enforce, sanction or monitor use of any Guidance produced.

Monitoring is being developed to understand the inputs and impact.

13. Implementation and delivery plan

It is envisaged that the Guidance will be launched in early 2020

An Implementation Plan is being produced and over seen by an Implementation Group. This reports to the MWG. This is informed by the Consultation and engagement events findings.

A launch plan will be discussed fully with Communications colleagues and will be implemented accordingly.

14. Post-implementation review

The MWG are continuing to meet twice yearly to monitor implementation and updates will be provided to it. The minutes from the MWG are published on the Scottish Government website <https://www.gov.scot/groups/ministerial-working-group-building-and-fire-safety/>.

There will be a review should there be consideration for the need for legislation.

15. Summary and recommendation

The assessment is that there will be some, limited impact on business but that for most, the impact should not be significant. Higher costs may be associated with those at greatest risk if a person-centred fire safety risk assessment has not been carried out previously.

15.1 Summary Costs and Benefits

Overall this policy is supporting strengthening of fire safety in specialised housing. There may be buildings where the Guidance and Fire Risk Assessment (or equivalent) is not currently or fully implemented and expansion and improvement may incur costs to improve fire safety for people most at risk from fire.

16. Declaration and publication

I have read the Business and Regulatory Impact Assessment and I am satisfied that:

- (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and;
- (b) that the benefits justify the costs. I am satisfied that business impact has been assessed with the support of businesses in Scotland.

Signed:

Date: January 2020

**Ash Denham MSP
Minister for Community Safety**

Scottish Government Contact point:



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