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# **HM Fire Service Inspectorate**

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## **Fire Safety Enforcement by the Scottish Fire and Rescue Service**



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**Integrity, Objectivity, and Fairness.**



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# Acknowledgements

We are grateful to those members of the Scottish Fire and Rescue Service (SFRS) who provided us with information, helped to organise visits, hosted us and contributed constructively during interviews.

We also gratefully acknowledge the assistance given by the representatives of other organisations and the other persons we contacted during the course of our inspection.

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A quality assurance review of this report was provided by Des Tidbury QFSM, Chief Fire and Rescue Adviser to the Welsh Government.

All the members of the inspection team contributed to the development of this report and the quality assurance review provided a professional challenge to the contents, assumptions and conclusions made. However, the Chief Inspector takes sole responsibility for the report, its contents and conclusions.

Laid before the Scottish Parliament by HM Chief Inspector of the Scottish Fire and Rescue Service under section 43C(5) of the Fire (Scotland) Act 2005 SG/2018/5

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# 1 Introduction

The fire and rescue service in the UK has a long history of fire safety enforcement stretching back for over 50 years. In 2013, the Scottish Fire and Rescue Service (SFRS), on its inception, took over the role as enforcing authority for general fire safety legislation in the majority of non-domestic premises in Scotland. The SFRS employs staff for this fire safety enforcement role.

This inspection report looks at how the SFRS carries out its function as an enforcing authority for fire safety for non-domestic premises. The inspection is carried out at a time when the SFRS is the subject of strong fiscal challenges.

## A summary of our findings

- The SFRS is an enforcing authority for general fire safety in non-domestic premises within the scope of Part 3 of the Fire (Scotland) Act 2005 (the 2005 Act). The Service has a proactive approach to enforcement and carries out fire safety audits (inspections) in premises.
- Fire safety enforcement (FSE) sits within the responsibility of the SFRS Director of Prevention and Protection. There is a small national team dealing with national issues.
- Staff who carry out fire safety enforcement audits specialise in this work. The Service uses a combination of uniformed enforcement officers and non-uniformed auditing officers to deliver the function. Local management is by uniformed middle managers. We are generally impressed with the enthusiasm and attitude of staff working in fire safety enforcement.
- We think the proactive approach used by the SFRS is sound and that the Service should continue to undertake a high profile approach to inspection work.
- The SFRS has been in existence for four years and has achieved a significant level of consistency of approach to FSE. There is a nationally consistent written procedure for carrying out fire safety audits, recording the findings of audits, and for determining an appropriate response to the findings of audits.
- There is central priority-setting for fire safety enforcement. However, inspection resources are locally managed and delivered and there is some variation between national priorities and local practice.
- The agreed number of local enforcement staff in 2017 is 84, this is a reduction from 97 previously. Auditing officers make up 17% (14) of this total.
- The number of fire safety audits carried out in 2015/16 was 9,829. Most of the premises audited by the SFRS have relatively adequate fire safety measures and are categorised as 'broadly compliant' (9,180 audits: 93%). While 79% (7,779 audits) of the premises audited have average or low levels of relative risk.
- Houses in multiple occupation comprise around 31% of the fire safety audit numbers in 2015/16 (3,058 audits). The Service has moved to a totally risk-based audit frequency for HMOs which it anticipates will reduce the HMO audit workload.
- The SFRS uses a methodology for determining risk levels. The Service risk methodology utilises FSEC (Fire Services Emergency Cover toolkit) and there is some use of FSEC risk bands in fire safety audit scheduling. The premises designations and risk system used, allow some scope for different interpretations.

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- Outwith the 2005 Act and associated Regulations, the SFRS has enforcement powers in respect of some other pieces of legislation, but has not committed its policy or procedures for these into writing.
  - The electronic Prevention and Protection Enforcement Database (PPED) is for recording premises details and the outcome of fire safety audits. The database contains records from its inception. While historical enforcement records are still available, these have not been imported into the database.
  - The criteria used by the SFRS in scheduling fire safety audits and recording premises and audit information, differs from its annual statistical reporting.
  - The SFRS has not taken any cases forward which resulted in a prosecution under the 2005 Act.
  - The 2005 Act contains a dispute determination process and power to issue Alterations Notices. Enforcement staff are generally familiar with these but the Service has no written policy. Since 2013, there has been no use of the dispute determination process.
  - The Service has used external contractors to assess fire risk in its own premises. However, the practice is ceasing and this activity will be carried out in-house by non-FSE staff.
  - The SFRS is seen as a strong brand by dutyholders and partner agencies and as a good partner to work with. A sample of dutyholders offered positive comment about their experience of dealing with enforcement staff, though some experienced dutyholders raised issues relative to the variation in skill level between enforcement staff.
  - There is scope for an improved level of transparency in the Service's written communication with dutyholders.
  - We think that the time is right for the SFRS to develop and refine its enforcement approach, based on evidence and risk. We make specific recommendations for the SFRS, our recommendations are in section 5.

## 2 About the Inspection

Her Majesty's Fire Service Inspectorate in Scotland (HMFSI) is a body that operates within, but independently of, the Scottish Government. Inspectors have the scrutiny powers specified in section 43B of the 2005 Act. These include inquiring into the state and efficiency of the SFRS, its compliance with Best Value, and the manner in which it is carrying out its functions.

The purpose of this inspection is to examine aspects of the SFRS's fire safety enforcement (FSE) function in respect of non-domestic premises. In particular we considered:

- the way in which risk levels are determined, what methods are used for determining priorities, and the interdependency between priority-setting and resource-allocation
- the resources allocated for FSE, including capability, capacity and training
- the procedures and systems that SFRS has in place, and the practice of staff in using these
- communications and relationships, including those with dutyholders and other stakeholders

An inquiry by the Inspectorate can be self-directed or can be subject to direction by Scottish Ministers. This inquiry into the SFRS is self-directed by the Chief Inspector. The decision to carry out this inspection was intelligence led and risk based, influenced by the importance of the FSE role and by our interest in the risks associated with this area of work.

It is also worth recording here some background relative to HMFSI's past and present professional involvement and interest in fire safety. The Inspectorate carried out the fire safety enforcement function in respect of civil Crown premises until this was passed to the SFRS on its creation in 2013. The Chief Inspector remains the authority which makes determinations where fire safety disputes are formally referred, albeit the last and sole referral was in 2009. The Inspectorate has attended meetings of the SFRS Business Engagement Forum, a group which is mentioned in this report.

### Methodology

This inspection has involved a number of different methods of evidence gathering and analysis:

- a desk top data review of documents and data supplied by the SFRS
- a number of face-to-face interviews with SFRS staff who are responsible for the development of policy and its implementation
- we sampled records of inspection activity held on the SFRS's enforcement database, and met with staff who carry out the enforcement role to understand how FSE works in practice
- we examined the experiences of some dutyholders who had recent experience of SFRS enforcement and also met with members of the groups representing the university fire officers and NHS fire safety advisors
- we met or spoke with other stakeholders who have a relationship with SFRS regarding its enforcement role – these included representatives of Local Authority Buildings Standards Scotland (LABSS), Care Inspectorate, Health and Safety Executive (HSE), and the Scottish Government



The inspection has also been informed by our Local Area Inspection (LAI) programme: we examine FSE delivery within the SFRS at local authority level, as part of the LAI process.

While we examined a number of SFRS fire safety audit reports, judgement about the appropriateness of fire safety measures referred to in letters and notices subsequently issued by the SFRS, is beyond the scope of our inspection.

Fire engineering in Scotland, including the work of the SFRS, has been the subject of a separate review therefore we avoided duplicating this area of work. The report<sup>1</sup> on the review of fire engineering was published during the course of our fieldwork.

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<sup>1</sup> Meacham Associates, 'Research to Support the Improvement of the Design Verification of Fire Engineered Solutions as Part of the Scottish Building Regulatory System', 2016

## 3 Background to fire safety

Fire safety in non-domestic premises can be considered in terms of different constituent parts:

*General fire safety:* this is the ongoing provision of fire safety measures and management of fire safety in existing premises – this sits mostly with the 2005 Act which is enforced principally by the SFRS, but also by a number of other bodies<sup>2</sup>. In this context, general fire safety includes measures such as fire action planning, safe use of premises, means of escape, fire-fighting equipment, fire warning, and staff training.

*Process fire precautions:* this is specific measures taken, in respect of workplaces, to prevent a fire starting or spreading – this sits within health and safety legislation and is enforced principally by the HSE and local authorities.

*Building Regulations:* the incorporation of fire safety measures into newly-constructed or altered buildings sits within the Building Regulation system enforced by the local authority.

Further references in this report to fire safety are references to ‘general fire safety’.

The non-domestic fire safety regime in Scotland sits within Part 3 of the 2005 Act along with associated regulations – the Fire Safety (Scotland) Regulations 2006. This legislation replaced a number of previous fire safety regimes and came into force in October 2006. The regime in Part 3 is based on self-compliance – dutyholders are required to assess risk in the event of fire and put in place reasonable fire safety measures to secure the safety of persons.

While the fire safety regime applies to non-domestic premises, there is one compliance duty in respect of maintenance which also applies to the common areas of private dwelling. However this report extends only to enforcement in respect of non-domestic premises.

Part 3 imposes obligations on employers and persons who have control of non-domestic premises. The definition of premises in the legislation is wide. Premises is not restricted to buildings and can apply to certain structures and open areas.

One of the features of the Scottish legislation is shared responsibility for fire safety in premises. While employers always have responsibilities for the safety of employees, other persons may also have fire safety responsibility such as proprietors, owners, operators, managers, contractors, and consultants. In each of these other cases, the responsibility of the person’s or organisation’s responsibility extends to the degree of their control of premises or their responsibility for safety systems.

In addition to the enforcement duty in Part 3, section 8 of the 2005 Act imposes a duty on the SFRS to provide information, publicity and encouragement in respect of fire safety. A general duty to promote fire safety has traditionally had an emphasis on domestic premises, but the duty also extends to non-domestic premises.

<sup>2</sup> The other fire safety enforcing authorities for Part 3 are – the local authority, the HSE, the Office of Nuclear Regulation, and the Defence Fire and Rescue Service (these bodies are outwith the scope of our inspection)

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There are some other pieces of fire safety legislation for which the SFRS has enforcement power or duties, these are:

- the Fire Precautions (Sub-surface Railway Stations) Regulations 1989
- parts of the Construction Design and Management Regulations 2015
- parts of the Health and Safety (Safety Signs and Signals) Regulations 1996
- some sections of the Civic Government (Scotland) Act 1982 (the 1982 Act)

The ‘Legislation Overview’ guidance document available on the Scottish Government FireLaw website<sup>3</sup>, contains a brief reference to each of these pieces of legislation, so far as it is relevant to fire safety and to the SFRS.

The principal external guidance that influences the SFRS enforcement role includes:

- National Framework documents issued by Scottish Ministers. The National Framework describes Scottish Ministers’ expectations in respect of objectives and priorities. The current Framework effective from October 2016, contains general comment about fire safety enforcement and the promotion of fire safety extending to non-domestic premises. The 2013 Framework contained similar expectations.
- The Scottish Regulators’ Strategic Code of Practice (SCOP) issued by Scottish Ministers in 2015. This imposes obligations on the SFRS in its regulatory roles and broadly covers ‘better regulation’ principles.

In 2015, a review of the operation of Part 3 of the 2005 Act was carried out by the Regulatory Review Group (RRG), of which the SFRS and HMFSI were members. We have reproduced in appendix 1 the recommendations contained in the RRG report.

The Scottish Government also has a role in delivering fire safety. It maintains the FireLaw webpages which contain advice for dutyholders and has published a number of guidance documents to assist dutyholders comply with their duties. There are fire safety guides for different sectors in addition to general guidance and specimen risk assessment documents.

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<sup>3</sup> [www.gov.scot/firelaw](http://www.gov.scot/firelaw)

## 4 Our findings

### 4.1 The enforcement role

The fire and rescue service governance body has traditionally been an enforcing authority for fire safety. This legislative enforcement responsibility was closely examined as part of the Fire (Scotland) Bill scrutiny process in 2004/5. The conclusion then was that there was no evidence or argument for removing the fire safety enforcement responsibility away from the fire and rescue governance body.

The delivery of the fire safety enforcement function of the FRS governance body, has generally sat within schemes of delegated functions<sup>4</sup> and been carried out by employees of the fire and rescue service. In Scotland, there has been little challenge to this approach in recent years.

From our discussions with dutyholders and other agencies, we conclude that the fire and rescue service brand is perceived to be strong in the eyes of dutyholders and other agencies, and that this assists the SFRS in carrying out the FSE function.

The principal SFRS policies and procedures for FSE are contained within the following documents:

- A strategy document – this specifies the Service’s strategic approach to Prevention and Protection 2013 to 2016. In terms of FSE there is an emphasis on consistency, focusing on high risk buildings and working with businesses to enable compliance with legislation;
- A Fire Safety Enforcement Framework 2013-2016<sup>5</sup> – this identifies enforcement policy and gives direction on fire safety audit (inspection) priorities and frequencies;
- Fire Safety Audit guidance – this identifies how SFRS staff should inspect premises, what records the Service will keep, and contains guidance on how to deal with different audit findings. This guidance applies only to the 2005 Act.

We have seen no national policy or procedural documents which indicate the SFRS approach to the other pieces of legislation referred to in section 3 for which the SFRS is the enforcing authority.

As an enforcing authority, the SFRS has a fire safety regulatory system which includes carrying out proactive fire safety audits in premises, reactive audits in premises where fires have occurred, and dealing with complaints, enquiries and contraventions. And associated with enforcement is the use of promotional activity and the provision of guidance and support to dutyholders.

In addition, there are other work areas that are part of, or incidental to, or can impinge on FSE, such as responding to consultation from local authorities in respect of licensing or certification, involvement with building standards verifiers; and liaison with other regulators – such as the Care Inspectorate in respect of care premises.

<sup>4</sup> Schemes of delegated functions were used by predecessor FRSs. We are advised that the SFRS does not operate a formal delegation scheme for FSE

<sup>5</sup> The 2013-16 FSE Framework remained in place and was not superseded by a new Framework during the course of our inspection fieldwork

The SFRS has enforcement powers under Part 3 of the 2005 Act. This includes the power to issue a Prohibition Notice to prohibit or restrict the use of premises where there is serious risk in case of fire; and the power to issue an Enforcement Notice requiring changes to the fire safety measures in premises. However, a more common approach used by the SFRS is to issue a 'notice of deficiencies' letter, a procedure not specifically provided for in the legislation: the Service uses its general enforcement powers to issue these letters.

Where the Service wishes to exercise proactive control over premises which have the potential for serious risk, it can issue an Alterations Notice which requires advance notification to the Service of certain proposed changes to premises. While we found that staff are aware of the potential to use an Alterations Notice, the SFRS has no written policy on its use.

## 4.2 The resources allocated to FSE

FSE is carried out as a specialist role within the SFRS. We have previously<sup>6</sup> found that when FSE delivery is part of the function of multi-role officers, then, in some cases, this can be associated with a lack of focus on fire safety. So we think the current approach, where inspection staff specialise in FSE, is an appropriate way to deliver this function.

While there is a specialist approach to enforcement, the SFRS also has a policy where operational crews undertake Operational Reassurance Visits (ORV) to care homes. We have not examined the ORV function as it was out of scope for our inspection and accordingly we have no specific view to offer in this report.

### National resources

An Assistant Chief Officer (ACO) is the SFRS Director of Prevention and Protection with strategic responsibility, and is supported by a Deputy Assistant Chief Officer and an Area Manager. Another ACO, the previous director of Prevention and Protection, also has had a national Prevention and Protection policy role within the UK with the Chief Fire Officers' Association.

One Group Manager is the national FSE lead in Scotland and is supported by two Station Managers with two Watch Managers covering the West SDA (Service Delivery Area) and two Watch Managers covering both East and North SDA. The Service maintains two fire engineering units with the same SDA responsibility, though at the time of inspection the units are under establishment strength.

### Local resources

The 2005 Act imposes some constraints on the SFRS regarding structure. Local Senior Officers (LSOs) are appointed and accountable for SFRS service delivery at a local authority level (there are 17 LSOs, some are responsible for more than one local authority area). One consequence of this is that FSE staff are managed locally.

<sup>6</sup> HM Chief Inspector of Fire and Rescue Authorities, 'Report on an Inspection of Highlands and Islands Fire and Rescue Service', November 2012 <http://www.gov.scot/Resource/0041/00412188.pdf>

The SFRS has dedicated staff involved in FSE within each LSO area. (There are two instances where FSE staff work as a team across LSO areas). Having 15 locally managed FSE teams offers a challenge to the SFRS to maintain consistency across Scotland, but it does have the benefit of allowing for a local response and local solutions to address local issues.

There are two categories of staff involved in inspection work:

- *Enforcement officers:* These are uniformed employees of the SFRS at Watch Manager role. They have served as firefighters and are recruited from within the FRS.
- *Auditing officers:* These are non-uniformed staff who have reduced enforcement powers. Staff are recruited directly into the role; some are ex-enforcement officers who have been re-engaged after normal retirement. Auditing officers are on a lower salary level than enforcement officers.

Auditing officers make up 17% of the FSE staff as at May 2017. All, with the exception of one, are working in the legacy Strathclyde area. The Service has considered increasing its proportion of auditing officers. Auditing officers have no obvious scope for career progression within the Service. We previously identified issues, benefits and made recommendations on using non-uniformed staff in our Overview Report<sup>7</sup>.

Enforcement officers working in FSE are part of the SFRS's uniformed operational establishment. But they are likely to experience an operational skills decay as a consequence of moving away from operational activity. There is no consistent approach in place to maintain skills. We are of the view that uniformed enforcement officers should maintain operational competency within their role map and be available to provide operational cover when needed. This will add resilience to the Service.

The initial training for all new entrants into FSE comprises a modular development system delivered over a period of eight weeks. Appointment of training provider is through a procurement process. This training is delivered by a respected commercial organisation which specialises in fire safety. The course has been accredited through the Scottish Police College credit system. The same organisation has delivered this training to Scottish fire and rescue services for the last eight years, and works with the SFRS to design and modify the content of the training in response to changing needs.

Fire safety related 'continuing professional development' (CPD) for FSE staff is largely ad-hoc, though some staff are able to enrol on part-time Fire Engineering Diploma or Degree courses at Glasgow Caledonian University. CPD is expected of staff, and uniformed staff receive a payment element for CPD. We think that the SFRS should introduce a formal process for CPD which would include FSE staff.

On its creation, the SFRS had a resource model whereby the number and distribution of enforcement staff was matched to an assessment of projected FSE activity based on an assessment of the number of possible relevant premises. The staff numbers for this resource model were not realised in practice.

<sup>7</sup> HM Fire Service Inspectorate 'An Overview of the Scottish Fire and Rescue Service' November 2013  
<http://www.gov.scot/Resource/0043/00437774.pdf>

There can be variations in the number of enforcement staff in post at different times and variation in their availability. At the time our inspection commenced, the SFRS declared 97 enforcement staff (enforcement officers and auditing officers) who undertake audit and related work. During the course of our inspection, enforcement staff numbers were reduced to 84, following a Service review. Table 1 shows the area allocation of these staff along with the number of fire safety audits recorded for 2015/16.

<b>FSE area</b>	<b>2016 staffing</b>	<b>Fire safety audits 2015/16</b>	<b>2017 staffing</b>
Glasgow	14	1,956	10
Perth and Kinross, Angus, Dundee	7	1,042	6
Aberdeen City, Aberdeenshire and Moray	10	881	9
Edinburgh	8	856	8
East, North and South Ayrshire	7	693	6
East and West Dunbartonshire, Argyll and Bute	8	656	7
Fife	6	618	4
North Lanarkshire	5	554	4
Midlothian, East Lothian and Scottish Borders	5	543	4
Highland, Western Isles Orkney and Shetland	7	401	9
Stirling and Clackmannanshire	3	391	3
East Renfrewshire, Renfrewshire and Inverclyde	5	357	3
Falkirk and West Lothian	4	336	3
Dumfries and Galloway	4	295	5
South Lanarkshire	4	250	3
<b>Totals</b>	<b>97</b>	<b>9,829</b>	<b>84</b>

**Table 1 – Number of SFRS enforcement staff in 2016 and 2017, and audit activity 2015/16**

The main function of enforcement staff is carrying out fire safety audits under the 2005 Act. The number of enforcement staff necessary to undertake FSE work is influenced by the amount of work that is generated by virtue of the SFRS policies and the Service's approach to outside influences, such as how it deals with consultation from outside bodies. The SFRS policy on audit frequency and on risk methodology is interlinked to staffing numbers – the number of staff in post imposes a limit on the audit activity that can be undertaken.

The revision to enforcement staff numbers in 2017 was a consequence of an assessment of workload potential and the resources needed. The calculation was based upon identifying the number and risk level of known premises, fire safety audit history information, and the audits that would be generated as a result of potential future audit policy. The number of audits was divided by 122<sup>8</sup> (a nominal number of audits per year per officer). An adjustment outwith the calculation was made in several areas due to geographical considerations and development levels of personnel. While there is an overall reduction in FSE staff in the SFRS, some LSO areas received an increase.

Each fire safety area has middle managers who carry out a fire safety supervisory and support role. These middle managers are all uniformed staff who also have other managerial and incident command roles. We reported previously<sup>9</sup> that there is a variation between the fire safety workload of some of the supervisory managers.

The fire safety audit policy for 2013/16 is contained in the Fire Safety Enforcement Framework document, and we consider this policy later in the report.

In addition to fire safety audits, there are other factors to take into account when assessing resources such as having the capacity for other work, such as thematic inspections, promotional work, dealing with complaints and enquiries, consultations, and prosecutions (the work involved in a prosecution is potentially very time consuming). In each case these are influenced by SFRS policy and local approach. There is also the need to have sufficient capacity to give flexibility for absence and training.

The SFRS has an informal expectation that each enforcement staff member should carry out 132 fire safety audits per year. When undertaking our local area inspections, staff have generally been comfortable with this target, though some have a higher local target imposed and some have a lower target. A lower target is often associated with an area where travel distances are greater. New entrants to FSE also have reduced targets to allow them to develop within the role. The 9,829 fire safety audits completed in 2015/16 is equivalent to 75 persons achieving a target of 132.

During our local area inspections we have seen that some FSE staff have a substantial imposed workload, relative to the FSE Framework priorities, while in other locations the workload is much more manageable. However, a recent policy change will alter the frequency of the auditing of houses in multiple occupation (HMOs) which may reduce HMO audit workloads for those areas with a substantial number of HMOs.

<sup>8</sup> The number 122 used in the calculation is different from the target number of 132 referred to later

<sup>9</sup> *ibid*

## 4.3\_How FSE is carried out

### Fire Safety Audit procedure

The purpose of a fire safety audit is to check dutyholders' compliance with fire safety legislation and to gather information. The SFRS guidance is contained in '*Fire safety audit and data gathering guidance*'. The guidance explains the process of carrying out fire safety audits, how to decide on appropriate enforcement action, and provides for a method of standard recording. A fire safety audit form is used to record information and the results of the audit.

There are two parts to the fire safety audit form. Part A records information on individual premises in respect of building features, occupants, loss potential, environmental risk and firefighter risk. Some of the assessment criteria are numerically graded.

Part B contains 18 questions for completion by the officer in respect of the extent of compliance with fire safety legislation. Against each question the officer makes a subjective assessment against defined compliance levels. Each option is associated with a numerical score. There is a two-tier weighting system, some questions attract a higher value for non-compliance and some of the scoring varies depending on the generic premises types. The output of Part B is essentially a grading of the quality of fire safety management and fire safety measures in individual premises.

The total points from Part B of the audit form are arranged into levels termed the 'management compliance level (MCL)'. The MCL is used to assist with determining a recommended enforcement action. Table 2 show the levels and recommended enforcement actions.

LEVEL	POINTS	ACTION
1	0-25	No material areas of improvement required
2	26-35	Issue a notification of improvements
3	36-45	Issue a notification of deficiencies
4	46-55	Issue an enforcement notice
5	56+	Issue an enforcement notice (short timescale)

**Table 2 – Recommended enforcement action by reference to management compliance level (MCL)**

A fire safety audit can be scored MCL 1, even when there are areas of potential improvement. We examined a number of examples where staff had manually upgraded the MCL to 2, so that some comment on fire safety measures could be sent out to a dutyholder. The Service policy had generally been not to issue written communication in respect of level 1 audits, though this policy changed in response to a RRG recommendation and the Service now issues letters, following level 1 audits. These letters explain that “..... *the existing fire safety arrangements, as audited on that date, did not give rise to any material areas for improvement.*” We think it appropriate for the SFRS to report the outcome of all audits to a dutyholder, but that this text description could be improved for the understanding of the recipients of these letters.

The SCOP requires the SFRS to publish its approach to inspection but the SFRS fire safety audit guidance is not proactively available to dutyholders. There is some complexity associated with the audit process and the concept and calculations may be difficult to understand by dutyholders. We also think that the guidance document is over lengthy with scope for reduction.

### **Fire Safety Audit scheduling**

The SFRS undertakes a substantial amount of proactive inspection activity, and the keeping of accurate records of relevant premises and of the risk associated with these premises is important to the efficient delivery of the enforcement function. As part of its proactive enforcement model, the Service needs to know where to inspect and to judge how often to inspect.

For a number of reasons, including the dynamic nature of the non-domestic building stock and variation between legacy records, the SFRS does not have a complete list of all relevant premises. Fire safety statistics were omitted from the statistical bulletin for 2013/14 and premises and risk data was omitted from the 2014/15 bulletin due to doubts about accuracy. However the Service is confident that major sleeping risk premises and high risk premises are known and recorded.

The PPED electronic database contains records of premises audited since the inception of the database with historical enforcement records not having been imported. In our previous inspection work, we took into account that the SFRS was working towards improving the accuracy of its information on premises and risk levels. During our current inspection we saw no evidence that the Service has a common strategy for proactively updating PPED with premises information.

The SFRS system for enforcement planning, scheduling and recording, generally uses the FSEC premises type and risk system. In the FSEC system, premises types are grouped on the basis of generic risk and there is a process so that individual premises are allocated a risk score to give a relative risk rating, and within each premises group, risk scores are arranged into risk bands, very high risk, high risk etc. This is shown in appendix 2.

There are 17 FSEC premises groups. Each group has an identifying letter and a generic name. Two of the 17, group D 'purpose built flats' and group G 'house converted to flats', do not relate to 'relevant premises' and therefore are not relevant in Scotland to the enforcement of Part 3 of the 2005 Act (though group D may be relevant for enforcement work in respect of the common areas of private dwellings). These categories are not shown in the SFRS annual statistical reporting, but other SFRS documents and the PPED database use all 17.

The relative risk score of individual premises is calculated using a complex formula which uses values for the fire frequency<sup>10</sup> of the premises type, and values representing the scoring from Parts A and B of the fire safety audit form.

<sup>10</sup> A component of the risk model is the regular updating to reflect occurrences of fire. This aspect of the model is no longer nationally supported and fire frequencies are not updated.

The relative risk score gives a means of comparing risk across all premises, while risk bands allow comparison only between the premises within each premises group. For example a building sitting within the ‘public building’ group and with a relative risk score of 4.5, falls within the high risk band for public buildings, while a hospital with the same level of risk (4.5) falls within the very low risk band for hospitals. The risk score and therefore the level of relative risk within each is the same.

Within the SFRS system, the term relative risk is used more generally to include the use of premises risk bands.

The SFRS Fire Safety Enforcement Framework 2013-2016 identifies that resources will be targeted at premises on the basis of relative risk (a similar statement on priorities appears in the SFRS fire safety audit procedural guidance). The document then identifies priorities using premises type and in some cases risk bands. The priorities in the 2013-2016 framework are:

- annual audit of hospitals and hospices
- annual audit of care homes, school care accommodation and secure accommodation services
- annual audit of HMOs if high risk, otherwise in line with the licensing cycle
- annual audit of other premises which are categorised as very high or high risk
- post fire audits
- three months set aside for thematic work

Enforcement in respect of prisons was transferred to the SFRS in 2013, and while not listed in the FSE Framework, an annual fire safety audit for prisons is adopted by the Service.

The SFRS policy in respect of HMO fire safety audits was later developed and specific HMO guidance issued in 2015. This changes HMO auditing policy though the implementation of the revision is at different stages in different local areas, principally due to discussions with local licensing authorities. We say more about HMOs later.

The SFRS uses the electronic database, PPED, for recording fire safety audit documentation. We discovered during our inspection that the scheduling of audits, which is a function within PPED, was not in line with the FSE Framework. While the scheduling of care homes, prisons and hospitals is proposed by PPED as an annual audit basis, in line with the FSE Framework, all other premises are scheduled at a frequency determined by the ‘management compliance level’ which is determined from the previous audit record. The MCL-led audit frequency generated by PPED is shown in table 3.

MCL	Next audit
1	5 years
2 or 3	3 years
4 or 5	1 year

**Table 3 – Fire safety audit frequency by MCL scoring**

Premises which have no MCL, due to there being no fire safety audit history on PPED, can be scheduled on PPED by the user for initial audit.

Based on recent fire safety audit totals, the SFRS might have a current capacity to undertake between 8,000 to 9,000 audits a year. While PPED does not contain details of all premises, SFRS previously estimated that there may be around 226,000 significant buildings in Scotland which are relevant premises. It is difficult to understand why a scheduling system would be designed to propose all premises for audit, albeit at different frequencies, unmatched to resources available, or how such a strategy, which would include all low risk-score premises, would be a good use of resources. However, our inspection work has shown that PPED is not generally used for audit scheduling.

The SFRS fire safety audit guidance document also contains reference to an audit frequency which differs from the FSE Framework, by including a three yearly audit frequency for medium risk premises.

There is non-consistency between the scheduling criteria of fire safety audits in the FSE Framework, in the audit guidance, and within PPED. To add a further dimension to the scheduling of fire safety audit work, we discovered variations in audit targeting and scheduling to be common at a local level. The only scheduling that we found to be consistent was the annual audit of care homes and hospitals.

In our Overview Inspection report<sup>11</sup> we advised that while the use of risk bands did not offer a level comparison across all premises groups, the FSE Framework priorities nevertheless were not far removed from being an equitable system. But that comment was made on the basis that fire safety audit work was being carried out in line with FSE Framework priorities. As we have seen from a number of pieces of evidence, this is not what has been happening in practice. Risk levels are considered in the next part.

## **Risk methodology**

We found some inconsistency in SFRS documents regarding risk terminology, for example the SFRS fire safety audit guidance document contains three different descriptions of how risk levels are determined. The same guidance also refers to enforcement action being related to relative risk, which we think is incorrect.

The FSEC risk score is a determination of life risk potential. Risk is represented on a numerical scale from 2 to 7, the lower the number the lower the risk. The matrix in appendix 2 shows how each premises group sits against the numeric scale.

Within each premises group there are risk bands, but our interpretation is that the risk bands are not comparable across all groups. The SFRS scheduling system has a different interpretation which creates issues in terms of understanding, perception and Service policy. This is what we touched on in our Overview Report.

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<sup>11</sup> Op. cit.

Risk bands are unique to premises groups and this needs to be considered in their use and interpretation. An example below shows the application of risk bands.

**Building X is a hotel with a risk score of 4.25**

*From the risk matrix in appendix 2, the building falls into FSEC group F and its risk score means that it falls into the low risk band*

**Building Y is an office with a risk score of 4**

*Building Y has a lower risk score than Building X and therefore a lower level of risk  
From the risk matrix the building falls into premises group S and its risk score means that it falls into the high risk band*

**So building Y is labelled 'high risk' while building X, with a higher risk score and a higher risk to life, is labelled 'low risk'.**

**Example of risk band allocation**

FSEC risk banding was developed at a time when fire safety legislation was targeted only at certain building types. A means of identifying high risk premises within each building use type was appropriate under those circumstances.

However, things have moved on, fire safety legislation now applies to most non-domestic premises, and the results of the risk methodology needs to be applied in a different way.

The use of risk band names is now a shortcoming within the FSEC system. This is a system in which premises labelled as 'low risk' can have a higher level of relative risk than premises labelled as 'high risk. Such an outcome in our view is inappropriate for the current day legislation. And audit scheduling that targets by risk band, as features in the SFRS scheduling, is not truly targeting risk across all building types. We think the use of risk band names – very high risk, high risk, medium risk, low risk, and very low risk – has a potential for misunderstanding and misrepresentation.

The use of a numeric scale to categorise risk seems a reasonable approach, but we think the use of risk band names in this context should be abandoned.

In its annual statistical reports, the SFRS does not report activity in terms of risk bands, rather it reports activity using an equitable system which allows an even comparison across all premises groups. There is therefore a disconnect between the method by which the SFRS schedules fire safety audits, (at least within its policy documents), and how it reports on audits and outcomes.

We think that the Service should move to a standard methodology whereby fire safety audit scheduling is led by risk scores rather than risk band names; this would be in line with the SFRS national annual statistical reporting (as described in section 4.4).

### Terminology

We think that the use of FSEC premises types also offers some difficulty and potential for misunderstanding, and that consequently premises categorisation is not robust. We have offered similar comment in our Overview report.

The 15 premises groups that relate to fire safety are shown in the table in appendix 2. Most of the generic premises groups shown there have a sub-list of premises descriptions. Two examples are shown diagrammatically in figure 1:

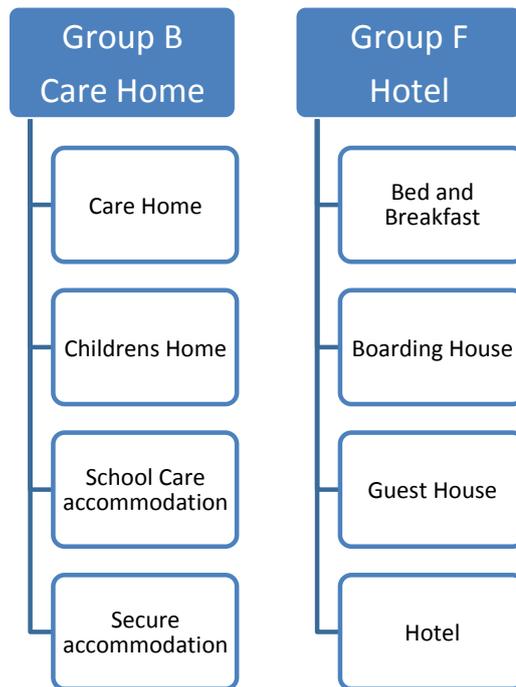


Figure 1 – premises type sub-list within premises groups B and F

From the two examples, it can be seen that the generic group name is, confusingly, also listed in the sub-list. The use of FSEC generic names can therefore lead to misunderstanding.

In the case of group F premises, a reference to hotels in a procedural or policy document might be a reference only to true hotels as in the sub-list; or it could be used generically as a reference to all group F premises and include for example, bed and breakfast establishments.

In the SFRS 2013 FSE Framework there is a reference to care homes, school care accommodation and secure accommodation – this can only be interpreted as use of sub-list names. We asked some staff about the interpretation of the reference to hotels in the same document and they advised a contrary approach – that ‘hotels’ was used there in a generic sense and therefore included bed and breakfast premises. We asked one partner organisation who had commented to SFRS about the auditing of hotels, and it was surprised that the term ‘hotel’ could be used to describe small bed and breakfast establishments.

The use of premises names needs to be precise. We found the use of imprecise premises descriptions commonplace in SFRS documents.

## Houses in Multiple Occupation (HMOs)

We looked at the categorisation of HMOs. Over time, uncertainty had been introduced into the categorisation of HMOs within the FSEC system. This was partly as a result of shortcomings with FSEC naming convention. Within FSEC, an HMO of three or more storeys sits within group C, other HMOs sit within group H – this reflected research which showed that the fire risk varies considerably between HMOs and that those of three or more storeys pose a relatively high risk and should be a priority for enforcement. However there was inconsistent descriptions and consequently inconsistent recording.

To ensure consistency, the SFRS decided to move away from the FSEC HMO convention and record all HMOs within the same group, group C. This aids consistency, but it also means that many HMOs will have a slightly higher risk score than they would otherwise have achieved.

Albeit the SFRS has standardised its HMO recording protocol, we found some inconsistency in recording practice. Hostels which provide permanent residence or student accommodation are likely to be HMOs. We asked the Service for a list of the 137 hostels (group E premises) that were audited in 2014/15. We checked some of these premises against the public registers of licensed HMOs and concluded that a number of premises on the list, all of which relate to a single legacy fire and rescue service area, are HMOs but are not recorded as such in the SFRS fire safety audit recording system.

We also asked the Service for a list of HMOs recorded in the national incident recording system (IRS) to test the accuracy of reporting of HMOs in reports of fire. We are aware that there have been issues here with legacy recording. Our sampling check concluded that the IRS reporting by the SFRS was predominantly accurate, with only a small number of premises in one LSO area, having any potential uncertainty regarding accurate recording.

Undertaking audits in HMOs has been a substantial part of the FSE workload. HMOs are concentrated in the Scottish university cities and towns. In 2016, there were around 15,000<sup>12</sup> licensed HMOs in Scotland (Aberdeen 1,227, Dundee 1,674, Glasgow 3,226, Edinburgh 5,949). In terms of audit numbers, HMO audits comprised 24% of all fire safety audits undertaken by the SFRS during 2014/15 and 32% of audits during 2015/16.

While some HMOs are flats or small houses, student halls of residence and permanent residence hostels can also be HMOs. Accordingly the amount of work and time involved in a fire safety audit can vary. During our inspection we came across examples where a larger building had been split into smaller units for audit record purposes.

The local authority is the licensing authority for HMOs and the SFRS is a statutory consultee for HMO licensing. The purpose of HMO licensing is to ensure minimum standards for tenants. Fire safety enforcement was removed from the licensing scheme in 2006 and enforcement of fire safety is the responsibility of the SFRS.

<sup>12</sup> Scottish Government 'Housing Statistics for Scotland 2016'

The 2013 FSE Framework advised that high risk HMOs are to be audited annually while other HMOs were to be audited in line with the licensing cycle. There is generally a three-yearly licence renewal, and at that time an annual renewal in Edinburgh. Based on this, and if the renewals were equally spread, the fire safety audit workload in terms of the 2015 totals would exceed 8,900 audits a year. Such a workload was clearly challenging with the available resources.

The SFRS refined its approach to the auditing of HMOs by issuing a procedural note which introduced an audit scheduling change based on risk bands. Where an HMO was categorised as very high or high risk at the last audit, then there is a straightforward annual audit. The guidance imposes restrictions for auditing HMOs which attained medium risk or low risk at the last audit: The procedure is silent in respect of very low risk HMOs.

We think the criteria for the fire safety audit of medium and low risk band HMOs in the revised procedure impractical. The bullet points below describe the SFRS criteria for routine scheduling. We cannot see how the criteria is workable:

- if medium risk, an HMO should not be audited until a period of three years has elapsed since the previous audit
- if low risk, an HMO should not be audited until a period of six years has elapsed since the previous audit
- for both medium and low risk, the audit should only be undertaken within a period of four months prior to licence renewal
- for both medium and low risk an audit should only be undertaken if the MCL at the previous audit was 2 or 3
- there is a sampling approach and not all premises are to be audited – for medium risk there is an upper limit of 30% of premises and for low risk an upper limit of 10% – no timescales are associated with the sampling.

### **Sports Grounds**

The SFRS is involved as a partner in the safety certification partnership approach to sports grounds safety which is led by the local authority. However enforcement of Part 3 of the 2005 Act in major sports grounds is not the responsibility of the SFRS. Enforcement sits with the local authority. From our examination of PPED records and our LAI inspections, we are aware that some SFRS enforcement staff treat some sports grounds as if SFRS is the enforcing authority and send correspondence on this basis.

### **Civil Crown premises**

Fire safety enforcement in respect of civil Crown premises transferred to the SFRS on its creation in 2013. The SFRS introduced a fire safety audit programme for prisons, given the relatively high risk nature of these premises, but other civil Crown premises do not generally feature on the scheduled audit programme introduced by the SFRS enforcement framework. Prior to 2013, civil Crown premises were subject to a regular inspection programme with a risk based inspection frequency. One of the consequences of the transfer of enforcement responsibility is a reduction in the scrutiny of most civil Crown premises in line with the risk based approach to fire safety audit operated by the SFRS.

## **Prosecutions**

Since the introduction of Part 3 of the 2005 Act in 2006, there have been very few prosecutions in Scotland for contravention of the legislation. Since the creation of the SFRS, there have been none. By comparison, there are frequent prosecutions for contravention of the equivalent legislation in England. The system of prosecution in Scotland obviously differs and allows only general comparison.

The SFRS fire safety audit procedure contains guidance on the consideration of reporting a case for prosecution in appropriate cases. Prosecutions potentially require considerable time commitment for case presentation and could have an impact on availability of local resources. We asked why there had been no prosecutions. A consistent view by SFRS enforcement staff is that low numbers of prosecution are a positive indication of a Scottish approach to enforcement, that places a major emphasis on co-operation to enable dutyholders to comply with legislation without resorting to prosecution.

While the SCOP requires the SFRS to adopt an enabling approach in enforcement, we think that the Service needs to maintain a capability and capacity for investigating and reporting on serious blatant breaches where the enabling approach has not worked. We would anticipate that enforcement staff will from time to time come across situations that fall within the Service's guidance as appropriate for reporting for possible prosecution. As a robust enforcer of public safety, the SFRS should be prepared to progress such cases to prosecution and equip staff to deal with such situations.

Where relevant serious and blatant breaches occur, the Service should actively pursue a prosecution without fear or favour.

## **Disputes**

The 2005 Act provides for determination of disputes between a dutyholder and the SFRS without the need to go to court. One of the predecessor FRs referred a dispute in 2009 which was found in favour of the dutyholder applicants. There have been no cases referred since.

A change introduced in April 2013, allows a dispute to be referred for determination by the dutyholder alone, previously it required the agreement of the enforcing authority. No SFRS staff we spoke with offered opposition to the use of the procedure in relevant cases. However, the Service has no written policy on disputes and does not refer to the procedure in any of its standard letter formats, therefore dutyholders may not be aware of the dispute determination process.

Given our potential involvement in disputes, HMFSI would not wish to make any judgement here on how SFRS should proceed other than to say that as a minimum we think that the SFRS should commit a dispute determination policy to writing in the interests of consistency and transparency.

### Compliance and enforcement in SFRS premises

The SFRS has the same obligation as other dutyholders, to comply with fire safety law in its own premises. We asked for copies of the written records associated with the findings of fire risk assessment for six specific SFRS premises. We received five records and were surprised by the fact that the Service uses an external contractor to carry out assessments (one of the records pre-dated the creation of the SFRS). We think that the SFRS is best placed to undertake this function in-house and would perform it to a higher standard. We are advised that the practice of using external contractors is ceasing and this activity will be carried out in-house.

The SFRS is also the enforcing authority for fire safety in its own premises. We did examine a fire safety audit record in respect of one fire station, but there are few SFRS premises recorded on PPED. While the risk in SFRS premises may be considered to be generally low, we think that the SFRS might wish to have a consistent and exemplary approach to compliance and enforcement in its own premises.

## 4.4 How is the performance?

The performance of FSE staff is monitored locally and nationally. This normally takes the form of an assessment of fire safety audits completed against targets and a breakdown of work by MCL, risk band and premises type.

FSE activity is reported in an annual SFRS statistical bulletin<sup>13</sup>. Productivity, activity and audit outcomes are reported.

Table 4 shows fire safety audit activity and outcomes for the last two issued bulletins and includes the number of Prohibition Notices and Enforcement Notices issued. The type of fire safety audit is an indication of the level of compliance in the premises. For the purposes of statistical reporting, an audit is categorised as type A when the outcome is broadly compliant (satisfactory or only minor issues); and type B when the outcome is deemed not to comply.

	2015/16	2014/15
<b>Total fire safety audits</b>	<b>9,829</b>	<b>8,209</b>
Type A	9,180	7,819
Type B	649	390
Prohibition Notice issued <sup>14</sup>	3	0
Enforcement Notices issued	24	10

**Table 4 – Breakdown of fire safety audit outcomes**

<sup>13</sup> op.cit

<sup>14</sup> Once issued, a prohibition notice may remain in force for a long time if fire safety issues remain unattended. Whereas an enforcement notice will generally only be in force for a defined time.

In over 90% of fire safety audits in premises, the outcome was broadly compliant.

The bulletin also includes an assessment of the number of completed fire safety audits by premises risk. The categories used are 'well below average', 'below average', 'average', 'above average', 'well above average'. These categories reflect relative risk and are a more meaningful and effective way to report than premises risk bands, because it allows comparison across all premises type. The relationship between these risk categories and risk bands is shown in appendix 2.

The bulletin issued in respect of 2015/16 indicates that 9,829 fire safety audits were undertaken. 54% of these audits were in premises with average risk, 25% in premises with below or well below average risk, and 21% of audits were carried out in premises with above or well above average risk.

Though some risk scores could have reduced from when the fire safety audit was scheduled (also some could have increased); figure 2 shows the activity for 2015/16 and indicates that the SFRS directs a lot of effort to inspection work in premises where the inherent risk is average or low and/or where there was good fire safety management. Post fire audits<sup>15</sup> and thematic inspections are a factor in the totals, such audits will be undertaken across all premises types and risk levels.



**Figure 2 – Fire Safety Audit activity 2015/16 showing risk and compliance**

<sup>15</sup> A sample in one urban LSO area indicated that post fire audits made up around 12% of the fire safety audit total.

One area that is not reported is a measure of enforcement effectiveness. This has traditionally been an issue which has been difficult to establish. Effectiveness could look at issues around the level of harm or reduction in risk level, or the number and rate of casualties in fires in relevant premises. This is not straightforward, we advised in our report on Performance Management Information Systems<sup>16</sup> that the categories used in the reporting of fire statistics do not match the category of relevant premises.

One consequence of this is that national statistics can only offer a very rough guide. We estimate that roughly 25% of 'other building' fires are not in relevant premises, for example private garages. There are few fatalities in relevant premises and this prevents comparison.

## 4.5\_ What about relationships and communications?

### Internal communications

From our local area inspections, we are of the view that internal communication within LSO areas was in most cases good and that a high level of national communications which accompanied the formation of the Service and the need to drive to a consistent approach, had now reduced.

### Communicating with dutyholders

The dutyholders that we spoke with fall into two categories; those responsible for single premises and with local experience (single-site dutyholders); and dutyholders who have premises across Scotland and in some cases have in-house fire safety staff and networking arrangements (multi-site dutyholders).

The single-site dutyholders that we randomly spoke with were generally positive about their experience of enforcement activity by the SFRS.

Multi-site dutyholders have a greater awareness and are able to make comparisons. Overall multi-site dutyholders were very complimentary about their relationship with the SFRS, issues regarding inconsistency were modest. However there were some negatives which were seen as a result of the variation in skill level between staff: a view is that some inexperienced enforcement staff favour a prescriptive application of guidance, request work not proportionate to risk, and offer poor communication.

The SFRS bespoke electronic data management system for FSE, PPED contains copies of letters and notices issued. We examined fire safety audit records during our local area inspections, and also examined a number of PPED records in the course of this inspection. PPED only contains records of audit work since its inception and therefore will not be a complete record of the enforcement history for many individual properties.

We explained earlier in the report that fire safety legislation imposes shared responsibility on dutyholders. We saw no evidence of letters sent to more than one dutyholder for individual premises.

<sup>16</sup> HM Fire Service Inspectorate 'Performance Management Information Systems in the SFRS'  
<http://www.gov.scot/Resource/0047/00476788.pdf>

The level of information recorded on fire safety audit forms is generally very good. The level of communication on enforcement notices and prohibition notices is good and may be an indication of a greater level of scrutiny. By comparison, the standard of written communication in letters sent to dutyholders following fire safety audit is remarkably variable in the level of professionalism and quality of communication. We have seen many examples of excellent written communication by experienced enforcers, but the general standard falls below this. This is the case even though the SFRS has a review process for all letters, either by line management or by peer review.

On the basis of our examination of records and letters, it is commonplace for letters sent to dutyholders to contain the following:

- I. General recommendations which do not relate to any deficiency recorded on the fire safety audit form. For example, it is common for letters to include comment on keeping escape routes clear, even when no such issue is identified in the audit form. An objective here seems to be risk transfer rather than communication.
- II. Prescriptive requirements with no accompanying descriptive explanation. It is commonplace to request action by dutyholders, but not to provide any background or rationale for the action.
- III. The distinction between mandatory and non-mandatory is blurred. Suggested actions may be specifically identified as 'recommendations' or 'for consideration'.

We have some specific suggestions for improvement in letter content:

- a. If it is considered necessary to include generic guidance that does not relate to issues identified during the audit, then the letter should explain that this is the case and include an explanation of why the guidance is being included. Though in reality we do not see why the Service would wish to include such selective information in a letter.
- b. Where requirements relate to issues identified during the audit then there should consistently be an explanation of why they are required. One of the RRG recommendations is relevant here – *“Reports, notices and letters issued by SFRS should be drafted in a way that explains in plain English what is wrong, identifies how it may be put right and how any recommended or required work will contribute to improvement”*.
- c. Where recommendations are made that would impose fire safety measures above a standard necessary for compliance with the legislation, then this should be explained.

## **External relationships**

In general the SFRS is seen as a good partner. The Service has regular engagement with partners as business needs dictate and has some relationships defined in memoranda of understanding.

The Service has continued with the operation of a forum which existed before its creation – the Business Engagement Forum. This is an engagement forum principally with fire sector bodies and organisations. The structure of the forum has changed from being a large group, to having a more focused executive-led approach.

## 5 Recommendations

Both during this inspection and during our local area inspections, we have been consistently impressed with the enthusiasm and attitude of staff working in FSE. We think that the proactive approach used by the SFRS is sound and that the Service should continue to undertake a high profile approach to inspection work.

SFRS has been in existence for four years and has reached a position where, with some exception, there is a significant level of consistency of approach to FSE. We think that the time is right for the SFRS to develop and refine its enforcement approach, based on evidence and risk, and we make the following recommendations:

1. FSE is not fully transparent for dutyholders or members of the public. The SCOP requires the SFRS to publish clear risk assessment methodologies and risk ratings and review these regularly. We recommend that the SFRS does this. This should be part of a move by the Service to embrace an enforcement culture of transparency and accountability. It should also:
  - a. Produce fire safety audit guidance which is clear and understandable for dutyholders.
  - b. Proactively make its fire safety audit procedure and guidance available on its website.
  - c. Improve its written communication with dutyholders in line with the SCOP requirement to communicate effectively. An objective of letter writing should be the understanding of dutyholders and the giving of feedback. The Service should also introduce changes to address the issues regarding letter content, listed in section 4.5 of this report.
2. The priority and scheduling of fire safety audits is fragmented with different and conflicting statements and systems, and inconsistent practice at a local level. The Service should ensure that its national priority-setting is followed locally. And while PPED is a useful resource for recording fire safety audits, if it is to have any function as a scheduling tool it needs to be consistent with national policy, have the flexibility to be changed when policy changes, and contain a record of all known premises.
3. There is a disconnect between policy, the scheduling of fire safety audits and performance reporting and we recommend that SFRS uses the same system for both scheduling and reporting and that this should be based on relative risk scores using the categories and methodology used by the SFRS in the annual fire safety statistical bulletin<sup>17</sup>: ‘well below average’, ‘below average’, ‘average’, ‘above average’, ‘well above average’.
4. There is a substantial amount of enforcement effort made in respect of premises which have relatively adequate fire safety measures and/or have low levels of relative risk. The Service should place less emphasis on auditing such premises.
5. The Service should place less emphasis on quantity (the use of personal fire safety audit targets) and place more emphasis on quality of work and effectiveness.

<sup>17</sup> op.cit

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6. We think the terminology used in the SFRS premises risk methodology needs to be changed to improve understanding and remove inconsistency. Specifically the Service should abandon the use of risk band names and generic premises names – both of these currently allow misinterpretation or misunderstanding.
  7. The Service should continue to move towards the conversion of uniformed enforcement posts to non-uniformed, and introduce career progression opportunity for non-uniformed staff.
  8. Uniformed enforcement staff should maintain their operational competency within the relevance of their role map to add to the resilience of the Service and these staff should provide operational cover when needed.
  9. The SFRS should look to create a guidance framework that would allow a more formal approach to continuing professional development and this should include FSE staff.
  10. The SFRS approach to the promotion of non-domestic fire safety through work other than inspections has been modest in comparison to active enforcement audit work. We recommend that the SFRS considers a more proactive approach to the use of campaign and awareness activity.
  11. We think that there is a policy void which offers some risk to the Service. Accordingly the Service should strengthen and document its policy, and procedures where relevant, in respect of; the other legislation referred to in section 3; the determination of disputes; and Alterations Notices.
  12. The Service should introduce a protocol explaining its relationships and involvement in fire safety in major sports grounds and ensure that its staff follow this protocol and work in line with the responsibilities in Part 3 of the 2005 Act.
  13. The Service should maintain a capability and capacity for investigating and reporting to the Procurator Fiscal Service on serious blatant breaches where the enabling approach to enforcement has not worked. The Service should actively pursue relevant cases when they arise. The SFRS Board should actively monitor the Service's performance in this regard and should receive regular reports on the number and outcome of cases considered and referred for prosecution.

# Appendix 1: List of RRG recommendations

The full report can be accessed at

<http://www.gov.scot/Topics/Business-Industry/support/better-regulation/regulatory-review-group/ReviewofFireScotlandAct2005/FireScotlandAct>

## Recommendations

1. Sector specific guidance which has been issued in support of Part 3 of the Fire (Scotland) Act 2005 should be reviewed.
2. The Scottish Government should work with SFRS to put in place a programme to review and transpose the sector guides using the most recently updated guides as templates.
3. Consideration should be given to an awareness campaign and further publicity since it has been nine years since the original publicity awareness campaign.
4. SFRS should consider issuing letters from audits or inspections providing written confirmation of the general outcome of its enforcement visits if requested to do so.
5. Reports, notices and letters issued by SFRS should be drafted in a way that explains in plain English what is wrong, identifies how it may be put right and how any recommended or required work will contribute to improvement.
6. SFRS should ensure that duty holders are aware of, and understand, the importance of the on-going fire safety management of premises.
7. The Scottish Government should introduce a requirement for third party fire risk assessors to be certificated or registered to ensure competency and to help business receive a satisfactory and consistent service. This could in the first instance focus on those offering assessments/assessors working in high risk sectors.
8. A Business and Regulatory Impact Assessment should be completed to help assess the impact of options, including certification, to ensure that all costs and benefits are considered.
9. In the shorter term, the Scottish Government and SFRS should work to promote the benefits of third party certification and how to select competent fire risk assessors. This should include discussions with local authorities as to whether they would be able to assist in promoting awareness of the Act.
10. It would be helpful to have statistics which provide a better understanding of the issues and reasons for non-compliance which would support future monitoring. For example, whether infringements found are minor or serious risks, and whether the assessment was carried out by the duty holder or an external assessor.
11. Sheltered housing complexes are considered a high risk area by SFRS and of particular concern to members of this sub group.
12. The growth in use of peer to peer platforms needs to be considered further specifically the implications of non-compliance of fire regulations.

## Appendix 2: FSEC risk matrix

Premises use group	Hospital/Prison	Care home	HMO	Hostel	Hotel	Other sleeping accommodation	Further education	Public building	Licensed premises	School	Shop	Other premises open to public	Factory or warehouse	Office	Other workplace
FSEC group	A	B	C	E	F	H	J	K	L	M	N	P	R	S	T
Relative risk rating															
7	VH														
6.75	VH														
6.5	H														
6.25	H	VH	VH	VH											
6	M	VH	VH	VH	VH							VH			
5.75	M	H	H	H	VH	VH						VH			
5.5	M	H	H	H	H	VH						H			
5.25	M	M	M	M	H	H	VH	VH	VH	VH		VH			
5	L	M	M	M	M	H	VH	VH	VH	VH		VH			
4.75	L	M	M	M	M	M	H	H	H	H	M	H	VH		VH
4.5	VL	L	L	L	M	M	H	H	H	H	M	H	VH	VH	VH
4.25	VL	L	L	L	M	M	M	M	M	M	M	H	H	H	H
4		VL	VL	VL	L	L	M	M	M	M	L	M	H	H	H
3.75		VL	VL	VL	L	L	M	M	M	M	L	M	H	H	H
3.5		VL	VL	VL	VL	L	M	M	M	M	VL	M	M	M	M
3.25					VL	VL	L	L	L	L	VL	L	M	M	M
3						VL	L	L	L	L		L	L	L	L
2.75							VL	VL	VL	VL		VL	L	L	L
2.5															
2.25															
2													VL	VL	VL

Table A1 – FSEC risk matrix showing premises risk bands against relative risk

### Notes

1. Group D Purpose built flats and group G House converted to flats have been omitted
2. The premises use group names are generic (see section 4.3 of report)

**Risk bands:** **VH** – very high, **H** – high, **M** – medium, **L** – low, **VL** – very low

	FSEC group	A	B	C	E	F	H	J	K	L	M	N	P	R	S	T
Risk level	Relative risk rating															
Well Above Average	7	VH														
	6.75															
	6.5	H														
	6.25		VH	VH	VH											
	6		VH	VH	VH	VH						VH				
Above Average	5.75	M	H	H	H	VH	VH					VH				
	5.5					H						H				
	5.25		M	M	M	M	H	VH	VH	VH	VH	M	VH			
	5	L														
Average	4.75	L	M		M	M	M	H	H	H	H	M	H	VH		VH
	4.5	VL	L		L	L	M	M	M	M	M	M	M	H	VH	VH
	4.25			L		L	L	M	M	M	M	L	M	H	H	H
	4				VL	L	L	M	M	M	M	L	M	H	H	H
Below Average	3.75		VL	VL	VL	L	L	M	M	M	M	L	M	M	H	M
	3.5					VL						VL	M	M	M	M
	3.25						VL	L	L	L	L		L	L	M	L
	3													L	L	L
Well Below Average	2.75							VL	VL	VL	VL		VL	L	L	L
	2.5															
	2.25															
	2													VL	VL	VL

Table A2 – FSEC premises risk bands against risk levels

# Glossary and abbreviations

An explanation of abbreviations used in this report can be found below.

CPD	Continuing professional development
Dutyholder	A person or organisation with legal obligations under fire safety law
FSE	Fire Safety Enforcement – the function of enforcing legislation in respect of non-domestic premises
FSEC	Fire Services Emergency Cover toolkit
HMFSI	Her Majesty’s Fire Service Inspectorate for Scotland
HMO	House in Multiple Occupation: a house occupied together by three or more unrelated persons ( <i>see Housing (Scotland) Act 2006 for fuller description and exclusions</i> )
HSE	Health and Safety Executive
IRS	Incident recording system: the national UK system for recording incidents attended by the Fire and Rescue Service
LAI	Local Area Inspection. A type of regular inspection of SFRS service delivery carried out by HMFSI in local authority areas
LSO	Local Senior Officer: by law the SFRS has to appoint a LSO for each local authority area in Scotland
MCL	Management compliance level. A numerical level which is an output of a fire safety audit
PPED	Enforcement database used by the SFRS for recording activity
Relative risk	The risk rating of an individual premises
Relevant premises	The term used in the 2005 Act to describe those premises in respect of which fire safety legislation imposes obligations on dutyholders
Risk band	A range of risk scores within a premises group
Risk score	The risk rating of an individual premises expressed numerically
RRG	Regulatory Review Group, an independent group which advises the Scottish Government on regulatory issues
SCOP	Scottish Regulators’ Strategic Code of Practice
SDA	Service Delivery Area. The SFRS is organised into three SDAs, North, East and West
SFRS	Scottish Fire and Rescue Service
the 2005 Act	The Fire (Scotland) Act 2005 This Act contains the legal duties, powers and organisation of the SFRS; and in Part 3 contains the principal non-domestic fire safety regime for Scotland



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