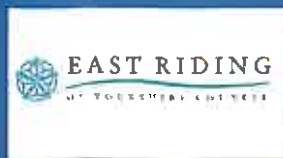




# Housing Fire Safety Protocol

Between Humberside Fire and Rescue Service and East Riding of Yorkshire, Hull City, North East and North Lincolnshire Council Local Authorities' Private Sector Housing Teams





# HUMBERSIDE FIRE & RESCUE SERVICE

## REGULATORY REFORM (FIRE SAFETY) ORDER 2005

**Subject:** The Housing Act 2004-Licensing and Management of Houses in Multiple Occupation (HMO) and other Houses Regulations 2006 (S.I. 373)

**Outline of Policy:** Housing Fire Safety protocols between Humberside Fire & Rescue Service and Hull City, East Riding of Yorkshire, North and North East Lincolnshire Council Housing Authorities (Oct. 2007)

### **1. Introduction**

This protocol establishes the principles and describes the joint working arrangements between Humberside Fire & Rescue Service and Hull City, East Riding of Yorkshire, North and North East Lincolnshire Council Housing Authority (collectively described as the Local Housing Authority, or LHA as appropriate) to deliver the objective of improved fire safety in relevant types of housing stocks where their legislation may apply. It provides a framework for detailed local arrangements between the two parties and their respective Regional and National Bodies.

The enacting of the Housing Act 2004 and the Regulatory Reform (Fire Safety) Order 2005 has brought about similar duties on each Authority to enforce certain fire safety provisions within such housing.

The protocol seeks to promote the efficient use of resources, appropriate review and monitoring arrangements, to identify separate areas of inspection and enforcement and provide for urgent or complex requests for assistance from either party. It seeks to provide all parties, as far as practical, with a measure of confidence that they are discharging their respective duties under their respective legislation.

Lead enforcing roles for each party are outlined in Section 2 of this protocol.

The collaborative working arrangements as detailed in this protocol are recognised as supporting the Government expectations regarding partnerships. It is also acknowledged that the protocol will enable both authorities to promote fire and other safety provisions in a wider range and greater number of premises than if they had acted independently or not undertaken joint inspections.

Nothing in this protocol shall be considered as creating a contractual relationship, a contract of employment or a relationship of principal and agent between parties and shall not add in any way to the existing statutory duties of the parties. No party to this agreement shall hold itself as being authorised to enter any contract on behalf of any other party or in any way bind any other party to the performance, variation, release or discharge of any obligation otherwise than in circumstances expressly or implicitly permitted by this agreement.

The signatories to this protocol are shown in Appendix A.

### **2. General**

The Housing Act 2004 (HA2004) and associated legislation introduces:

- A widening of the types of residential premises typically covered by the Act

- A new definition of HMO's
- The mandatory licensing for HMO's of three storeys and above with conditions (including fire safety) prescribed
- A new system for assessing housing conditions based upon the Housing Health and Safety Rating System (HHSRS)
- New enforcement powers

The aims of the Act are to:

- Protect all occupants
- Identify and prioritise higher risk HMOs
- Target resources to those properties containing category one hazards as identified by the HHSRS
- Ensure only 'fit and proper' landlords with adequate management standards are licensed for HMOs

It is a requirement of the Act to have due regard to enforcement guidance as produced by the Department of Communities and Local Government (formerly Office of the Deputy Prime Minister)

### **3. Enforcement Powers**

The table below indicates the lead enforcing authority Humberside Fire & Rescue Service (HFRS) or the relevant Local Housing Authority for the different property types 1-6.

Table 1.

No.	Description of property type	Enforcing Authority
1.	Single dwellings, including shared housing (fire risk assessment not required)	LHA
2.	All HMOs whether or not subject to mandatory, selective or additional licensing	LHA
3.	a) Within all self-contained flats, whether purpose built or converted b) common parts of self-contained flats, whether purpose built or converted	LHA HFRS or LHA
4.	Premises with mixed commercial and associated residential accommodation and sheltered housing	HFRS
5.	Hostels/B&B/hotels	HFRS
6.	All multiple-occupied accommodation that is owned or managed by the LHA	HFRS

Note1: Table 1 provides general guidance-it is **not definitive** and certain premises will fall under more than one category. Additionally item 3 relates to Purpose Built Blocks of Flats (PBBF). LHA have enforcement powers in common areas under the Housing Act 2004 HHSRS system. It is therefore acknowledged that enforcement in such common areas will be dealt with locally on a case by case basis.

In addition there is a requirement for the Local Housing Authority under Section 10 of the HA2004 wherever practicable to consult the Fire Authority before:

- 1) Discretionary notification regarding the issue of HMO licenses.
- 2) Taking action to deal with fire hazards in common parts of HMOs or buildings containing flats.

#### **4. Integrated Risk Management Plan (IRMP)**

The Humberside Fire and Rescue Service's IRMP recognises that some of the very highest risks to life from fire are included within the HMO sector.

Subject to needs of the IRMP (which by its nature is a dynamic and evolving programme) Humberside Fire and Rescue Service recognises the need for and will adopt a proactive and supporting role with the relevant Local Housing Authority to address and reduce the risk to life as well as maximising community safety in relevant premises.

For the purpose of this directive, relevant Local Housing Authority departments are accepted as the lead Authority with responsibility for dealing with HMO's.

Wherever possible this will be in conjunction with Humberside Fire and Rescue Service where the Regulatory Reform (Fire Safety) Order 2005 (RRFSO) applies (i.e. not for single domestic dwellings, shared housing etc).

#### **5. Houses or Flats in Multiple Occupation (HMOs)**

##### **5.1 Definition**

**The Local Authority Authorised Officer will ultimately determine whether any premises are a HMO or not.**

Under the provisions of the Housing Act 2004, if a person lets a property, which is one of the following types, it is deemed to be a HMO:

- An entire house or flat, which is let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet.
- A house or flats which have been converted entirely into bed-sits or other non-self contained accommodation and which are let to three or more tenants who form two or more households and who share a kitchen, bathroom or toilet facilities.
- A converted house, which contains one or more, flats which are not wholly self-contained (i.e. the flat does not contain within it a kitchen, bathroom and toilet) and which is occupied by three or more tenants who form two or more households occupy.

- A building, which has been converted entirely into self-contained flats if the conversion did not meet the standards of the 1991 Building Regulations and more than one third of the flats, are on short-term tenancies.

In order to be a HMO the property must be used as the tenants only or main residence and it should be used solely or mainly to house tenants.

## 5.2 Licensing Schemes

Under the Housing Act 2004 Part 2 mandatory licensing scheme a HMO must be licensed if it is in a building of three or more storeys and is occupied by five or more tenants in two or more households.

The Local Authority also has discretionary powers under Part 3 to widen the remit of licensing to include smaller HMO's, depending on local conditions.

Relevant application packs for owners are available from Local Authorities. On receipt of satisfactorily completed application forms the Local Authority will process the application. The applicant will then be assessed against pre-set criteria to determine whether or not they are a sufficiently fit and proper responsible person to own or manage a HMO.

The Local Authority will also determine whether suitable 'Management arrangements' have been made. Matters to be considered include:

- A system for tenants to report defects and emergencies
- Arrangements to respond to such requests
- A process for dealing with anti-social behaviour
- Arrangements for periodic inspections and repairs
- Adequate funding for and competence of the owner/manager

Licence conditions include such matters as:

- Gas safety Certificates (where necessary)
- The safety of electrical appliances
- The maintenance of the condition of suitable furniture
- The installation and maintenance of smoke alarms and any fire alarm system
- The supply of tenancy agreements to all tenants within 28 days

Licences may be refused or revoked; in addition interim and final management orders may be made or served by the Local Authority in certain prescribed circumstances. These orders transfer short or long-term management of the premises to the Local Authority.

## 5.3 Regulatory Reform (Fire Safety) Order 2005 (RRFSO)

After 1<sup>st</sup> October 2006 under Article 42 of the RRFSO, Local Authorities are required to ensure that the Fire Authority for the area has the opportunity to make suitable representations before any licence is issued.

## 6. Consultations

### 6.1 Plans

Humberside Fire & Rescue Service will be formally consulted regarding plans for HMO premises of 3 storeys or greater in height OR in any common parts of a building containing one or more flats or any HMO where a Category 1 or Category 2 Fire hazard under the Housing Health & Safety Rating System (HHSRS) (see section 7 below) is identified and they intend to carry out enforcement action. Any subsequent notices under Part 1 of the Housing Act are to be issued by the Local Authority.

Section 10 of the Housing Act 2004 requires local housing authorities to consult with the local Fire & Rescue Service before taking enforcement action in respect of a prescribed fire hazard in a HMO or in the common parts of building containing flats. The form of the consultation is not prescribed. Where emergency measures are to be taken in relation to a fire hazard the Local Housing authority must consult with the local Fire & Rescue service before they take those measures as far as is practicable.

#### a. Single Occupancy

The signatories will assess such premises on a risk based approach in accordance with the LACORS guide.

The Local Housing Authority may consult where category one or category two fire hazards are present in these premises.

#### b. HMOs

I.e.:

- Three or more storeys
- Complex or hybrid HMOs
- Hostels

Existing procedures will be largely retained in these cases. Such formal consultations will commence with an initial assessment of the proposals and plans by a Local Authority Housing Officer with suitable Fire Safety knowledge.

A report is then forwarded to Humberside Fire & Rescue Service with letting details as well as the fire safety measures. Two copies of the relevant building plans will then accompany the report. Each plan will consist of a single line drawing suitably annotated to show the fire safety measures deemed necessary to maintain a suitable means of escape in the event of fire.

Upon receipt of the report and plans Humberside Fire & Rescue Service will respond with their comments within 15 working days. Priority may be given to higher risk premises by mutual consent subject to suitable risk assessments. Such responses will indicate the suitability or otherwise of the proposals, together with any further recommendations. For the purposes of statutory consultations from 10/11/2010 both Local Authority reports and Humberside Fire & Rescue Services comments will be based upon the joint national LACORS Housing – Fire Safety Guidance on fire safety provisions for certain types of existing housing guide. Due regard shall be paid to periodic updates to this guide as issued by LACORS by or on behalf of the Government Office. This guide has been previously accepted as best practice between Humberside Fire & Rescue Service and each of the four Unitary Authorities within the Humberside Fire & Rescue Service area (East Riding of Yorkshire, Hull City, North Lincolnshire and North East Lincolnshire Councils).

## **6.2 Meetings**

Formal consultation between all authorities should take place in accordance with the requirements of the Housing Act 2004 Section 10 and the regulatory Reform (Fire safety) Order 2005 Article 46.

Arrangements should be put in place to facilitate the following:

### **Strategic level consultation**

Formal meetings at strategic management level to review procedural and policy issues. This group should also monitor the outcomes of the protocol and should meet every six months.

### **Tactical Level**

#### **a) Emergency situations**

This will result in direct consultation between the Local Housing Officer and the Humberside Fire and Rescue Service Fire Safety Advisor or Manager, dependant upon the circumstances of the situation. Where possible this should be between an identified and named link officer from each authority.

#### **b) Non-emergency situations**

For example, proposals for an inspection programme. Discussions will be held between named link officers and referred to strategic meetings where appropriate.

### **Individual**

If a scheme of works for an individual property is in compliance with legislative requirements and any jointly agreed national or local guidance then consultation could be deemed to have taken place. Depending on the circumstances and the complexity of the requirements, written consultation may not always be necessary.

## **7. Joint Inspections**

Such inspections will be arranged as far as practicable under each Authority's own enforcement powers under their respective legislations.



## **Fire Authority- Regulatory Reform (Fire Safety) Order 2005**

Under the above Order, the Fire authority for the area concerned can inspect any place where the RRFSO applies, under **Article 27** and issue:

- Alterations Notices (**Article 29 paragraphs 1-5**).
- Enforcement Notices under (**Article 30 paragraphs 1-5**)
- Prohibition Notices (**Article 31 paragraphs 6-7**)

Alterations and Enforcement Notices can only be served on areas covered by the above order. Prohibition notices potentially cover all areas in the premises.

Prior to such notices being issued to an HMO, Humberside Fire & Rescue Service will endeavour to contact the Local Authority whenever possible.

## **Local Authority-Housing Act 2004, Enforcement Framework**

Powers of Local Authority Housing Departments under the above Act:

- Serve an Improvement Notice requiring remedial works
- Make a Prohibition Order, closing the whole or part of a dwelling or restricts numbers
- Suspend these types of notice
- Take emergency action
- Serve a hazard awareness notice
- Make a Demolition Order
- Declare a clearance area
- Interim Management Orders
- Final Management Orders

Where emergency measures are needed in relation to a prescribed fire hazard in a HMO, the Housing Authority should consult Humberside Fire & Rescue Service as far as is practicable.

This procedure is detailed more fully in Section 10 of the Housing Act 2004.

The Local Housing Authority is **required** to consult with the Fire Authority if:

- a) A prescribed Category 1 or Category 2 fire hazard exists in a HMO or any other building containing one or more flats; and
- b) They intend to carry out enforcement action.

Any such consultations will be initially by the most expedient method and will be confirmed in writing thereafter.

## **Humberside Fire & Rescue Service Audits**

Humberside Fire & Rescue Services' audit programmes will be determined by the overall requirements of the Services Integrated Risk Management Plan (IRMP). To accommodate the needs of the plan, HMO audits will be carried out as part of the Fire Authorities themed Risk Based Inspection Programme. Local Housing Authorities will be contacted prior to such themed audits to maximise efficiency and effectiveness of resources.

### **8. Complaints**

#### **Complaints - Third Party**

Where either Authority has received complaints, or if unacceptable conditions have been reported then it is expected that the Local Housing Authority will utilise their inspection and enforcement powers in the first instance.

Humberside Fire & Rescue Service will assist in more complex fire related cases and jointly inspect by mutual agreement where possible. Where this is not possible in urgent situations (i.e. out of hours) Humberside Fire & Rescue Service will, if necessary, take steps to implement interim measures pending the Local Housing Authority's final resolution at the earliest opportunity.

All complaints against both third party and Humberside Fire & Rescue Service personnel will be dealt with using laid down procedures contained within Service Orders (A1, Section E).

Complaints against Local housing Authority personnel will be dealt with using their own internal complaint procedures.

### **9. Housing Health & Safety Rating System (HHSRS)**

The HA1985 HMO fitness test has been replaced with an evidence-based national risk assessment process (HHSRS). In future, Local Authorities are obliged to base enforcement decisions for residential premises on these assessments.

Actions of Authorities will be based on three key considerations:

- a) The hazard rating as determined by HHSRS
- b) Any identified hazards above or below prescribed thresholds (Category 1 and 2).
- c) The most appropriate course of action to take to deal with the hazard.

#### **The System of Assessment**

The purpose of a HHSRS assessment is not to set a standard but to generate objective information in order to determine and make informed enforcement decisions.

Current technical guidance is contained in the February 2006 Housing Health & Safety Rating System Operating Guidance document (under section nine).

HHSRS separately assesses twenty-nine categories of housing hazard and provides a rating for each (including fire). It does not provide a single rating for any HMO or single/multi-occupied dwelling. Hazard ratings are expressed through a numerical score, which will fall within one of ten bands. Bands A-C are Category 1 hazards; bands D-J are Category 2 hazards (Category 1 hazards being the highest). Category 1 hazards represent a mandatory duty to act. Category 2 hazards are discretionary.

All HHSRS are based on the risk to the most vulnerable target group to the hazard being assessed. For example stairs constitute a higher risk to the elderly; therefore they are considered the most vulnerable group with regard to assessing hazards relating to stairs. A dwelling, which is considered safe for the most vulnerable group, is therefore safe for all groups according to the guidance.

Any subsequent enforcement action is based on both the potential and actual occupancy. Joint inspections on **non-fire** related Hazard Profiles will not normally be carried out by Humberside Fire & Rescue Service personnel.

## **HHSRS Hazard Profiles**

### **A. Physiological Requirements Hygrothermal Conditions**

- 1) Damp and mould growth
- 2) Excess heat
- 3) Excess cold

### **Pollutants (non-microbial)**

- 4) Asbestos (and MMF)
- 5) Biocides
- 6) Carbon monoxide and fuel combustion products
- 7) Lead
- 8) Radiation
- 9) Uncombusted fuel gas.
- 10) Volatile organic compounds

### **B. Psychological Requirements Space, Security, Light & Noise**

- 11) Crowding and space
- 12) Entry by intruders
- 13) Lighting
- 14) Noise

### **C. Protection Against Accidents Falls**

- 19) Falls associated with baths, etc
- 20) Falling on level surfaces, etc
- 21) Falling on stairs, etc
- 22) Falling between levels

### **Electric Shocks, Fires Burns & Scalds**

- 23) Electrical hazards
- 24) **Fire**
- 25) Flames, hot surfaces, etc.

**Collisions, Cuts and Strains**

- 26) Collision and entrapment
- 27) Explosions
- 28) Position and operability of amenities, etc
- 29) Structural collapse and falling elements

## **10. Communications**

Mutually agreed suitable communication channels shall be established and maintained between both parties. These channels will cover such areas as inter-agency contact details, including out of hours and re-housing arrangements for any occupiers left without a residence during enforcement or prohibition notice procedures.

## **11. Monitoring and Evaluation**

Any changes to this protocol, other than minor administrative changes, will be subject to approval at strategic level and the signatories to this protocol.

All parties to the protocol will produce an annual report jointly.

## **12. Data Exchange**

Each Local Housing Authority and Humberside Fire and Rescue Service will establish local communication channels to exchange data.

Local Housing Authorities will provide data in an agreed format to Humberside Fire and rescue service to enable the population of their databases.

Such information will subsequently be updated six monthly.

All authorities will ensure that the information is marked as confidential and will not disclose it to other organisations without consent. The above authorities will not use or disclose information supplied pursuant to this protocol without consulting the original authority. All information, whether held on manual files or computer/digital media, will be treated as confidential waste.

## **13. Post- Incident Considerations**

In the event of fire in HMOs or self contained flats etc Humberside Fire & Rescue Service will deal with the initial incident in accordance with the requirements of the Fire and Rescue Services Act 2004, Service Orders and Standard Operating Procedures as deemed necessary by the Officer in Charge of the incident.


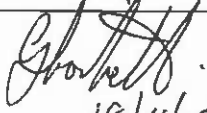
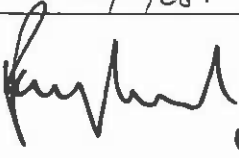


Ongoing security of the premises post incident will usually be passed onto the responsible person or their representative. In their absence the security would be passed over to the Police or Local Authority for further action.

Further access may be required by Humberside Fire & Rescue Service to facilitate fire or forensic investigation, including the taking of samples in association with Police Scenes of Crime Officers and/or appointed forensic science representatives.



APPENDIX 'A'

Signatories to the protocol

Authority	Name and title	Signature and date
Humberside Fire and Rescue Service	R. Hammejer ACO	 18 April 2008.
North East Lincolnshire Council	GRANT LOCKETT SERVICE MANAGER	 18/4/08.
North Lincolnshire Council	MARK SHERWOOD HEAD OF HOUSING	 18/4/2008
Hull City Council	JOHN HOCKING DIRECTOR OF HOUSING	 18/4/08
East Riding of Yorkshire Council	PETER JARSON PRIVATE SECTOR HOUSING MANAGER	 18.04.08





## **Addendum Number One to the Housing Fire Safety Protocol**


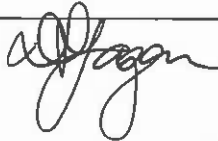
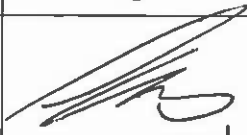


It is hereby agreed by the undersigned representatives of the signatories to the above protocol dated 18/04/2008 shall be amended to include the following;

1. Section Three (Enforcement Powers) Table 1 item3;
  - Delete reference to all self- contained flats with the LHA as the primary enforcing agency
  - Insert reference to self-contained flats, whether purpose built or not
  - New sub-heading 3a indicating the LHA to be the primary enforcement agency within such flats
  - New sub-reference 3b indicating HFRS or the LHA to be the primary enforcement agency for common parts of all such flats
  - New Note for Table 1
2. Section Six (Consultations) sub section 6.1 (Plans);
  - The need to also consult for any common parts of a building containing one or more flats.
3. Section Six (Consultations) sub section 6.1.a (Single Occupancy);
  - Recognises that there is now a national LACORS fire safety guide available for such premises.
4. Section Six (Consultations) sub section 6.1.b (HMOs);
  - Outlines the adoption of the LACORS guide (as may be updated by the Government Office) by the signatories below for the purposes of statutory consultations from 10/11/2010.
5. Section Seven (joint Inspections) Local Authority-Housing Act 2004, Enforcement Framework a);
  - Includes the additional requirement for the Local Housing Authority to consult with the Fire Authority for prescribed Category 2 fire hazards.



APPENDIX 'A'

Signatories to the protocol

Authority	Name and title	Signature and date
Humberside Fire and Rescue Service	GROUP MANAGER STEVE TOFFAN	 8.2.11.
North East Lincolnshire Council	DEBBIE FAGAN SERVICE MANAGER STRATEGIC HOUSING	 22/12/10
North Lincolnshire Council	TREVOR LAMING Acting Head of Housing	 27/01/11
Hull City Council	SUSAN ROBERTS PRIVATE HOUSING MANAGER	 15.12.10
East Riding of Yorkshire Council	PETER JERSON PRIVATE SECTOR HOUSING MANAGER	 16.12.2010

