

RMC Directors' Health and Safety Responsibilities



General Health and Safety Duties

The primary piece of health and safety legislation in the United Kingdom is the *Health and Safety at Work Act 1974*. This Act places a general duty on those responsible for places of work to protect the health, safety and welfare of employees as well as non-employees who may be affected.

The Act applies to the common areas of residential

properties, which are deemed to be places of work even if they are only used as such infrequently e.g. by contractors etc. Therefore this general duty would cover people employed by the RMC company (concierge, cleaners etc), as well as residents, contractors, and members of the public who use the common parts.

Risk Assessment

Underneath the Health and Safety at Work Act 1974 are numerous pieces of secondary health and safety legislation. These Regulations place very specific duties on those responsible. Perhaps the most noteworthy Regulations are those which require a risk assessment to be undertaken.

The *Management of Health and Safety at Work Regulations 1999* require that a risk assessment of places of work is undertaken (which would include the common parts of residential properties). This assessment should identify the people at risk, the hazards present, and the actions which are 'reasonably practicable' to reduce the level of risk to an acceptable level. This assessment should be recorded, and steps taken to implement the identified actions.

In addition, The *Regulatory Reform (Fire Safety) Order 2005* places a duty on those responsible to carry out a specific fire risk assessment. Again this assessment should identify who is at risk and what

the (fire) hazards are. The assessment should have two focus areas: the measures required to reduce the risk of a fire starting, and the measures required to reduce the risks to people if a fire does start.

Again, this assessment should be recorded and steps taken to

implement the identified actions.

Unless there are no internal common areas on a residential property, in practice it makes more sense to carry out a combined Health, Safety and Fire

Risk Assessment for the property, which would form the foundation for managing health and safety in the common areas of the property. This assessment must then be reviewed periodically (e.g. annually or bi-annually depending on the level of risk).

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Asbestos

Because asbestos is such a versatile material, its use in a wide range of materials and applications was widespread throughout the UK. However, as the health risks associated with asbestos came to be fully understood, the use of the material was banned over a period of time. 'Brown' and 'blue' asbestos were banned in the 1980s, whilst 'white' asbestos was banned in 1999.

However, this means that there are now many thousands of properties in the UK which were constructed or re-developed using asbestos containing materials (ACMs). The *Control of Asbestos Regulations 2006* place duties on those responsible to manage the risks associated with these ACMs, and Regulation 4 specifically covers the control of asbestos in non-domestic premises (including the common parts of residential buildings). For any building constructed or re-developed prior

to 2000, unless strong evidence exists which demonstrates that ACMs are not present, it must be presumed that asbestos is present. Therefore the normal course of action is to undertake an asbestos survey in which samples of suspected materials are taken and analysed in a laboratory. The results of this analysis will then indicate whether or not ACMs are present.

Where ACMs are identified, unless they are in very poor condition and pose a significant risk to people's health (which is relatively rare), the commonly recommended course of action is to leave the ACMs in place and manage the risk. This would take the form of carrying out regular re-inspections of the ACMs to check their condition. These re-inspections should occur, as a minimum, on an annual basis – even if the ACMs are in good condition.

Electricity

Many accidents involving, and fires started by electricity are due to poor maintenance of the fixed electrical wiring installation. Therefore it is essential that the electrical installation within the common parts of residential properties is regularly inspected and tested. The relevant British Standard (*BS 7671 'Requirements for Electrical Installations'*)

sets out the requirements for periodic inspections of the fixed electrical installation, and requires that an inspection is carried out every five years. Such inspections should be carried out by electricians who are members of the NICEIC (National Inspection Council for Electrical Installation Contractors).

Plant and Machinery

It is easy to take for granted the machinery and equipment often present within the common parts of residential buildings – especially equipment such as fire alarms, emergency lights etc, which are not in constant use but must be expected to work if required.

For this reason there are various British Standards which delineate the minimum requirements for maintaining and servicing such equipment, including the frequency of inspections (some examples of which are included in the 'Typical Inspections

Required' schedule on the following page). Where communal water tanks/pumps/fountains are present, there are also duties relating to the control of legionella bacteria, which can cause Legionnaires' Disease – a rare but potentially fatal form of pneumonia. Where such equipment is present, a Legionella Risk Assessment should be undertaken to identify the measures required to control legionella bacteria – which, depending on the system, could simply involve regular water testing and periodic cleaning of water tanks etc.

Contractor Management

Where contractors are employed by a client such as a Resident Management Company, there is a shared responsibility between the client and the contractor to protect the health and safety of the contractor and anyone else who may be affected by the work.

For the client, this responsibility would consist of ensuring contractors are competent to undertake the work in question and providing the contractor with any pertinent safety information (such as the location of asbestos containing materials etc). To ensure contractors have the relevant health and safety arrangements in place, clients should ensure that contractors produce a risk assessment and related 'safety method statement' for the work to be undertaken. The complexity of the assessment should be proportionate to the risks involved – i.e. for low risk activities, the assessment and method statement may need to be no more than simple, common sense measures, whereas for higher risk activities such as window cleaning using abseiling equipment, the assessment will necessarily have to be a lot more complex and technical. For these reasons, a contractor vetting procedure for reactive and planned works should be in place, including for periodic major works such as internal/external redecorations, which would come under the Construction (Design & Management) Regulations 2007, and may be notifiable to the Health and Safety Executive if they are expected to last more than 30 days.



Staff Employed on site

Where staff are employed by a Resident Management Company, the RMC will be responsible for ensuring the health and safety of these employees. This general duty comes under the Health and Safety at Work Act 1974, but there are other regulations with more specific duties which may also apply.

In general, employees must be provided with sufficient training, information, instruction and supervision to ensure that they can carry out their

duties safely and competently. In addition, the duties they are expected to undertake may involve ensuring specific health and safety regulations are met. Examples are working at height (e.g. changing light bulbs, cleaning windows etc, – the Work at Height Regulations 2006), using chemicals (general cleaning etc – the Control of Substances Hazardous to Health 1999), lifting and moving objects (moving full bins to be emptied etc – the Manual Handling Operations Regulations 1992) etc.

Typical Inspections Required for a Residential Property

Inspection	Frequency
Health, Safety and Fire Risk Assessment	1 or 2 years
Asbestos Survey	Once
Asbestos Re-Inspection (if asbestos containing materials are present)	Annually
5 Year Fixed Electrical Installation Inspection	5 years
Legionella Risk Assessment (for communal water tanks/pumps/fountains)	2 years
Lift Inspection	6 months
Fire/smoke detection system	Quarterly
Emergency Lights	6 months
Automatic Opening Smoke Vents	Annually
Dry Risers	Annually

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