



ADVICE NOTE

HEALTH AND SAFETY

A summary of the main health & safety regulations that apply to blocks of flats

Note:

As the leading trade body for residential leasehold management, ARMA is also an important resource for leaseholders. Our Advice Notes cover a range of topics on the leasehold system to help leaseholders understand their rights and responsibilities and ultimately get the most out of living in their flat.

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SUMMARY

This advice note summarises some of the main health & safety regulations that apply to blocks of flats. This includes houses that have been converted into flats.

The duty to comply with health & safety regulations falls on the landlord or person responsible for managing the building. That could be a managing agent, a Residents' Management Company (RMC) or a Right to Manage Company (RTM).

Health & safety should never be ignored or dismissed simply because it costs money. The cost of failing to comply if there's an accident or injury could be far greater.

NOTE

Where we use the word 'landlord' in this advice note, it also includes RMCs and RTMs.

IF THERE'S AN ACCIDENT AND YOU HAVE NO PROOF OF A RISK ASSESSMENT BEING CARRIED OUT, YOU ARE MUCH MORE LIKELY TO BE PROSECUTED OR SUED FOR NEGLIGENCE.

RISK ASSESSING COMMUNAL AREAS

All blocks of flats must have a health & safety risk assessment carried out of the communal areas. This is a legal requirement under the Management of Health and Safety at Work Regulations 1999.

You may argue that the communal areas of your block of flats are not a place of work. But the Courts and the Health and Safety Executive (HSE) do include communal areas in health and safety regulations. So if a cleaner, gardener, managing agent or repair contractor enters them, then a risk assessment must be made.

Communal areas do not just mean the internal parts of the building – they also include the roof, structure and other external areas. When carrying out a risk assessment, remember to include all areas including gardens, grounds, plant rooms, meter cupboards and lift motor rooms.

If there aren't any employees of the landlord working at the block, then there's no requirement to record the risk assessment - but it would be foolish not to do so. If there's an accident and you have no proof of a risk assessment being carried out, you are much more likely to be prosecuted or sued for negligence. The risk assessment should be reviewed at least annually.

FIRE SAFETY

Every block of flats also needs a fire safety risk assessment. Again this applies to the communal parts, not to the individual flats, and it's an obligation on the landlord.

Fire Officers can enter any block of flats to inspect the building. They may ask to see the risk assessment and issue enforcement notices to improve fire safety if it's needed. Failures may also lead to prosecution in the courts.

WORKING AT HEIGHTS

The principle here is that any work at height should be avoided if it's practical to do it in another way. If it can't be avoided, then the work must be assessed and planned to be done with the least risk.

Work at height can include changing light bulbs, cleaning, testing smoke detectors and clearing gutters.

If a ladder or steps are supplied by the landlord, then they should be checked regularly and a notice stuck on them with safety precautions for their use.

'Working at heights' can apply to any height if a person could be injured falling from it. Even if it's below ground level. If window cleaners or other contractors visit a block of flats, then a risk assessment must be made. Part of the duty to assess risk will obviously fall on the contractor, but the landlord or their agent once again also has a duty. Remember, the landlord could be an RMC or RTM. So if you're a resident director, part of the duty falls on you.

ELECTRICAL SAFETY

If electrical equipment is supplied by the landlord or their agent to a contractor (for example a cleaner), then it must be regularly tested and properly maintained. A visual inspection and a more formal test should be carried out at the intervals recommended by the Electrical Safety Council (ESC).

LEGIONELLA

Legionella is a bacterium commonly found in water systems, which can cause Legionnaires' disease. Once again the landlord or agent has a duty to control the risks of legionella in any pipes, tanks and taps in communal areas (including a cleaner's cupboard).

Cold water tanks, taps and showers within individual flats are the responsibility of the leaseholders, unless the lease puts responsibility for repairing them on the landlord.

The starting point is a risk assessment, usually carried out by an expert. If risks are identified then a written action plan should be drawn up. The risk assessment should be reviewed annually.

CONTROL OF SUBSTANCES HAZARDOUS TO HEALTH (COSHH)

The most relevant substances found in the communal areas of blocks of flats are cleaning materials and gardening chemicals.

Again the duty is on the landlord or managing agent to assess the risks from any materials stored in the communal areas.

Most materials carry labels that identify the hazards that they pose; manufacturers also issue safety sheets on how to handle them. It's the landlord's duty to decide what instructions must be given to those who handle the materials, and what protective clothing is needed.

If a contractor is supplying their own materials, then the landlord or agent must obtain a COSHH risk statement from them.

REPORTING OF INJURIES, DISEASES AND DANGEROUS OCCURANCES (RIDDOR)

RIDDOR regulations require serious work related accidents, diseases and dangerous occurrences to be reported. Even if a landlord or managing agent uses a self-employed contractor to work at a block of flats, it's still their duty to report an accident to the contractor. The duty also applies if a member of the public is injured at the block.

There's a national incident centre where reports of fatal or major injuries should be made. Other accidents should be reported online via the HSE website hse.gov.uk/riddor

ASBESTOS

Landlords and agents have a duty to be aware of any material that contains asbestos in the communal areas of a block of flats. Remember that this includes the roof and main structure of the building as well.

To identify asbestos, it may be necessary to carry out a survey. If it is found, it's a good idea to maintain a register and to have a policy for the management and control of the material.

There's no duty to remove asbestos. In many cases it's far more dangerous to do so than to leave it. But it's important to inform any contractors working in the block if asbestos is present.

HEALTH AND SAFETY ENFORCEMENT

You may argue that accidents in a block of flats are few and far between and things rarely go wrong. But if there's a fire or injury, the consequences can be serious.

The body which enforces most health and safety matters is the **Health and Safety Executive (HSE)**, although some matters are enforced by local authorities and the fire service.

The HSE can issue improvement notices requiring landlords to take action to reduce risks. For example they might recommend installing railings or handrails to prevent falls, or prohibition notices to stop an activity if there's a risk of serious injury. Failure to act on the HSE's recommendations may result in prosecution.

The Corporate Manslaughter Act of 2007 is very clear that directors of Residents' Management Companies can be prosecuted under criminal law for serious breaches of Health & Safety law.

The Health & Safety Offences Act 2008 raised the maximum fine for offences in the lower courts from £5,000 to £20,000. It also increased the number of offences for which an individual can be imprisoned.

Directors of Residents' Management Companies will always retain responsibility for the health & safety of their block, whether they delegate to agents or not.

FINAL WORD

Just because a block of flats is part of your home, it doesn't mean health and safety laws don't apply. If contractors are working in the communal areas then they become a place of work.

You may have to spend some money to ensure your block complies with health & safety regulations — but there's a much higher cost if things go wrong because you failed to comply.



FURTHER INFORMATION

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The health and safety regulations mentioned in this advice note are:

- **The Management of Health and Safety at Work Regulations 1999**
- **The Work at Height Regulations 2005**
- **The Control of Asbestos at Work Regulations 2012**
- **The Reporting of Injuries, Diseases and Dangerous Occurrences (Amendment) Regulations 2012**
- **The Control of Substances Hazardous to Health 2002**
- **The Regulatory Reform (Fire Safety) Order 2005**
- **The Electricity at Work Regulations 1989**
- **The Private Water Supplies Regulations 1991**

The best source of advice on health & safety is the Health and Safety Executive: www.hse.gov.uk.

For a detailed and expert look at fire safety, download the Fire Safety in Purpose Built Blocks of Flats from ARMA's Leasehold Library: www.arma.org.uk/leasehold-library

For information on electrical safety, visit Electrical Safety First: www.electricalsafetyfirst.org.uk

Note:

Whilst every effort has been made to ensure the accuracy of the information contained in this ARMA Advisory Note, it must be emphasised that because the Association has no control over the precise circumstances in which it will be used, the Association, its officers, employees and members can accept no liability arising out of its use, whether by members of the Association or otherwise.

The ARMA Advisory Note is of a general nature only and makes no attempt to state or conform to legal requirements; compliance with these must be the individual user's own responsibility and therefore it may be appropriate to seek independent advice.