

Working together in Partnership

Fire Safety Protocol

between

**Kent & Medway Fire and Rescue
Authority**

&

Local Housing Authorities

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1. Introduction

- 1 This protocol establishes key principles and describes the joint working arrangements between the Local Housing Authorities (LHA) in Kent and Kent & Medway Fire & Rescue Authority (KMFRA) to deliver the objective of improved fire safety. It is a framework which provides the basis for detailed local arrangements whilst encouraging collaboration at a regional level.
- 2 The introduction of the Housing Act 2004 (HA) and the Regulatory Reform (Fire Safety) Order 2005 (FSO) has imposed an analogous duty on the two statutory authorities to enforce certain fire safety provisions within such housing. A summary of the respective legislation is available as Appendix A.
- 3 To promote the efficient use of resources, this protocol will identify discrete areas of inspection and enforcement, appropriate review and monitoring arrangements and provide for urgent or complex requests for assistance from either party. It seeks to provide all parties, as far as is reasonably practical, with a measure of confidence that they are discharging their respective duties under legislation.
- 4 KMFRA have a legal duty to enforce the FSO in the common areas of all residential accommodation not forming a single private dwelling. KMFRA acknowledge that the fire safety standards required by LHAs under the HA will, in other than exceptional cases, achieve a similar level of fire safety for relevant persons as required under the FSO.
- 5 Conversely, LHAs are responsible for implementing the various licensing requirements of the HA and utilising the Housing Health and Safety Rating System (HHSRS) to identify and if necessary act upon, significant hazards found within all housing. They acknowledge that KMFRA will monitor and enforce fire safety standards in areas where they have legislative control, to a similar standard, in premises identified in Section 3 of this protocol. KMFRA undertake to inform LHA of any serious non-fire matters that they encounter and identify.
- 6 Both authorities utilise a risk based enforcement approach and it is recognised that some housing providers, such as owners, landlords or managing agents may not have sufficient competencies to undertake such risk assessments. In general, LHAs undertake a risk assessment utilising the HHSRS while KMFRA expect the responsible person (as defined in Article 3 of the Fire Safety Order) to undertake the fire risk assessment.
- 7 These collaborative working arrangements, which support the Government's broader agenda for partnership working, will enable both authorities to promote fire and certain other safety provisions within a broader range of premises than would have been possible if they had acted independently or undertaken joint inspections.
- 8 Nothing in this agreement shall be considered as creating a contractual relationship, a contract of employment or a relationship of principal and agent between the parties and shall not add to in any way the existing statutory duties of the parties. No party to this agreement shall hold itself out 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.

9 The signatories to this protocol are shown in Appendix B.

2. The Underlying Principles of this Protocol are as follows -

1. To ensure appropriate standards of fire and other safety provisions are provided and maintained in residential premises.
2. To develop data sharing arrangements through established paths and in accordance with the section "Data Exchange" of this protocol.
3. To assist landlords and other providers to understand the legal framework which they operate under.
4. To encourage opportunities for offering joint training and awareness sessions
5. To recognise the needs and limitation of KMFRA and Local housing Authorities and to acknowledge that both authorities will always seek to act in good faith.
6. To promote and maintain effective working, effective communications and a true partnership

3. Which Authority Should Take the Lead Enforcing Role for Fire Safety?

10 The table below lists the authority that will **normally** take the lead in inspection and enforcement action in different types of property.

11 What does it mean to be designated as a lead enforcement authority?

It is recognised that whether LHAs or FRAs are locally designated as the lead enforcement authority for a certain type of premises, this does not affect the statutory responsibilities of either authority. Nor does it necessarily imply that all such properties will be proactively inspected by the lead authority, as this will depend on their resources.

Table 1

1	Single dwellings, including shared housing (Fire Risk assessment not required under RRO)	LHA
2	All Houses in Multiple Occupation (HMO) whether or not subject to mandatory, selective or additional licensing	LHA

3	All self contained flats, whether purpose built or converted ¹	LHA & KMFRA
4	Premises with mixed commercial and associated residential accommodation and sheltered housing ²	KMFRA
5	Hostels / B&B / Hotels ³	KMFRA
6	All multiple-occupied accommodation that is owned or managed by the LHA	KMFRA

Note

¹The LHAs retain the lead enforcement role for fire safety in all converted self-contained blocks of flats, as stated within the protocol; and internally within each flat in purpose-built blocks of flats. The FRA takes the lead enforcement role for fire safety arrangements in the common-parts of all PBBFs.

² Where there is clear and adequate fire resisting separation and separate entrances, the LHA will take responsibility for the residential premises [unless owned by the LHA] and the FRA will take responsibility for the commercial premises.

³ Hostels generally have a requirement for the residents to have a particular need or dependency and do not provide permanent accommodation.

- 12 Table 1 provides a general guide – it cannot cover every possible situation and certain premises will fall under more than one category. Negotiations to take account of local residential stock may be necessary to confirm responsibility level.
- 13 Enforcing authorities may wish to consider the opportunities afforded by The Local Government Act 1972 section 101 in appropriate cases.
- 14 Nevertheless, KMFRA are under an obligation to reduce fire deaths in line with their risk based enforcement policies and will undertake planned proactive inspections in any identified type of premises or in a particular locality as they deem necessary. Prior to starting any such series of inspection programmes, consultation should take place to ensure that duplication of inspection and enforcement does not occur. Any such programmes may, subject to local agreement, take place individually, collaboratively or jointly and should complement the inspection programme of the Local Housing Authority.
- 15 Where necessary emergency action will be taken by either authority to reduce any immediate risk but further remedial enforcement will only be undertaken following consultation with the designated lead authority. Nothing in this protocol will prevent either authority undertaking specific individual monitoring or enforcement action if appropriate.
- 16 Where concerns about fire safety in any premises come to light for whatever reason, including as a result of proactive or reactive audit, it should be the responsibility of the lead enforcement authority to investigate in the first instance. Individual flats are

covered by the LHA (Local Housing Authority) and the common parts by the FRA (Fire & Rescue Authority).

- 17 The legislative position and the provision and management of supported housing is complex and outside the scope of this protocol.

4. What will Local Housing Authorities do?

- 18 LHAs will undertake, in line with their statutory requirements, monitoring and inspection of premises identified in the Section 3 of this protocol.
- 19 They will enforce fire safety standards in accordance with the provisions of the HA, having regard to relevant documents published by the Government including the statutory operating and enforcement guidance on the HHSRS and in accordance with any guidance jointly agreed with KMFRA e.g. LACoRS Housing Fire Safety document.
- 20 LHAs will, when taking enforcement action under the HA, have regard to the principles and requirements of the FSO.
- 21 Although LHAs may offer a suitable means of complying with fire safety requirements, they will also:
1. Ensure that guidance for landlords of relevant multi occupied properties on undertaking their own fire risk assessments in accordance with the FSO accompanies all statutory notices
 2. Ensure that the owner/landlord is afforded in writing the opportunity to bring forward alternative means of complying with the fire safety requirements in accordance with their own fire risk assessment. In most cases it is expected that this will be discussed within the owner/landlord prior to the service of any statutory notice.
 3. Where such alternatives are brought forward by the owner/landlord, the Local Housing Authority will consult with KMFRA.
- 22 They will undertake consultation with KMFRA in line with the criteria detailed in Section 6 of this protocol.
- 23 They will provide KMFRA with relevant, timely and comprehensive data in an agreed format to enable those authorities to maintain adequate property and risk based data sets.
- 24 LHAs will consider the use of the full range of powers under the HA, including Emergency Prohibition Orders, where appropriate.

- 25 LHAs will provide KMFRA with suitable out of hours contact details (see Appendix D) for their homelessness unit so that where appropriate consideration is given to ensure vulnerable persons are not left homeless as a result of emergency enforcement action.

5. What will Kent & Medway Fire & Rescue Authority do?

- 26 KMFRA will undertake, in line with their risk-based inspection strategy, monitoring and auditing of premises, identified in Section 3 of this protocol, which fall under the scope of the FSO.
- 27 They will enforce fire safety standards in accordance with the FSO having regard to relevant documents published by the Government including; HM Government Fire Safety Risk Assessment - Sleeping Accommodation and in accordance with any guidance jointly agreed with the LHA e.g. LACoRS Housing Fire Safety document.
- 28 They will undertake consultation with LHAs in line with the criteria detailed in Section 6 of this protocol.
- 29 They will provide LHAs with relevant, timely and comprehensive data to enable those authorities to maintain adequate property and risk-based data sets.
- 30 They will provide LHAs with information, within their scope of competency, of serious matters that may need to be addressed by those authorities. (This may include such information as apparent overcrowding, poor management or unsafe practises by tenants).
- 31 KMFRA will undertake to inform LHAs authorities of any significant fire incident within premises covered by this protocol.
- 32 KMFRA is an emergency organisation which provides twenty-four hour cover. Information about dangerous fire safety conditions may come via complaints or post incident and may occur outside normal working hours. KMFRA is under an obligation to take action in such situations. Where possible, and especially outside of normal office hours, efforts will be made to mitigate the dangerous conditions and LHAs will be informed as soon as practicably possible.
- 33 KMFRA will, in principle, be willing to support LHAs at Residential Property Tribunal (RPT) hearings by offering professional opinion on fire safety matters.

6. Consultation

- 34 Formal consultation between 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.
- 35 Arrangements will be put in place to facilitate the following:

Strategic Level Consultation

- 36 Formal meetings at strategic management level will be held at least once per year to review procedural and policy issues. This group should also monitor the outcomes of the protocol and should meet at least every six months. See Appendix E for Meeting Framework and Terms of Reference.

Tactical Level Consultation

- 37 Emergency situations – Consultation between a Local Housing Officer and Local Fire Officer. (Where possible this will be between an identified and named link officer from each authority).
- 38 Non-emergency situations (such as proposals for inspection programmes) – Discussions between named link officers, and where appropriate referred to strategic meetings.

Individual Consultation

- 39 If a scheme of works for an individual property is in compliance with legislative requirements and any jointly agreed guidance then consultation can be deemed to have taken place. Depending on the circumstances and complexity of the requirements, written consultation may not always be necessary. Where alternatives to schemes are offered or problematic/non-standard premises are involved, full consultation shall take place.
- 40 Where necessary, in complex premises, joint inspections may be undertaken to agree a suitable standard prior to the taking of enforcement action by the most appropriate authority.

7. Communication

- 41 Local communication channels will be established between KMFRA and the LHAs.
- 42 Each authority undertakes, so far as they are able, to provide the other with assistance and information about their respective legislation to promote mutual understanding and efficient working.

8. Monitoring and Evaluation

- 43 Any changes to this protocol, other than minor administrative changes, will be subject to approval at strategic level and the signatories to the protocol.
- 44 An annual review will be produced jointly by parties to the protocol and the meeting framework and terms of reference.

9. Data Exchange

- 45 Each LHA and KMFRA will establish local communication channels to exchange data.

- 46 LHAs will provide data in an agreed format to KMFRA about residential premises. This will enable KMFRA to populate their premises databases.
- 47 LHAs and KMFRA will seek to provide six monthly updates of this data.
- 48 Both authorities will ensure that the information is marked as confidential and will not disclose it to other organisations without consent. Authorities will not use or disclose information supplied pursuant to this protocol without consulting the originating authority. All information whether held on manual files or computer/digital media will be disposed of as confidential waste.
- 49 Suggestions as to the scope and detail of this data are given in Appendix C.

10. Approval

- 50 The protocol will be approved and endorsed at the appropriate strategic management level within the LHAs and KMFRA.
- 51 Consultation should take place on a sub-regional basis with appropriate private sector Housing Groups.

Appendix A

Regulatory Reform (Fire Safety) Order 2005

The Regulatory Reform (Fire Safety) Order 2005 (Fire Safety Order or FSO) requires responsible persons to undertake a fire risk assessment to identify the general fire precautions they need to take to ensure, as far as is reasonably practicable, the safety of relevant persons from fire.

Having identified the general fire precautions necessary, the responsible person must implement them. Where five or more persons are employed, any form of license or certification or an Article 29 Alterations Notice has been issued to the premises; the significant findings of the fire risk assessment must be recorded.

The responsible person is identified as, the employer, the occupier or the owner as far as their control extends. In premises covered by this protocol which are not workplaces, the landlord or managing agent is likely to be the responsible persons. Tenants must cooperate with the responsible person.

In most cases the KMFRA is charged with a duty to enforce the FSO and have a range of enforcement options, from education and advice, through to formal enforcement notices and prohibition notices. Failure to comply with the FSO may constitute a criminal offence.

In general, the FSO applies to all areas of premises except those areas occupied as private domestic dwellings. Where there are areas used in common by the occupants of more than one such dwelling, the FSO applies.

The Housing Act 2004

The Housing Act 2004 (HA) includes the requirement for local authorities to review housing conditions within their area with a view to identifying any action that may need to be taken about those conditions under the provisions contained within the Act.

In addition to this, Part 1 of the HA replaces the existing housing fitness standard with an evidence based risk assessment procedure called the Housing Health and Safety Rating System (HHSRS).

The Housing Health and Safety Rating System is used to assess twenty nine categories of housing hazard and to provide a rating for each hazard. A hazard rating is indicated by a numerical score which is placed within one of 10 bands from A to J. A numerical score within bands A to C are category 1 hazards and scores in bands D to J are Category 2 hazards.

The rating and category of hazard are used to inform decisions about what type of enforcement action a local authority may need to take in relation to the hazard. The types of enforcement action which are available to local authorities are outlined in the Act and include improvement notices, prohibition orders, hazard awareness notices, emergency prohibition orders and demolition orders, and slum clearance declarations.

'Fire' is one of the categories of hazard which is assessed under the system. It includes threats from exposure to uncontrolled fire and associated smoke at a dwelling.

Where a local authority has identified a prescribed fire hazard in a House in Multiple Occupation (HMO) or in any common parts of a building containing one or more flats and intend to take enforcement action, the Act requires the local authority to consult KMFRA for the area in which the HMO/premises or building is situated.

In the event of the authority proposing to carry out emergency measures the duty to consult KMFRA is a duty so far as it is practicable before carrying out those emergency measures.

Part 2 of the HA introduces a licensing scheme for HMOs. The Act introduces three types of licensing scheme which local authorities can use. These are mandatory HMO licensing, additional HMO licensing of properties not covered by the mandatory scheme and, under certain circumstances, selective licensing of all private rented property within a neighbourhood.

The Act outlines the conditions for the granting or refusal of licenses by a local authority and this includes the suitability of a property for multiple occupation.

With regard to fire safety, this is further elaborated in the Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) (England) Regulations 2006, schedule 3 which states that 'appropriate fire precaution facilities and equipment must be provided of such type number and location as is considered necessary'.

Appendix B

Signatories to the Fire Safety Protocol

Name	For and on behalf of	Signature	Date
John Robertson	Kent Fire & Rescue Service	<i>John Robertson</i>	1 Oct 2012
?	Ashford Borough Council	?	1 Oct 2012
?	Canterbury City Council	?	1 Oct 2012
?	Dartford Borough Council	?	1 Oct 2012
?	Dover District Council	?	1 Oct 2012
?	Gravesham Borough Council	?	1 Oct 2012
?	Maidstone District Council	?	1 Oct 2012
?	Medway District Council	?	1 Oct 2012
?	Sevenoaks District Council	?	1 Oct 2012
Bob Porter	Shepway District Council	?	1 Oct 2012
?	Swale Borough Council	?	1 Oct 2012
?	Thanet District Council	?	1 Oct 2012
?	Tonbridge and Malling Borough Council	?	1 Oct 2012
?	Tunbridge Wells Borough Council	?	1 Oct 2012

Appendix C

Data Exchange Details

Database details will vary considerably but the following data fields are likely to be necessary:

LA URN (unique identifier if available)

Eastings

Northings

Property number

Property name

Address Line 1

Address Line 2

Locality

Town

Postcode

Number of floors

Risk level

Compliance level

Number of units

Licensed

Category/Type

Landlord/Responsible person/Contact

Telephone number

Appendix D

List of out of hours contacts.

Local Authority	Contact Number
Ashford	01233 629911
Canterbury	01227 781879
Dartford	08456 634212
Dover	01304 821199
Gravesham	01474 564422
Maidstone	01622 602000
Medway	01634 304400
Sevenoaks	01732 462222
Shepway	01303 221888
Swale	01795 417434
Thanet	01843 292442
Tonbridge and Malling	01732 844522 & 08456 341212
Tunbridge Wells	01892 515392 & 01892 526121
Kent Fire & Rescue Service	01622 692121 (Headquarters Reception) This number will auto divert out of normal office hours to KFRS Control

Appendix E

Strategic Meeting Framework and Terms of Reference

Meeting Framework & Terms of Reference
Strategic Meeting between
Kent Fire & Rescue Service [KFRS] & Local Housing Authorities [LHA]
Meeting delegates
KFRS Group Manager Technical Fire Safety
LHA Local Housing Officers of each authority
Meeting arrangements
6 monthly meetings – April and November 12 month review and feed forward Meeting start time – 09:30 Hrs Meeting finish time – 12:30 Hrs Venue – To be agreed
Meeting Purpose
In line with the agreed joint agency protocol this strategic meeting adopts the key agreed principles and describes the joint working arrangements between Kent Fire & Rescue Service & Local Housing Authorities' in Kent and Medway to deliver the objective of improved fire safety. It is a framework which provides for detailed local arrangements whilst encouraging collaboration at a regional level.
Terms of Reference
The cornerstone of the terms of reference are the key principles of the agreed joint KFRS & LHA inter agency protocol 1. To ensure appropriate standards of fire and other safety provisions are provided

<p>and maintained in residential premises.</p> <ol style="list-style-type: none"> 2. To develop data sharing arrangements through established paths and in accordance with the Section "Data Exchange" of this protocol. 3. To assist landlords and other providers to understand the legal framework which they operate under. 4. To encourage opportunities for offering joint training and awareness sessions 5. To recognise the needs and limitation of KMFRA and Local housing Authorities and to acknowledge that both authorities will always seek to act in good faith. 6. To promote and maintain effective working effective communications and a true partnership
Reporting and Accountability
<p>KFRS</p> <p>Reports to: Area Manager Technical Fire Safety [AM TFS]</p> <p>Circulation List: AD, AM TFS, GM East & West, GM Technical, CFRMIS Manager</p> <p>LHA</p> <p>Reports to:</p> <p>Line Manager</p>
Recording and administration
<p>Venue – Nominated delegate [KFRS] Minutes – Nominated delegate [KFRS] Agenda sent – 1 week before Minutes sent – 1 week before [minimum]</p>
Evaluation of Terms of Reference
<p>Annually within year end meeting [April]</p>