

## **ARMA (Association of Residential Managing Agents) advice regarding all aspects of Health and Safety**

The advice listed here is directly from ARMA's advisory sheets and contain information that should be read and understood since the number of prosecutions from the Health and Safety Executive continues to rise. So anyone who owns or manages residential blocks of flats should be aware of all that is contained in this bulletin.

The actual responsibility to comply with the legislation falls on the landlord or any person(s) responsible for the management of a property. Although there is a cost to implementing some of the measures needed to comply, the cost of non compliance can be far higher; the worst case scenario is a custodial sentence.

- All blocks of flats are required to have risk assessments conducted on all communal areas as they are accessed by members of the public, sub-contractors, visitors, postmen/women etc. Therefore, this applies to gardens, garages, grounds, plant rooms, lift motor rooms as well as stairways, halls and lobby areas. The most important requirement is to keep written records of these assessments so that they are available for people working in these areas so counteracting the possibility of prosecution and/or being sued for negligence. This assessment should be carried out annually.
- Fire safety has received more publicity recently and the law also requires a fire risk assessment to be carried out on an annual basis. This is for all common areas, (not however for the inside of the individual flats) and is an obligation for the landlord. These risk assessments must be carried out by a "competent person" and their recommendations should be taken seriously. Records must be kept of these annual assessments as well as the maintenance of any fire safety equipment that is at the premises.
- Asbestos is another area of responsibility to the landlord and his agent as there is a duty to be aware of any asbestos containing material in the structure of their buildings. The duty to manage asbestos is specific so that it is a requirement to identify any asbestos, which may involve a survey, to maintain an asbestos register and to have a written policy for the management and control of asbestos. There is no actual duty to remove asbestos unless a survey shows an imminent danger, as it is often more dangerous to remove than to leave it. The landlord has a duty to ensure that anyone working within an area that has asbestos is informed of its proximity so that they can undertake their own risk assessments before starting any work.
- Anyone involved with the maintenance of a block of flats has the right to review their own safety and should produce a risk assessment of their own before starting any work. Therefore any contractor has the right to see the risk assessments and

asbestos surveys before commencing work. Where the maintenance contract is for more than 500 hours or 30 days continuous work then the property owner must ensure the work is carried out within the CDM regulations (2007).

- If there is any electrical equipment that is supplied by the landlord or his agent to anyone who might use it in their building then it must be tested for electrical safety and maintained on a regular basis. A visual and also a more formal means of testing should be carried out on a regular basis and records kept. The frequency of these checks varies so further advice should be sought regarding how regularly this should occur. It is therefore recommended that agents ensure both fixed and portable appliance testing at regular intervals and record their findings.
- Legionella is a bacterium common in water systems which can result in Legionnaires' disease. The landlord and his agent of any block of flats are responsible for the control of Legionella in any pipes, water tanks and taps that are in any of the common parts of the estate. Cold water tanks, showers and taps contained within any individual flat are the responsibility of each individual lessee unless the lease for the flat states that the repair and maintenance of these are the responsibility of the landlord. The best way to ensure that the landlord or his agents are not likely to face problems with the current legislation is to start with a risk assessment of all the tanks pipes and taps for which they are responsible. This is best carried out by an expert who, on finding any risks, should help to draw up an action plan to reduce these risks. This risk assessment should be carried out on an annual basis and all the findings should be recorded, so that all the water is monitored on a regular basis.
- Working at heights regulations applies to any height from which a person could be injured should he/she fall whilst working. Working at height is the most common injury reported to the Health and Safety Executive. If any working contractor or window cleaner is to visit a block of flats then a risk assessment must be carried out first. Although the worker has a responsibility for his own safety there is also a duty of care from the landlord and his agents to reduce the risks involved in working at their property. If the landlord or his agent chooses to supply any form of ladder then they are responsible for its safety, maintenance and to provide a safe use instruction for anyone who might use it. Records must be kept to show that all ladders are checked to ensure that they are safe and comply with legislation.
- COSHH is the Control of Substances Hazardous to Health. The most common substances that are found in blocks of flats are cleaning and gardening chemicals and it is the landlord or his agent's responsibility to ensure that they are kept in a safe place. However there is also the duty to ensure that risk and COSHH assessments have been carried out and recorded. Most of these substances will be clearly labelled and it is advisable to also ask the supplier to provide you with the manufacturers' specification data which, by law, is always available. Having assessed the risks then the decision as to who can handle these substances can be made. If a contractor chooses to bring hazardous substances to a block of flats then it is the duty of the landlord or his agent to obtain a COSHH risk assessment from that contractor and keep a record of it.

- It is the duty of the landlord or his agent to ensure the safe use of gas and to have any gas supplied to communal areas and its equipment and fittings regularly maintained and checked for safety.
- Lifts or elevators that are used in the common areas of any block of flats must be maintained on a regular basis and safety signage must be in place and clearly visible for anyone who might use them. Lifts must also be regularly examined for their safe use. This responsibility is with the landlord or his agent to ensure that this is carried out and recorded.
- “No smoking” must be the rule in the enclosed common areas of every block of flats. The duty of the landlord is to ensure there is adequate signage and regular checks to ensure this rule is being adhered to.
- RIDDOR is the Reporting of Injuries, Diseases and Dangerous Occurrences. The regulations require the reporting of serious work related accidents, diseases and dangerous occurrences. Even when the landlord or his agent has used the service of a self-employed contractor at his block of flats, it is the landlord’s duty to report that accident. The same duty applies if a member of the public is injured at his block of flats. There is a national incident centre where these reports can be made.

As you can see there is plenty of legislation concerning the duties of a landlord and his managing agents. Failure to comply with these rules can now lead to fines of up to £20,000 and the number of offences which can lead to imprisonment has been increased. As you can see there is a cost in taking care of the duties required under the Health and Safety legislation however there can be a far greater cost if the rules are not adhered to.

At Westminster Compliance our aim is to keep you within the boundaries of the legislation and we hope that all the above is of use to you. We welcome any questions that you might have or to have the opportunity to speak with you further about the services on 020 3411 7888.

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