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All NHS Chief Executives
SHA Estates & Facilities Divisional Managers



Quarry House
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Leeds
LS2 7UE

Ref: DCL/FAI/PR

Dear Colleague,

ROSE PARK CARE HOME FATAL ACCIDENT INQUIRY DETERMINATIONS IMPLICATIONS FOR THE NHS

On 31st January 2004, a fire occurred at the Rosepark Care Home, Uddingston near Glasgow in which 14 elderly residents lost their lives.

The report of the fatal accident inquiry (FAI) into the fire, which was led by Sheriff Principal Brian Lockhart, was published on the 20th April 2011. Whilst the tragedy occurred in Scotland, these issues and recommendations have implications for care homes in England, with similar implications for the NHS arising from the report. For this reason, I felt it appropriate to write and make you aware of the issues so you can consider the implications for your own organisations.

A complete list of the issues identified as contributory factors in the incident, together with the Sheriff Principal's recommendations, are set out in the Annex. The FAI report identifies a number of '**reasonable precautions**' which should have been taken, '**defective systems**' which were considered to have caused or contributed to the deaths and '**other factors**' which are relevant to the circumstances of the deaths.

Since the fire at Rosepark, fire safety legislation in England and Wales has been reviewed, clarified and consolidated into the Regulatory Reform (Fire Safety) Order 2005 (the FSO), which was introduced in October 2006. Under the FSO, those responsible for healthcare premises (i.e., the employer, owner or occupier, and others, to the extent that they may have control of the premises) are required to carry out a fire risk assessment and to implement and maintain suitable and sufficient fire protection measures to safeguard the lives of their staff and residents in the event of a fire.

The risk assessment should be regularly reviewed to ensure that the fire safety measures remain appropriate to the circumstances of the premises and it should not be assumed that the fire protection measures in place when the premises were constructed are adequate now.

To support 'responsible persons' to comply with the provisions of the FSO (which, in healthcare premises, is enforced by local Fire and Rescue Authorities), the Department for Communities and Local Government (DCLG) has made specific fire safety guidance available for those responsible for healthcare premises. This

document (*Fire Safety Risk Assessment – Healthcare premises*) can be downloaded free from the DCLG website at www.communities.gov.uk/firesafety. It is also available from DCLG in hard copy form, priced at £12.

Additionally, the Department of Health publishes more detailed fire safety guidance for healthcare premises under the heading of *Firecode*.(www.spaceforhealth.nhs.uk)

Under the FSO, the ‘responsible person’ for the premises is responsible in law for the adequacy of the risk assessment. If having read the guidance, you are unclear or unable to apply it to your premises, you should seek advice from a competent person - someone with comprehensive training or experience in fire risk assessment.

Whilst there are many competent fire safety professionals, there are, at present, no nationally recognised criteria against which the competency of those providing commercial fire risk assessment services can be assessed. Fire safety professionals and industry are, however, working together to develop a national competency standard in fire risk assessment. The Fire Risk Assessment Competency Council (a sector owned and led body, including a number of certification bodies) has recently consulted on a draft competency criteria for fire risk assessors. The expectation is that this standard, once agreed, will be used by the professional certification bodies and lead to the development of one or more publicly available registers of fire competent risk assessors, providing those responsible persons who wish to employ a commercial risk assessor greater confidence in their abilities to help them to comply with the FSO.

I hope that this letter provides sufficient and helpful guidance to enable those responsible for managing fire safety in healthcare premises to ensure they are compliant with the requirements of the FSO.

Yours faithfully

David Flory
Deputy NHS Chief Executive

ANNEX

ISSUES ARISING FROM THE FAI REPORT

Reasonable Precautions

1. It would have been a reasonable precaution for bedroom doors to have been fitted with devices to ensure they close automatically when the fire alarm is activated.
2. It would have been a reasonable precaution for bedroom doors to be fitted with smoke seals.
3. It would have been a reasonable precaution to minimise the storage of combustible waste, in particular aerosol canisters, in the cupboard containing electrical distribution equipment.
4. It would have been a reasonable precaution to ensure staff were provided with adequate training and drills.
5. It would have been a reasonable precaution to ensure the fire and rescue service were called immediately the fire alarm sounded.
6. It would have been a reasonable precaution to have in place a suitable and sufficient risk assessment.

Defective Systems

7. *Maintenance of the electrical installation* – the report states that it would have been reasonable for there to have been in place a system of maintenance that involved regular visual inspections and periodic inspections in accordance with IEE Wiring Regulations, with appropriate record keeping. Had such arrangements been in place, the defect which led to the fire would have been identified, and the deaths may have been avoided.
8. *Fire training and drills* – fire safety training and drills in the premises were deficient in that induction training was inadequate, there was no system of refresher training, training for night staff was particularly unsatisfactory, training did not take account of the particular responsibilities of staff, training in the use of portable fire fighting equipment was inadequate and drills were haphazard.
9. *Management of fire safety* - a number of issues were raised in the FAI report relating to the management of fire safety.
10. *Management of the construction process* – the defective system identified that the care home owner chose to manage the construction project himself at Rosepark, he did not have the experience expected of a main contractor or clerk of works.

Other Factors

11. *Statutory responsibility for fire safety* – at the time of this fire, the Fire Precautions (Workplace) Regulations 1997 were in force, and inspection of premises was on a risk-based approach. At the time, the fire authority, in this particular case, was not inspecting care homes.
12. *Checking of documentation* – Rosepark was subject to inspection by the HealthCare Commission (and previously the local Health Board). Fire safety

was not seen as a priority, and the way in which fire safety was examined was unlikely to identify deficiencies in policies and procedures.

13. *Assurance of the competence of fire risk assessors* – there is no statutory requirement regarding the qualifications of persons who undertake risk assessments. The Government has no plans to change legislation to make the use of registered and accredited people compulsory. **The responsibility for the fire risk assessment remains with the ‘responsible person’.**