

Report to the Cabinet

Report reference: C-067-2011/12
Date of meeting: 12 March 2012



Portfolio: Housing
Subject: Fire Safety in Common Parts of Flat Blocks
Responsible Officer: Paul Pledger (01992 564281)
Democratic Services Officer: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

1. That the Cabinet confirms the Policy on Fire Safety in Flat Blocks, agreed by the former Housing Portfolio Holder in January 2010, namely:
 - (1) That the Council continues to enforce the removal of personal belongings and any other items stored in common parts of flats, with the exception of the following concessions as put forward by the Workplace Fire Safety Officer of the Essex Fire and Rescue Service:
 - (a) Pictures hung on the wall, provided that they do not contain glass in the frame;
 - (b) Mats placed outside front doors, provided that these are rubber backed (non-slip) and have a chamfered edge all around;
 - (c) Curtains at windows that are flame retardant; and
 - (d) Non-flammable items which are aesthetically pleasing (e.g. plant pots) stored in recesses away from any means of escape routes, and not on window cills;
 - (2) That carpets in common parts of the flat blocks not be allowed and that within a 2-month period of the date of this decision, the Council enforces the removal of carpets where residents have either loose laid or fitted them;
 - (3) That further consideration be given to undertaking an enhancement programme of installing mains-powered smoke detectors in all Council-owned properties, when the Housing Scrutiny Panel considers the proposed list of housing improvements and service enhancements, funded from the additional resources made available under HRA Self-Financing;
 - (4) That smoke alarms are not installed in common parts of flat blocks in line with the recommendations within the Local Government Group Guidance document "Fire safety in purpose built flat blocks"; and
 - (5) That the Director of Housing explores further a joint working approach to fire safety risk assessments in flat blocks with Harlow District Council.

Executive Summary:

Since the introduction of the Regulatory Reform (Fire Safety) Order 2005, the Council has had a responsibility to undertake fire risk assessments at all blocks of flats. Through the advice, previously provided informally, from the Essex Fire & Rescue Service the Council adopted a policy that prevented residents from storing their belongings in the common parts as these formed the means of escape in the event of a fire. This included carpets, as they could contribute towards a fire.

Following complaints from a small number of residents, the Housing Scrutiny Panel considered the Policy, who supported a change to allow a slightly more “managed” approach to fire safety in flat blocks. Recommendation 1 of this report records the outcome of the Housing Scrutiny Panel views, which were subsequently approved by the former Housing Portfolio Holder. However, following continuing complaints by a small number of residents, the Former Portfolio Holder decided to review the decision not to allow carpets in the common parts of flat blocks.

Further advice was sought from the Housing Minister and the Fire Officer, and a feasibility study was undertaken into reducing the risk of fire in Council properties. The outcome of this was again considered by the Housing Scrutiny Panel at its meeting in January 2012, who supported the recommendations set out above. Since then, a further letter has been received from the Chief Fire Officer at Essex County Fire & Rescue Service and is referred to in this report.

Reasons for Proposed Decision:

In order to comply with the Regulatory Reform (Fire Safety) Order 2005, the Council must set a clear Policy and subsequently enforce that Policy by undertaking Fire Risk Assessments, and then following up any actions that arise as a result. The current Policy is partly “at large” pending a review of carpets installed in the common parts, and therefore requires a decision on the terms of the Policy.

Other Options for Action:

- To allow existing carpets in flat blocks to remain only where the carpet is fitted professionally and in a good condition, and where there is a door entry security system and all individual flats have a smoke detector, until such time as the carpet deteriorates causing a trip hazard, at which point it must be removed and not replaced. However, this will require additional annual risk inspections to determine the condition of the carpet. In addition, there would still remain a risk to health should a fire occur.
- To undertake a full programme of installing smoke detection equipment in the common parts of flat blocks before then actively allowing carpets to be installed. However, there still remains a risk to health should a fire occur.

Report:

1. In January 2010, following consultation with the Housing Scrutiny Panel, the then Housing Portfolio Holder agreed a policy on fire safety in flat blocks. The policy stated:

(a) That personal belongings, fitted or loose lay carpets, mats and any other items stored in common parts of flats be prohibited and removed, with the exception of the following concessions agreed with the Workplace Fire Safety Officer of the Essex Fire and Rescue

Service:

- (i) Pictures hung on the wall, provided that they do not contain glass in the frame.
 - (ii) Mats placed outside front doors, provided that these are rubber backed (non-slip) and have a chamfered edge all around.
 - (iii) Curtains at windows that are flame retardant.
 - (iv) Non-flammable items which are aesthetically pleasing (eg small plant pots) stored in recesses away from any means of escape routes, and not on window cills (specifically not including prams, pushchairs, wheelchairs, electric scooters, bicycles and motorbikes.); and
- (b) That letters be sent to all tenants and leaseholders in the blocks advising them of these concessions.
2. Following the introduction of that Policy, a small number of residents requested that a further review be undertaken as they felt the policy was too risk averse and prevented them from making their flat blocks feel more homely by allowing carpets in common areas.
3. In January 2011, the then Housing Portfolio Holder decided to temporarily suspend the policy relating only to carpets in the common parts until such time as a further feasibility study was carried out.
4. That decision to suspend the policy was a temporary measure, until such time as a number of additional factors could be taken into account. The following were included in the decision to suspend the policy:
- (a) That a feasibility study be carried out into the cost and practicalities of installing mains operated smoke detectors in:
 - Flats and Maisonettes; and/or
 - Houses and bungalows; and/or
 - Common parts to flats
 - (b) That a letter be sent to the Housing Minister seeking clarification on the extent to which landlords must go when undertaking fire risk assessments;
 - (c) That the Portfolio Holder for Legal and Estates be asked to review the Council's legal responsibility in respect of undertaking Fire Risk Assessments and in particular the risks associated with fitted carpets on means of escapes in common parts to flat blocks;
 - (d) That until the outcome of the issues above are known, the current Policy on fire safety in common parts of flat blocks agreed in January 2010 relating to residents not being allowed to retain fitted or loose lay carpets be suspended until further notice; and
 - (e) That personal belongings and any other items stored in common parts of flats continue to be prohibited and removed, with the exception of the following:
 - Pictures hung on the wall, provided that they do not contain glass in the frame.
 - Curtains at windows that are flame retardant
 - Non-flammable items which are aesthetically pleasing (eg small plant pots) stored in recesses away from any means of escape routes, and not on window cills (specifically not including prams, pushchairs, wheelchairs, electric scooters, bicycles and motorbikes.)

5. The former Housing Portfolio Holder sent a letter to the Housing Minister in March 2011 expressing the concerns of Members about the lack of clarity and guidance available to local authorities when assessing fire safety in flat blocks following the Regulatory Reform (Fire Safety) Order. A response was received from the Parliamentary Under Secretary of State in July 2011, a copy of which can be found at Appendix 1.

6. The response from the Parliamentary Under Secretary of State made reference to the Local Government Improvement and Development (LIGD) part of the Local Government Group being given grant funding to develop and own practical and proportionate fire safety guidance specifically for residential buildings. That guidance was formally issued shortly after the letter was received, and is made up of 192 pages and therefore forms a background document to this report. Whilst the guidance does not make specific reference to carpets, it is a much clearer document, with statistics that support the guidance to help local authorities inform their risk assessments.

Fire Safety Guidance

7. The fire safety guidance specifically issued by the Local Government Group advises that very few deaths occur as a result of a fire in a neighbour's flat or a fire in the common part, mainly due to the fire separation between the flats. This assumes that the protected common parts are themselves free of all sources of ignition and material that could contribute to the spread of flames. The report goes on to state that nearly all deaths occur in the flat in which the fire starts. This means that more emphasis should be put on smoke detection in the flats rather than the common parts.

8. Further more, the guidance strongly discourages the installation of smoke detectors in common parts as this leads to false alarms, chaotic evacuation of an unsupervised building and potential complacency from residents.

9. The report also states that whilst the most likely place for a fire to start is in the flat, the most dangerous fires are those within the common parts, as the common parts are the means by which residents must escape. The guidance suggests that poor housekeeping in the common parts is a significant fire hazard, and adds that there should be a clear policy on whether common parts must remain completely sterile ('zero tolerance') or may be subject to 'managed use'.

10. A zero tolerance policy is one in which residents are not permitted to use the common parts to store or dispose of their belongings or rubbish with no exceptions. This would maintain an environment that is free of obstructions, ignition sources and trip hazards. This is the easiest policy to adopt and easier to police when carrying out inspections; residents know exactly what is expected of them and the risks are low.

11. A managed use policy on the other hand allows residents some scope to make the common parts more homely. However, a managed use policy must be very specific in terms of what is allowed and what is not. It must leave no scope for ambiguity. The guidance suggests that any managed use policy should generally apply only to buildings with added security, such as blocks with a door entry system.

12. The policy adopted by the former Housing Portfolio Holder in January 2010 would be categorized as a 'managed use' policy as defined by the guidance, whereby residents were given clear guidance on what could and could not be placed in the common parts.

13. Additional guidance has also been sought from Due Diligence, who are a specialist company employed by the Council to undertake fire risk assessments to high risk category

blocks, including the sheltered housing schemes as well as the Council's Homeless Hostel. Their advice states that if the Council was to relax the policy to allow carpets in the common parts, then there are several implications that would need to be taken into account. From their observations and experience, the carpets that are generally fitted to common parts are 'off cuts', and that they are not fitted professionally. This gives rise to the following issues:

(a) DIY laid carpets can and do become loose and wrinkled, causing slip and trip hazards. If another tenant was to trip or injure themselves, then who would be liable, the person that fitted the carpet, the Council or a combination of them both?

(b) If the tenant that fitted the carpet was to move away, who would be responsible for removing and replacing the carpet when it becomes worn or dangerous?

(c) Carpets and rugs increase the potential for spread of flame, and production of smoke and toxic fumes.

(d) Allowing carpets and rugs may increase the risk level from "low" to "medium", which may require automatic fire detection equipment (ie smoke detectors) as a compensatory measure.

14. Their advice goes on to say that if the Council was to allow carpets to be fitted, then there should be a clear policy, regular monitoring and the introduction of an application and approval process, which would need to stipulate that these are to be professionally fitted using non flammable adhesives and then inspected on a regular basis for wear and tear. This is broadly the same advice as set out in the Local Government Forum guidance.

15. At the meeting of the Housing Scrutiny Panel in October 2011, the Environment Portfolio Holder made reference to a letter he had received from the Essex Fire and Rescue Service, which suggested that it was acceptable to allow carpets to be installed in common parts, subject to a satisfactory risk assessment (see appendix 2). In light of this, the Housing Scrutiny Panel asked that the report be deferred until such time as the contents of that letter could be reviewed.

16. Upon receipt, a further letter was sent to the Essex Fire and Rescue Service seeking clarification on a number of points, particularly seeking guidance on examples of where it may be acceptable for carpets to be installed in common parts. The response from the Essex Fire and Rescue Service, which is attached at Appendix 3, advises that generally, carpets in common parts should be avoided.

17. A similar version of this report was considered in detail by the Housing Scrutiny Panel on 31 January 2012. The Panel decided to support the recommendations set out at the commencement of this report in full.

18. As part of the investigations into what other local authorities are doing with regard to carpets in flat blocks, Officers have found that virtually all Local Authorities and housing associations are adopting the 'zero tolerance' approach, whereby the common parts are to remain as sterile environments. However, one neighbouring authority Harlow District Council has adopted a slightly different approach whereby those blocks that already have carpets fitted, so long as:

(a) they are in good condition, fitted professionally and do not present a trip hazard;

(b) the flats have smoke detectors; and

(c) the main entrance has a door entry security system;

then the carpet may remain until the carpet is no longer in a good condition. That Authority is not currently allowing any further requests for carpets to be installed irrespective of the other measures being in place.

19. Adopting a similar approach is an option for the Council, since many of the Council owned flat blocks have door entry security already installed. However, it will be necessary to agree who is responsible for the reinstatement of the common parts once the carpets are no longer fit for purpose and present a hazard. It should be made absolutely clear that adopting a similar approach would result in a higher risk to life should a fire occur in a block where a carpet installed.

Issues around Advice from the Chief Fire Officer

20. Following the meeting of the Housing Scrutiny Panel in January 2012, the Council received a further letter addressed to the Environment Portfolio Holder from the Chief Fire Officer, Chief Executive & Head of Civil Protection and Emergency Management at Essex County Fire & Rescue Service. That letter, which includes advice on where it may be considered acceptable to allow carpets in common parts, is included at appendix 4.

21. There are seven aspects referred to in the letter received from the Chief Fire Officer that are to be considered by the "Responsible Person" when undertaking the premises risk assessment. However, taking account of this advice, it is still not possible to allow carpets to be fitted in the common parts of flat blocks for the following reasons:

(a) All individual flats to have a mains smoke detector installed – This is considered later in this report. However, it should be noted here that the Council is not able to enforce the installation of smoke detectors in Leasehold premises since this is not a requirement in the lease agreement. Whilst the Council is looking to install mains operated smoke detectors in all Council owned properties, it will take some 4-5 years before all Council owned properties have had them installed.

(b) All doors onto the means of escape should be 30 mins fire protected and should be fitted with a self closing device – Whilst the Council is responsible for individual flat entrance doors, the door furniture is the responsibility of the tenant, who may from time to time install their own letter box or in some cases cat flaps. These could compromise the effectiveness of the fire door. Entrance doors to leasehold properties are the responsibility of the Leaseholder and not the Council. Also, whilst Council flat entrance doors are 30 mins fire protected, none of the doors have self closing devices (with the exception of those in Sheltered Accommodation).

(c) No storage of personal belongings in the common parts – This is referred to in the recommendations above

(d) A high standard of general housekeeping by tenants – The Council is only able to purvey this expectation, it is unable to enforce it. An example is where the Council has installed "No Smoking" signs in the common parts to all flat blocks. However, despite this expectation, Officers often find cigarette ends and discarded lighters on window ledges.

(e) The provision of a controlled door entry security system – a large proportion of flat blocks have the benefit of a controlled door entry security system, but not all. The ones that remain to have a controlled door entry security system installed are the ones where there are more than 25% leaseholders and therefore, the Council has to consult with Leaseholders before installing such a system, and then requires them to pay their proportion of the costs. Without the consent of all Leaseholders in the block, the Council cannot install a system.

(f) The carpets conform to BS 5287, are professionally fitted and maintained to a good standard – Since carpets are not labelled, it will be impossible to determine compliance with this British Standard.

(g) An effective building inspection and management system – This is considered as part of the “shared services” section below in partnership with Harlow District Council.

22. It is therefore recommended that carpets in common parts of the flat blocks should not be allowed to remain (or fitted at a later date) and that the Council enforces the removal of carpets where residents have either loose laid or fitted them.

Smoke Alarms

23. In line with the decision of the previous Housing Portfolio Holder in January 2011, a feasibility study has been carried out into the cost of providing mains wired smoke detectors in individual flats, maisonettes and common parts to flat blocks. This decision would sit favourably with the guidance from the Local Government Forum and Due Diligence if it was not to include alarms in the common parts. However, the feasibility study was undertaken prior to that guidance and also prior to the changes in the new Wiring Regulations that came into force in January 2012, which specifies the installation of mains powered smoke detectors in properties where minor upgrades or rewires are found to be necessary. As a result, there is already a programme to install mains powered smoke detectors as part of the ongoing electrical upgrade and rewire contracts.

24. Installing mains operated smoke detectors is clearly an improvement that would save many lives and therefore should be considered as part of any future improvements. It is therefore recommended that the Council continues with the current programme of installing smoke detectors in all properties. However, it is proposed that the cost and programme implications of enhancing the current programme be considered by the Housing Scrutiny Panel as part of the proposed list of Housing Improvements and Service Enhancements in March 2012. This matter was considered by the Housing Scrutiny Panel on 31 January 2012, which supported this proposal.

25. As stated earlier in this report, the fire safety guidance issued by the Local Government Group strongly discourages the installation of smoke detectors in common parts as this leads to false alarms, chaotic evacuation of an unsupervised building and potential complacency from residents.

Shared Services

26. Whilst not specific to the issue of carpets in flat blocks, it is worth mentioning that whilst researching the policies adopted with other local authorities, it has become clear that there may be an opportunity to work in conjunction with Harlow District Council whereby the role of undertaking Fire Risk Assessments could be undertaken collectively, therefore potentially saving resources as a result. In this case, the neighboring Authority undertaking the fire risk assessments and the Council saving on the cost of employing Consultants and overtime for existing staff to carry out them ourselves. A preliminary meeting has taken place, and subject to the existing staffing resources being able to cope with the additional number of fire risk assessments, and the cost of them to the Council being less than the current arrangement, then this may be an opportunity that the Council may wish to pursue.

Resource Implications:

The cost of installing the mains powered smoke detectors in all Council owned dwellings to

be considered as part of the Service Enhancements associated with HRA Self Financing.

Legal and Governance Implications:

- Housing and Regeneration Act 2008
- Housing Act 1985
- Regulatory Reform (Fire Safety) Order 2005

Safer, Cleaner and Greener Implications:

None

Consultation Undertaken:

- Housing Minister, with a response from the Parliamentary Under Secretary of State.
- Due Diligence, a specialist Consultancy employed by the Council to undertake fire risk assessments.
- Consultation with neighboring Local Authorities, other Local Authorities and Registered Social Landlords. The Housing Scrutiny Panel have also considered and support this report.
- Consultation with the Leaseholders Federation, who made the following observations:
 - a. Leaseholders felt that there should be a zero tolerance policy on personal items in common parts;
 - b. Leaseholders would have concerns about the Council fitting smoke detectors in their homes and charging them for this; and,
 - c. Leaseholders reminded the Council of their obligations under Section 20 to consult them if the cost was to exceed £250 per property.

Background Papers:

- a. Housing Portfolio Holder decision dated January 2010, setting the Policy on Fire Safety in flat blocks.
- b. Housing Portfolio Holder decision dated January 2011, suspending the decision not to allow carpets to be installed in flat blocks.
- c. Guidance document produced by the Local Government Group entitled "Fire safety in purpose-built blocks of flats"
- d. Report from Due Diligence who are a specialist company employed by the Council to undertake fire risk assessments to high risk category blocks, giving advice on the installation of carpets in flat blocks

Impact Assessments:

Risk Management

If the Council was to allow carpets currently fitted in flat blocks to remain and there was a fire, which resulted in toxic fumes or other hazard causing a fatality, then the Council may be responsible. Whilst the severity cannot be downgraded, the likelihood could be reduced. However, this would mean increased numbers of inspections to assess the risk, which would add to the staff workload. Even then, the risk is higher than if carpets were not permitted.

Equality and Diversity

Did the initial assessment of the proposals contained in this report for relevance to the Council's general equality duties, reveal any potentially adverse equality implications?

No

Where equality implications were identified through the initial assessment process, has a formal Equality Impact Assessment been undertaken?

N/A

What equality implications were identified through the Equality Impact Assessment process?
N/A.

How have the equality implications identified through the Equality Impact Assessment been addressed in this report in order to avoid discrimination against any particular group?

This report sets out policies on fire safety matters that will apply to all Council owned flat blocks irrespective of tenure or occupancy. The views of residents have been taken into account. However, these have been weighed up against the Council's Duty of Care towards the residents when putting forward the recommendations set out in the report.



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Our Ref: GS/BN/022225/11

Dear Councillor Stallan

08 JUL 2011


FIRE SAFETY IN FLAT BLOCKS

Thank you for your letter of 7 April to the Rt Hon Grant Shapps MP, about fire safety in purpose built blocks of flats. I am replying as I have responsibility for fire safety policy.

I recognise concerns about the provision of fire safety in blocks of flats. The tragic fire in Lakanal House, Camberwell, gave rise to concerns among housing providers – local authorities, housing associations and the private sector – and the enforcing authorities about the adequacy of risk assessments and fire safety measures necessary to ensure sufficient protection to residents and deliver compliance under both the Regulatory Reform (Fire Safety) Order 2005 (the FSO) and the Housing Act 2004.

Both the housing and fire sectors considered that additional fire safety guidance should be developed to focus on the particular circumstances and challenges presented by purpose built blocks of flats. We listened carefully to the concerns of the sector on this, and have provided Local Government Improvement and Development (LGID) – part of the Local Government Group – with grant funding to develop and own, on behalf of the sector, practical and proportionate fire safety guidance specifically for these types of residential buildings. The guidance is expected to clarify a number of issues around managing fire safety and ensuring residents in purpose built flats get appropriate advice on what to do in the event of a fire. LGID has consulted widely on the draft guidance, and plan to make the final guidance available on its website, and for dissemination by sector partners, by the end of July.

Finally, you ask about the role of the Fire and Rescue Authorities (FRAs). As the enforcing authorities, FRAs are, of course, unable to carry out the risk assessment for those with responsibilities under the FSO. However, they are expected to support compliance through the provision of advice and information as appropriate.

Bob Neill


BOB NEILL MP

Essex County Fire & Rescue Service

Chief Fire Officer: David Johnson LL.b(Hons), BSc, MA, MSc, FCMI



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18 June 2010

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Dear Councillor Knapman

Surface Spread of Flame within Common Areas

Further to our conversation regarding surface spread of flame in common areas at the recent Fire Authority meeting, I can confirm the following definitions, which are referred to within various guides, including the Building Regulations and Approved Document B.

In essence, the choice of materials for walls and ceilings can significantly affect the spread of fire and its rate of growth, even though they are not likely to be the first materials ignited. The flame spread over wall and ceiling surfaces is controlled by providing for the lining materials to meet given performance levels in tests appropriate to the materials or products involved.

The national test to establish the surface spread of flame is British Standard 476. This tests all materials, and gives a grading of between 1 and 4, with 1 as the least flammable. The Building Regulations describe a Class 0 material, which is a totally non flammable material (i.e. gypsum plaster or a brick). Whilst accepted within the guides, these are not covered by the British Standard.

The above provisions do not apply to the upper surfaces of floors and stairs because they are not significantly involved in a fire until it is well developed, and thus do not play an important part in fire spread in the early stages of a fire that are most relevant to the safety of occupants, and therefore any floor covering that may be in place.

However, should the fire risk assessment for the premises show that the floor covering presents an excessive risk of exacerbating the spread of fire, it would be deemed as not complying with the Regulatory Reform (Fire Safety Order) 2005, and the Fire Authority may take action to address this element.

I hope this is of some help; however should you require any further information, please do not hesitate to contact me at the above address.

Yours sincerely

Paul Bowers

Senior Divisional Officer

Prevention, Protection & Community Risk Management

Essex County Fire & Rescue Service

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Date: Wednesday, 21 December 2011
Our Ref: C00098
Your Ref: FRA/PP
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Dear Mr Pledger

Carpets in Common Parts to Flat Blocks

I am writing in response to your letter to SDO Paul Bowers of 15th November 2011, regarding the matter of carpets in common parts to blocks of flats.

I would take this opportunity to reinforce the informal advice that has been previously provided by Essex County Fire & Rescue Service Officers, that carpets in common parts should be avoided. The decision to remove existing carpets from common parts will be influenced by the findings of a site specific risk assessment and should take account of a number of factors, many of which are detailed in the report presented to the Housing Scrutiny Panel in October 2011. Therefore, and as this is a matter for the Responsible Person as designated under the Regulatory Reform (Fire Safety) Order 2005, I am unable to provide more specific advice on your enquiry.

Yours sincerely



DO Jón Payne
Fire Safety Officer

cc

ECFRS/175719/V1

Date: 2nd February, 2012
 Our Ref: D.V.J.P /lb /DM#180591
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Dear Cllr Knapman

Carpets in Common Parts to Flat Blocks

Further to our telephone conversation of 1st February 2012, I am writing to confirm the position of ECFRS regarding the matter of carpets in common parts to flat blocks.

As discussed, the decision to allow carpets in common parts of flat blocks should be based on the findings of a site specific risk assessment, and rests with the Responsible Person as designated under the Regulatory Reform (Fire Safety) Order 2005.

However, as a general principle, carpets in common parts would be considered acceptable subject to the following conditions:

- All individual flats are fitted with mains operated smoke detectors.
- All doors giving onto the common part, including individual flat doors, are maintained to provide a minimum of 30 minutes fire resistance in accordance with BS 476, and are fitted with a suitable self-closing device.
- No storage of personal belongings or other combustible items is permitted within the common parts.
- A high standard of general housekeeping by tenants.
- The provision and maintenance of an effective main entrance door entry security system.
- The carpets conform to BS 5287, are professionally fitted, and maintained in a good condition.
- An effective building inspection and management system.

All of the above is offered as general advice, which the Responsible Person may take account of when undertaking the premises risk assessment.

Yours sincerely,

David Johnson
 Chief Fire Officer, Chief Executive &
 Head of Civil Protection and Emergency Management