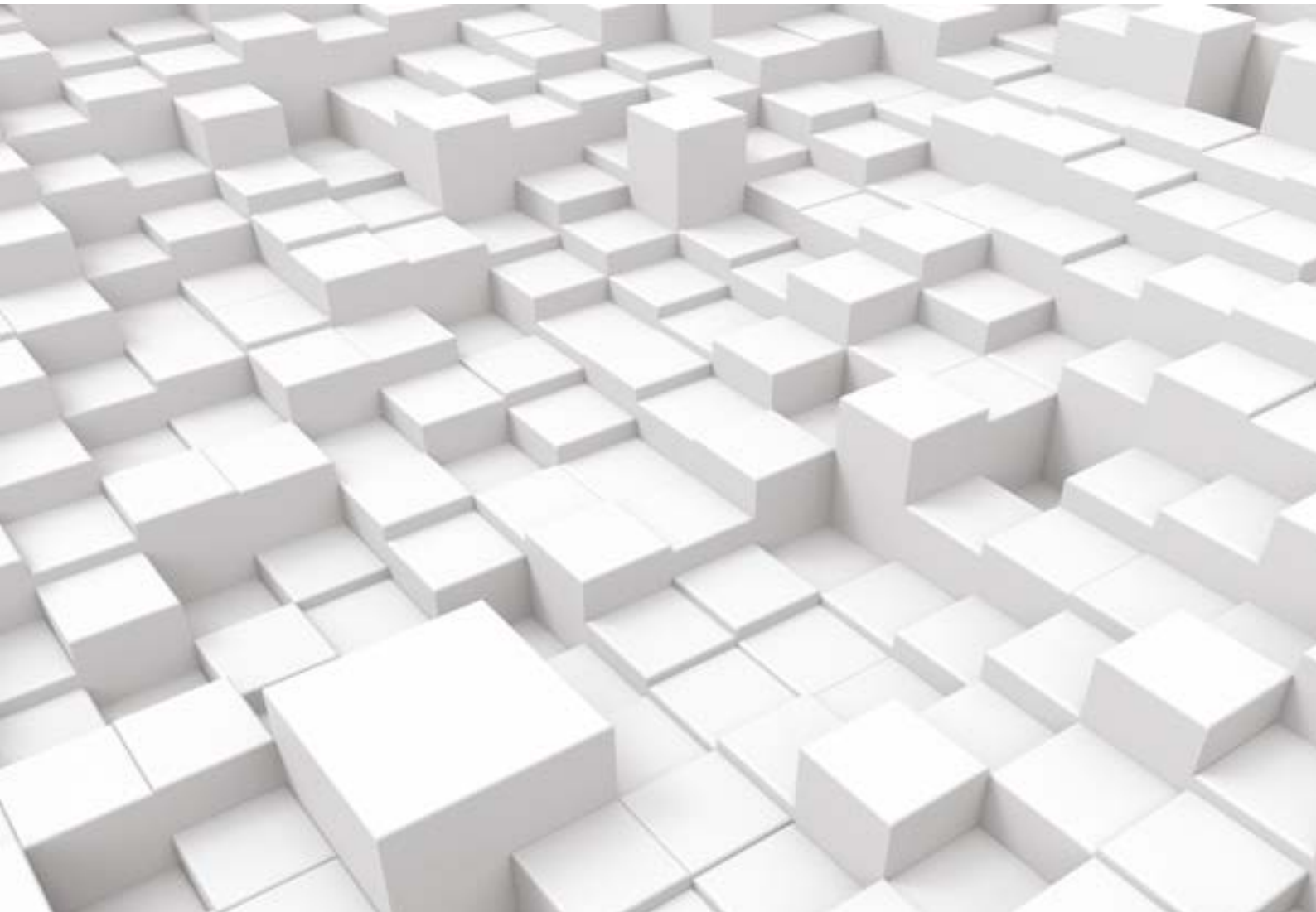




RICS professional guidance, UK

Health and safety for residential property managers

1st edition, January 2016



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RICS professional guidance

International standards

RICS is at the forefront of developing international standards, working in coalitions with organisations around the world, acting in the public interest to raise standards and increase transparency within markets. International Property Measurement Standards (IPMS – www.ipmsc.org), International Construction Measurement Standards (ICMS), International Ethics Standards (IES) and others will be published and will be mandatory for RICS members. This guidance note links directly to these standards and underpins them. RICS members are advised to make themselves aware of the international standards (see www.rics.org) and the overarching principles with which this guidance note complies. Members of RICS are uniquely placed in the market by being trained, qualified and regulated by working to international standards and complying with this guidance note.

RICS guidance notes

This is a guidance note. Where recommendations are made for specific professional tasks, these are intended to represent 'best practice', i.e. recommendations that in the opinion of RICS meet a high standard of professional competence.

Although members are not required to follow the recommendations contained in the guidance note, they should take into account the following points.

When an allegation of professional negligence is made against a surveyor, a court or tribunal may take account of the contents of any relevant guidance notes published by RICS in deciding whether or not the member acted with reasonable competence.

In the opinion of RICS, a member conforming to the practices recommended in this guidance note should have at least a partial defence to an allegation of negligence if they have followed those practices. However, members have the responsibility of deciding when it is inappropriate to follow the guidance.

It is for each member to decide on the appropriate procedure to follow in any professional task. However, where members do not comply with the practice recommended in this guidance note, they should do so only for good reason. In the event of a legal dispute, a court or tribunal may require them to explain why they decided not to adopt the recommended practice.

Also, if members have not followed this guidance, and their actions are questioned in an RICS disciplinary case, they will be asked to explain the actions they did take and this may be taken into account by the Panel.

In some cases there may be existing national standards which may take precedence over this guidance note. National standards can be defined as professional standards that are either prescribed in law or federal/local legislation, or developed in collaboration with other relevant bodies.

In addition, guidance notes are relevant to professional competence in that each member should be up to date and should have knowledge of guidance notes within a reasonable time of their coming into effect.

This guidance note is believed to reflect case law and legislation applicable at its date of publication. It is the member's responsibility to establish if any changes in case law or legislation after the publication date have an impact on the guidance or information in this document.

Document status defined

RICS produces a range of professional standards, guidance and information products. These have been defined in the table below. This document is a guidance note.

Type of document	Definition	Status
Standard		
International standard	An international high-level principle-based standard developed in collaboration with other relevant bodies.	Mandatory. RICS has adopted these and they apply to the profession.
Professional statement		
RICS professional statement	A document that provides the profession with mandatory requirements in the form of technical requirements or conduct rules that members and firms are expected to adhere to. An RICS professional statement sets out the expectations of the profession. RICS-qualified professionals must comply with the professional statement applicable to their area of practice or be able to explain any departure from it. The relevant professional statement will be used by RICS and other legal and regulatory authorities in judging complaints and claims against RICS-qualified professionals. This category may include documents approved by RICS but created by another professional body/stakeholder, such as industry codes of practice.	Mandatory on the basis of 'comply or explain'. Professional statements set out how the profession is expected to meet the requirements of the international standards.
Guidance and information		
RICS guidance note [GN]	Document that provides users with recommendations or approaches for accepted good practice as followed by competent and conscientious practitioners.	Recommended best practice but not deemed by RICS to be in category of 'mandatory' for all practitioners.
RICS protocol	Information and best practice framework, which stakeholders may sign up to and comply with, to assist the operation of the market in the public interest.	Information and/or recommended best practice.
RICS information paper [IP]	Practice-based information that provides users with the latest technical information, knowledge or common findings from regulatory reviews.	Information only.
RICS insights	Issues-based input that provides users with the latest information. This term encompasses Thought Leadership papers, market updates, topical items of interest, reports and news alerts.	Information only.
RICS economic/market reports	A document usually based on a survey of members, or a document highlighting economic trends.	Information only.
RICS consumer guides	A document designed solely for use by consumers, providing some limited technical advice.	Information only
Research	An independent peer-reviewed arm's-length research document designed to inform members, market professionals, end users and other stakeholders.	Information only.

1 Introduction

This guidance note sets out practical guidance around the health and safety management of most types and configurations of residential properties. It aims to assist those responsible to be able to ensure, at all times, that the properties and, if appropriate, the facility management services delivered meet all statutory obligations (note that you will need to check legal requirements in each relevant jurisdiction), as well as good practice in regard to health, safety and environmental matters.

Note: users of this document need also to consider other relevant RICS codes of practice, standards and guidance, in addition to local observations and restrictions.

As this guidance note has a wide scope, the information is at a high level and signposts readers to more detailed documents, statutory matters and guidance where appropriate. There are several organisations dedicated to the management and safety of residential property; these are listed in Appendix B: Sources of further information at the end of this guidance note.

This guidance note seeks to identify the most significant health, safety and environmental matters relating to residential properties. However, how they are actually put into practice will depend on the specific circumstances relating to the property and its occupants. Essentially, the responsibilities are similar to that of managing a more commercially dependent property, but with much greater emphasis on life safety since there are people living – and sleeping – in the premises, almost none of whom will have any knowledge of health and safety law.

Residential accommodation can be found in many guises. This guidance focuses on mainstream residential property types, including: agency sales of houses and flats, letting of single or multiple flats and residential blocks.

References have also been included that relate to houses in multiple occupation (HMOs) and build to rent properties. While much of this guidance will apply to those and other more specialist property types, you may need to seek further guidance for those property types.

Depending on the size of the property, the number of occupants, ownership of the property and the length of tenure, a wide range of differing levels of responsibility will fall to the interested parties, which include:

- building/facilities managers or owner-occupier companies
- contractors of various kinds providing services to either the owner or the occupier – these may be contracted separately

- managers of tall buildings (which may be two storeys and above – and higher than the usual fire appliance ladder height)
- occupiers, including those who rent and those who have short- or longer term tenancy/lease contracts
- owners or landlords (private, public and/or commercial) and
- sales/letting/managing agents.

This guidance note contains less guidance and more signposting for estate and block management. This is because it is assumed, and generally recommended, that professional advice be sought from those competent in the duties and responsibilities needed to operate a successful large portfolio of occupied premises.

It is important to consider carefully who occupies the premises. Are they in occupation 24 hours a day? Are they families (with children)? What age are they (to take regard of potential behaviour patterns)?

Are there vulnerable people to consider? Is English their first language (i.e. should instructions be provided in alternative languages)?

It is also important to know what plant equipment and chattels may be in the property, and under whose ownership/control they remain. This will determine much of what the various interested parties need to address (see 1.6).

Professionals have a common duty of care for those they provide services for. In many situations, particularly if residents are asleep, this could be a matter of life or death. Arrangements should be subject to regular review: at least annual, or more often if circumstances change. Whenever in doubt about circumstances always, and immediately, act in the best interests of safety. Should circumstances subsequently change, matters can be addressed without compromising safety.

1.1 Guidance note structure

Sections 1–5 provide high-level information on general matters that will depend on the local circumstances, interested parties and length of occupancy.

Sections 6–12 provide general advice on the basic responsibilities placed on interested parties (landlord/owner, his/her representative(s) and the occupier(s)).

Section 13 provides more detailed information on specific matters that will affect most, if not all, properties and all relevant interested parties. Much of this section is

governed by specific laws that may be different in each jurisdiction, so take care to ensure that local laws and restrictions are taken into account.

The information in this guidance note is based on the duties, responsibilities and activities necessary under UK law, and tends to be specific for most topics. This guidance provides advice but will also signpost readers to more detailed information.

While much of the guidance is relevant to all types of residential property it may be assumed that the larger the property (i.e. the higher the number of occupants), the more onerous and detailed the responsibilities become for all interested parties.

Landlords managing single units with 'standard' fixtures and fittings should normally, using this guidance and other readily available sources, as signposted, be able to manage the majority of safety risks themselves. It is recommended that expert adviser(s) are appointed or specialist advice is sought where management of a hazard remains unclear and where indicated by an initial risk assessment. While this will not remove any statutory duties of the owners, operators or people in control of the property, getting competent expert advice where prudent does indicate that they are taking practicable steps to assist them in their duties.

The competence of the experts (based on them having sufficient knowledge, experience and training to carry out the task) will depend on the complexity of the property and the risks presented in the operation thereof. It is recommended that risk assessment(s) are carried out by an appropriately competent person, not least so the landlord/owner or manager of the premises knows that the competent person is appropriately insured. Assistance on assessing an appropriate level of competence is available from the Institution of Occupational Safety and Health www.iosh.org.uk and HM government's occupational safety and health consultants register (www.oshcr.org). There is also a European-recognised standard for professional competence: those who qualify will normally have EUROSHM in front of their name.

1.2 Fundamental matters for consideration

A number of fundamental matters should be investigated and fully comprehended to establish where responsibility lies.

Much of the detail required (listed in the following sub-sections) can be established by reading documents carefully. However, not all documentation is as clear-cut as circumstances may demand (i.e. inaccurate demise details in agreements or imprecise clauses in contract arrangements). Where any such imprecision is identified, it

should be addressed immediately with the parties concerned – do not wait until an incident or complaint forces reconsideration.

Contracts should identify where tenants/occupiers have health, safety and environmental obligations so that responsibility is known and accepted.

1.3 Contractual reasons for visiting the property

The contract should specify the number of visits needed to check the condition of a property. It should not be excessive to the extent that it affects the tenant's 'quiet enjoyment' of the property: once or twice a year is usual. There is also a need to agree the purpose of the visit under the contract; for example, to check on the condition the tenant is keeping the property in, deterioration of the property or indications of non-compliance with the lease. For reasons of health and safety, this type of inspection may include checks:

- for damp
- for condensation
- for mould
- to ensure that fire/smoke detection equipment remains operational and fire routes unobstructed
- inspecting the general condition, including the approach to the property (i.e. potential slips and trips)
- on the general visual condition of white goods (electrical safety and hygiene)
- on the general visual condition of electrical sockets
- on the general visual condition of gas equipment and fireplaces
- of cleanliness in showers and on taps (build-up of scale or mould that can harbour legionella bacteria)
- on boiler temperature controls and
- on accessible water tanks.

1.4 Occupancy agreements

It is important to understand the agreement between the landlord and occupier. The terms of the agreement may be purely a licence agreement (as per hotels or perhaps some student accommodation), an assured shorthold tenancy (AST) agreement (initially often for six months but which may continue for many years), or a longer term lease (of any period).

See the Glossary for details of terms of agreement between the owner/landlord and the occupier. For more information on the terms of occupancy, and definition of relevant terms refer to the RICS UK *Residential property standards* (the Blue Book).

Apart from the length of the agreement, terms of occupancy should set out:

- the extent of the property and/or the individual accommodation unit accurately, including a definition of the access arrangements; for example, the garden, car park, communal areas etc.
- the 'house rules' about smoking, waste disposal, car parking, pets, etc.; and
- what assets and/or chattels are included in full/excluded from the agreement.

These will have a bearing on what responsibilities there are and with whom they lie.

1.5 The demise and what constitutes 'common areas'

Having absolute clarity as to the relative responsibilities for the property is key to understanding statutory responsibilities under the law. This should be specified in a signed agreement.

Where the accommodation is based on short-term rental agreements the landlord/owner may remain responsible for all elements of health, safety and environmental compliance as the occupiers will not be introducing any of their own fixtures, fittings or chattels.

A clear and unambiguous agreement/lease sets out the boundaries of each demise. However, this is often indicated using a coloured line on a map/plan of the site/building. Where the site or demise shares common boundaries, a line on a drawing can scale up to a metre or more in reality. All parties, including occupiers/neighbours, should understand where the agreed boundaries lie.

Common areas tend to mean everything other than those areas demised to tenants, as well as the entrance/reception area(s)/common stairwells, lifts and lobbies. They may include the roof, plant rooms and any external areas such as gardens or car parks on private land. Many of these areas offer potentially high risks and should be secure and subject to restricted access for authorised persons. If there is a private car park this will need to be managed appropriately too. Legal duties typically prescribed to commercial premises are likely to apply to common areas. This is expanded on throughout the guidance note.

Where flats are leased, the demise boundary will usually be the flat's front door. However, in some circumstances, in particular for fire-risk assessment purposes, front doors leading off common areas will need to be considered as part of the assessment (see section 13, Guidance by topic).

1.6 Assets

The assets (some owned by the residents) are the basic building blocks on which management programmes and responsibilities are arranged. It is important to have a current and accurate register of all the assets (including plant and equipment) under the landlord's control.

Where there are gas and other assets that are under statutory regulation it is highly recommended that there is a register of these too, even if the tenant is responsible for maintaining and inspecting such equipment. Responsible landlords should check whether or not the equipment is being properly looked after, and should advise the (potentially uninformed) tenants of the regulations and any house rules with which they have to comply.

The assets in the common areas will always be the responsibility of the landlord/owner. They should be carefully identified and logged, potentially on an asset register (which may form an inventory in smaller premises or a full asset register, from which planned preventative management (PPM) and a schedule of statutory tests are developed for larger premises).

A significant exception is, for example, if an electricity substation that is owned and managed by the local utility company remains within the demised boundary of the premises. In the case where this includes a high voltage (HV) installation, this may be installed within the same plant room as the low voltage (LV) switchboard, separated by a safety fence (the HV side should never be entered and the LV side should only be entered with the correct permit to access). There may also be situations where the landlord owns the land and rents the ground space to the utility company – again, access arrangements need to be very clear and **no** entry allowed into HV installations (see section 13, Guidance by topic).

One of the most significant issues, other than fire safety, is the existence of gas appliances (e.g. cookers, heaters or gas fires in a hearth) within the residential accommodation. As a general rule, if these are supplied by the landlord as part of the lease/agreement and/or were installed before the current lease/agreement or resident occupied the premises, the responsibility for statutory testing and maintenance will remain with the landlord/owner. However, if the lease/agreement specifically places this responsibility on the occupants, the responsibility remains with them (see section 13, Guidance by topic). Nevertheless, the matter of gas appliance integrity is so important to all occupiers (because of carbon monoxide poisoning or explosion from gas leakage) that the owner must make sure all gas appliances are identified and appropriately tested annually (see 13.12 Gas safety). Particular care must be taken to ensure vulnerable groups understand what is required of them.

If landlords provide inventory items such as furnishings and white goods, the responsibility for their maintenance and intrinsic safety remains with the landlord, unless the lease

explicitly passes this responsibility to the tenants. These too should be added to an asset register and monitored for compliance in every respect. Landlords/agents must ensure they are safe to use at the start of any tenancy.

If tenants have their own goods/chattels in the premises, the lease should specify that:

- these should be made of fire-retardant materials and
- no new non-retardant materials should be brought into the property.

It is advisable for a good landlord to provide basic information on such matters in, say, a tenants' handbook. These rules must be clear and should be enforced.

If the premises are manned by security, or maintained by an employee of the landlord/managing agent, any equipment provided to these employees (such as ladders or electric handheld drills) must be checked and tested as appropriate to the equipment e.g. portable appliance testing. The employees must be appropriately trained (e.g. in the use of ladders, management of hazardous chemicals, manual handling, etc.), and individual display screen equipment assessments done.

1.7 Effective date and jurisdiction

The effective date of this guidance note is 1 August 2016. However, practitioners are encouraged to adopt the practices in this guidance note earlier if appropriate.

This guidance note applies to the UK.

2 General arrangements

2.1 Regulations and the duty of care

This section provides a summary of general legal responsibilities in the UK, but it is always advisable to take specific legal advice depending on which UK jurisdiction the property falls under. Please note there is an extensive guide to UK Health and Safety Law in the appendix of *Surveying safely* (current edition).

The Health and Safety at Work Act etc 1974 (HASAWA) underpins the implementation of legislation in the UK. This is underpinned by numerous regulations, including the *Management of Health and Safety at Work Regulations 1999*, which impose obligations on both employers and employees in relation to the assessment and management of health and safety.

2.1.1 Employers' duties

2.1.1.1 All employers

The general duties with which employers must comply are set out below. All of these duties are relevant to property professionals.

Section 2 of HASAWA contains the general duties owed by an employer to its employees to ensure, so far as is reasonably practicable, their health, safety and welfare at work. In essence the main duty is to create, devise and implement a safe place and system of work for employees, to include matters such as safe plant and equipment and the provision of instruction, training and supervision.

Section 3 of HASAWA contains the general duty of an employer to others, namely, contractors and members of the public, to carry out its undertaking in such a way as to ensure, so far as is reasonably practicable, that others who may be affected, are not exposed to risks to their health and safety.

Section 4 of HASAWA places obligations on persons who have any extent of control of non-domestic premises, to take such measures as is reasonable for persons in their position to take to ensure, so far as is reasonably practicable, that the premises' entrances and exits are, available for use by persons using the premises, and any plant or substance in the premises, are safe and without risks to health.

2.1.1.2 Employers with five or more employees

Employers who have five or more employees must have a written statement of their general policy, with respect to the health and safety at work of their employees and the organisation (HASAWA section 2 (3)).

A policy must include the following:

- a policy statement signed by the chief executive/managing director/senior partner, outlining the organisation's commitment to health and safety, and stating that it will be reviewed on a regular basis (usually annually)
- details of the organisation's health and safety structure, with the health and safety roles and responsibilities of everyone in the organisation
- arrangements for health and safety that show the organisation's approach to health and safety, and how the management system is planned and implemented (including hazard identification, risk assessments and control measures)
- arrangements to measure, audit and review the organisation's health and safety performance regularly.

Employers must have access to competent help in applying the provisions of health and safety law and in assessing risks and in applying protective measures (unless they are competent to undertake the measures without assistance). Such appointment of competent people for this purpose should be included in the health and safety arrangements (Reg. 7, *Management of Health and Safety at Work Regulations 1999*).

There are numerous considerations for employers to implement key safety processes. Specific situations are discussed in this guidance; however these are considered more broadly in *Surveying safely* (current edition) as highlighted above in 2.1.

The HSE guidance document *Managing for health and safety* (HSG 65) provides guidance to organisations on how to satisfy the legal requirements to manage and control the health and safety of their employees.

2.1.1.3 Employees' duties

Employees have a statutory duty to take reasonable care of their own safety and that of others who may be affected by their acts or omissions and to co-operate with their employer so far as is necessary to enable the employer to comply with its duty (HASAWA Section 7). Employees also have a responsibility for the health and safety of anyone under their supervision as referenced in *Surveying safely*.

2.1.2 The Landlord and Tenant Act 1985

The *Landlord and Tenant Act 1985* section 11 (as amended) sets out standards on repair of property leased for less than seven years. It primarily includes:

- the structure and exterior

- supply of mains services
- sanitation (welfare); that is, sinks, toilets and
- heating and heating water.

Tenants may be expected to deal with day-to-day housekeeping: for example, dealing with a sink blocked by their waste, changing light bulbs, replacing batteries in smoke detectors, adjusting heating appropriately.

2.1.2.1 Section 20

Section 20 of the *Landlord and Tenant Act 1985* dictates requirements for consultation with clients, leaseholders, residents, occupiers and any recognised tenants' associations if certain financial limits will be exceeded when undertaking work in residential blocks. Where the implementation of measures necessary for health and safety exceeds these limits (e.g. the replacement of corroded water tanks or the upgrade of a fire alarm system), the consultation process will apply. There are set financial limits for each leaseholder. Failing to adhere to this process may lead to expenditure over this amount being non-recoverable.

Where safety risks are immediate it will be necessary to consider instigating management controls to reduce these risks until the consultation process is completed and more measures can be taken. These management controls may need to be in place for several months. An alternative route is to seek dispensation from a First-Tier Tribunal, which can also grant dispensation retrospectively (note that there are variances for Scotland and Wales).

2.1.3 Housing Health and Safety Rating System (England and Wales only)

The Housing Health and Safety Rating System (HHSRS) was brought into effect by the *Housing Health and Safety Rating System (England) Regulations 2005* (SI 2005/3208). The HHSRS also operates in Wales (*Housing Health and Safety Rating System (Wales) Regulations 2006* (SI 2006/1702)) but does not apply in Scotland or Northern Ireland.

The HHSRS is a risk-based evaluation tool authorities use to assist in identifying and preventing potential health and safety (www.designingbuildings.co.uk) risks and hazards from developing in dwellings. The system does not outline minimum standards but focuses on avoiding or minimising potential hazards.

2.1.4 Local authority licensing

Some local authorities may require landlords to register their property as an HMO and in some circumstances a licence may also be required. This guide is not intended to provide detailed advice on licensing requirements. Check with the local authority.

2.1.5 Civil liability

2.1.5.1 General duty of care and the tort of negligence

Even though there may be no legal contract with tenants, agents still have a duty of care to them.

2.1.5.2 The Occupiers' Liability Act 1957 and Occupiers' Liability (Scotland) Act 1960

There is a common duty of care by virtue of the *Occupiers' Liability Act 1957* requiring the occupier of premises to keep visitors reasonably safe. 'Visitor' in this case is lawful; that is, invited or permitted to be there (as opposed to the *Occupiers Liability Act 1984* and the *Occupiers' Liability (Scotland) Act 1960* and requires reasonable care to be taken to ensure the reasonable safety of visitors. An agent showing a visitor around a property unaccompanied by the leaseholder/landlord could be deemed to be the occupier – so duty therefore falls to the agent.

An occupier is classed as a person having **control** of premises (there can be more than one occupier) and therefore the occupier of common areas of a block is likely to be the managing agent or landlord. On a development site the developer would be the occupier.

The *Occupiers' Liability (Scotland) Act 1960* provides similar duties, requiring the occupier of premises to take reasonable care of people who come onto their premises (there is no reference to 'lawful visitor') to see that they are not injured because of the state of the premises.

2.1.5.3 The Occupiers Liability Act 1984

There is a duty on occupiers to people other than visitors if they create, or fail to deal with, a known danger that leads to personal injury. This could include a significant lack of maintenance, obstructions to means of escape or, in the case of a block, roofs known to be in poor condition or unmanaged asbestos. The duty only applies where there is knowledge or foresight of the danger and reasonable grounds to believe that a third party may come into the vicinity of danger.

2.1.5.4 The Defective Premises Act 1972

This legislation imposes a liability for poorly constructed and converted buildings, along with any injuries that may result. This is a landlord's liability; however, failure by a contractor for instance to carry out their duties in a workmanlike manner, or use proper materials, could place a duty on the contractor as well.

2.1.6 Vicarious liability

Employers are liable for the negligent actions of their employees (to include 'deemed employees') when they are at work. Even a basic agency agreement is likely to include some elements of management and these may introduce further obligations on agents for the safety of tenants. This could be as simple as replacing a faulty electrical item, or carrying out an inventory during which a significant fault is identified. Agents therefore have a duty of care to ensure that such matters are attended to safely.

Where an agent's role is to act as an intermediary between the tenant and the landlord, failure of the agent to pass matters on to the landlord which, if not resolved, could pose a risk to the safety of tenants, may result in liability of the agent.

It is important that agents have a clear agreement with the landlord about the extent of their responsibility to clarify who will ensure that obligations for safety are met. Depending on the arrangements made, duties of the agent could extend to, for example:

- fulfilment of all landlord obligations
- complying with the HHSRS to satisfy licensing conditions within a wider block and
- carrying out repairs or general maintenance.

Where an instruction is for a larger block, agents may need to engage with another managing agent, head landlord or residents' association to ensure that communal systems (e.g. gas, heating or hot water systems) are maintained adequately.

2.1.7 Termination of tenancy

Grounds for regaining possession of a tenancy under the *Housing Act 1988* include:

- deterioration of the condition of the property because of damage committed by the tenant or anyone else residing with, or a lodger of, the tenant and
- deterioration of the condition of any furniture provided by the landlord because of misuse by the tenant, subtenant or lodger.

These grounds form part of the schedule to the Act and are listed as possible reasons to issue a section 8 notice. The first is also a ground under the *Rent Act 1977*.

Minimum responsibilities for management are likely to include:

- carrying out repairs in a reasonable time
- gas safety considerations – the right to access and
- taking all reasonable steps to maintain the provision of heating and hot water.

If money is required from landlords for agents to fulfil duties but it is not forthcoming, this may amount to a breach of the agency agreement. All issues should be recorded in

written correspondence, which can then be relied upon if a dispute arises, and which may lead to a termination of the agreement. Tenants have an obligation to inform their agents/landlords if items need maintenance or repair. If agents are in a position where landlords refuse to acknowledge tenants' request for maintenance/repairs and/or are refusing to pay for such works, then they should consider terminating the agency agreement, advising tenants that the appointment has terminated then providing tenants with up-to-date contact details for the landlord, so as to minimise their potential liability.

2.2 Non-standard property types

2.2.1 Mixed-use developments

Health and safety in mixed-use developments is covered in the RICS guidance note *Managing mixed use developments* (1st edition).

Issues for consideration depend on the extent of the interaction. If residential accommodation is, for example, located above commercial units with no shared areas – that is, a separate entrance – there will be minimal additional requirements. However, there is likely to be an impact on:

- fire strategy
- the management of shared areas
- access and
- potential unauthorised access.

2.2.2 Houses in multiple occupation (HMOs)

HMOs may be subject to Mandatory, Selective or Additional licensing schemes (see section 9). They are also obliged to maintain their property in a fit state with reference to the Housing Health and Safety Rating System (see section 4, The management and reporting of accidents in the UK), otherwise the local authority may become involved.

3 Assessment of health, safety and environmental risks

3.1 Hazard + Likelihood = Risk

When assessing the potential for risks with negative outcomes the assessment should start with taking time to identify all the 'inherent' risks – i.e. what are all the (significant) issues that could cause harm to people or property, assuming there are no 'controls' in place?

Controls can be as simple as adequate and appropriate training and wearing appropriate personal protective equipment (PPE) in lower risk environments. However, as the risks increase so will the measures required to control them to reduce the risk to an acceptable level.

Risk assessment has been described as

- (i) 'a careful examination of what, in your work, could cause harm to people so that you can weigh up whether you have taken enough precautions or should do more to prevent harm'.

For the purposes of this guidance, and with regard to occupational health and safety, risk assessment involves the management of two key concepts: hazard and risk.

A 'hazard' is something with the potential to cause harm to someone. The harm could be an injury or ill health. 'Risk' is the likelihood (whether high or low) of the harm being realised. Importantly, risk increases, as the severity, or likelihood, or the number of people affected by the harm increases. Note that if a risk is not categorised as 'low' it could be deemed to be 'higher risk'; this does not necessarily mean 'high risk' – just higher than low.

Simple guidance for risk assessment in regard to occupational health and safety is outlined in many guidance documents, but can be summarised as:

- identify the hazards
- decide who might be harmed and how
- evaluate the risks and decide on precautions
- record your findings and implement them
- review your assessment and update if necessary.

3.2 Dynamic risk assessment

Whatever efforts have been made to evaluate and to plan to mitigate risks, the situation 'on-the-day' may have changed, sometimes significantly changing the risk(s), hazard(s) or the potential consequences.

The last chance to assess the risks is immediately before carrying out the work activity, or indeed while in the process of completing the work and as the working environment is changing – this is commonly called 'dynamic risk assessment'.

It is recommended, particularly in higher risk environments, that personnel are trained to understand and carry out dynamic risk assessment. This is not necessarily complicated, effectively requiring the worker to continually re-evaluate the work, the working environment and their competence to continue.

For example, consider:

- Is the activity still safe to continue?
- Is the working environment still safe for the activity to continue?
- Am I, and my work colleagues, still within our limit of competence?
- In an emergency can I (we) still get to a place of safety?

This does not need to be written down, however if the situation, for whatever reason, becomes too dangerous, be prepared to make the area as safe as possible and retire to a place of safety – quickly, and re-consider how to continue **safely**.

In the first instance it is necessary to carry out a thorough review of the health, safety and environmental risks that may be present at a property. The health and safety element is a mandatory requirement. The environmental assessment is in response to a wide number of duties set out in related environmental law (including energy consumption and potential pollutants).

3.3 Evaluating risk

There are as many methods for measuring risk as there are people and businesses trying to do so; each organisation will have its own way of carrying out risk assessments and, where appropriate, recording them. Similarly, there are many ways to deliver the important task of ensuring everyone who could be affected by the risk(s) are advised of them, and trained to carry out the work safely (often called a 'safe method of working' or 'method statement').

All risk assessments should be carried out by a competent person (e.g. someone with appropriate qualifications, training and experience).

Each organisation, and individual, will need to consider how to assess risks in the workplace in a way that is appropriate to the organisation, and the risks to which it is exposed. Much detailed guidance is published on assessments of risks, and the sophistication necessary to remain within the law will differ from organisation to organisation.

It is worth considering what level of sophistication is appropriate for the organisation to ensure the information gained from the process is put into practice rather than being lost in too much paperwork. It is good practice (and will be guided by the assessment itself) to review the process regularly and, as is so for all management systems, implement a strategy of continuous improvement.

Note: Risk can be measured by either quantitative or qualitative evaluation, or in some cases, by both. (Refer to RICS guidance *Surveying safely*).

3.4 The 'responsible person'

As in many UK health-, safety- and environmental-related regulations, there is a requirement to appoint and identify a 'responsible person' in an organisation. He or she will ensure that health, safety and environmental management systems are in place and actively operational. An individual landlord or a right to manage (RTM) company will be considered 'responsible'. If as responsible person a landlord, agent, RTM or other party does not have the knowledge or understanding to manage the relevant safety risks then they should appoint a competent person to assist them to fulfil their duties.

Duty holders are identified for most aspects of statutory compliance, which may include other parties in addition to the responsible person. Duty holders may be landlords or tenants depending on the type of lease. It is important that if a third party's competent advice is sought, duty holders act on the advice they are given – they should not ignore the advice of competent persons they employ, and they should record what is being done to respond to any advice or recommendations. If something goes wrong, ignorance of the law is no excuse and ignoring advice will be taken into account. Equally, having no record to provide **evidence** that expert recommendations have been acted upon may well result in the court assuming that nothing has actually been done.

3.5 Responsibility for risk assessment

Landlords/agents are not expected to attempt to identify or predict every possible accident that may occur, only what is reasonably foreseeable. If there is an accident at a property, a person suffering the injury may have a claim against the agent if they were negligent by not identifying and warning that person of the risk. If the accident was a

consequence of the property, or part thereof, being in poor repair, then the owner of the property (where different from the above) may also have a civil liability. Generally, duties extend to:

- taking steps to identify any foreseeable risks
- taking appropriate action to prevent injury resulting from identified risks by:
- having appropriate procedures for communicating risks/hazards to all those they might impact
- agreeing with the client who will address identified risks and ensuring this is carried out before arranging viewings and
- putting in control measures to mitigate against harm/injury.

Agents are advised that they should always include details of fixtures, fittings or appliances in a property that they have not checked, and therefore cannot guarantee the safety of, in the terms and conditions they give to applicants.

When dealing with blocks it is likely to be necessary to also gather information about other relevant risks in the building from the owner or agent (although the reciprocal duty means they should be proactive in this regard).

Landlords for individual residential accommodation are not required to carry out detailed written risk assessments. This does not however remove the duty to take reasonable steps to control risks. Commercial organisations and block managers are obliged to carry out formal assessments. These must be recorded if there are five or more employees. Block managers may find it more appropriate to commission a third-party assessment and/or condition survey in agreement with the client.

Any risk assessment should state when a review is required. It is suggested that this should be at least every 12 months or whenever a material change in circumstances occurs. Subsequent risk assessment or reviews should be proportionate to the risk and will need to consider the type, location and complexity of the property. Any person undertaking health, safety or environmental evaluations should be suitably competent for the range of tasks carried out.

Where reports are produced as a result of inspections/tests, actions raised should be closed out and recommendations considered as part of good management. In some cases advice will need to be given to landlords so that, where there are choices, commercial considerations and practicality can be factored into the final solution.

3.6 Landlords' employees/agents on site

3.6.1 Accommodation and welfare

Agents acting for the landlord on site – for example, building managers/concierges/site security – should have an office and welfare facilities, including drinking water, a toilet and heating. Ideally these should be specifically for the use of staff and secured when empty, for privacy and security. Where this cannot be accommodated alternative arrangements should be made available. The accommodation should be used for work-related purposes only.

Note that residential accommodation for staff is not covered in this guidance note.

3.6.2 Personal safety

Representatives acting for the landlord on site should have a way to communicate and to call for help if required. (See also 13.16 Lone working). Where the job entails patrolling/working outside their office, a mobile phone should be provided so that the agent can be contactable at all times.

The agent should have a contract for services that should only require out-of-office contact by agreement – even if that person lives on site.

Other things to consider:

- lone working/violence:
 - if working late at night or early in the morning there should be a checking-in system so that landlords can be alerted to any problems as soon as possible; for example, a 'buddy' system with remote monitoring
 - entrance doors could be kept locked for security and/or a panic alarm fitted
 - tenants should be made aware of staff identities and
 - suitable and sufficient training should be given. This may include site induction and/or fire warden training, as the landlord's representative will be the person responsible for monitoring fire safety considerations. First aid and manual handling training should also be considered for employees. Training needs should be re-assessed annually and risk assessments carried out if appropriate.
- work activities that may require training and/or supervision include:
 - manual handling
 - use of ladders
 - the use of chemical/cleaning substances and
 - use of a computer workstation.

4 The management and reporting of accidents in the UK

4.1 Accident prevention

The most common accidents are:

- slips and trips up or down stairs or access ramps
- on wet or icy areas (e.g. reception foyers or entrances), and
- where raised paving, or similar, form trip hazards underfoot.

To help prevent accidents people who manage blocks may wish to ensure that:

- all wet areas are promptly cleaned, and where residual wet remains ensure that 'No entry' or 'Slippery surface' signs restrict access to the areas affected
- all areas are well lit
- there is an appropriate programme to distribute grit or salt during cold or icy conditions
- all cleaning contractors are aware that, if accidents occur because they have left wet areas underfoot, they may be found liable for an accident claim
- regular inspections are made of all areas with heavy footfall to check the condition of the ground/floor surface, and that these are recorded and
- uneven surfaces or potential trip hazards are highlighted with yellow/black striped warnings. It may also be necessary to highlight low-hanging plant/equipment and pipework with yellow/black warnings (and potentially rubber edges to avoid head wounds or similar).

4.2 Reporting accidents

In the UK, the *Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013* (RIDDOR) require that serious injuries or dangerous occurrences (near misses) are reported to the Health and Safety Executive (HSE). Similarly, any staff that remain absent from work for more than seven days because of an injury sustained at work must be reported to HSE via RIDDOR. Records should still be kept for accidents, if people are injured, particularly when there is at least a three-day absence from work as a result.

Slips, trips and other injuries sustained by staff or, more often, tenants, their visitors or the general public are often followed by a civil claim. For this reason strict reporting and recording requirements are needed. They should be completed at the time of the incident occurring. Where possible, take time/date-stamped photographs of the location and causes of accidents as soon as possible after the event. These will help immensely in determining liability in civil claims.

It is highly recommended that you confirm your policy arrangements with your insurer specifically with regard to the claims-management system. Many policies require you to inform insurers of accidents even if it is for information only and does not appear relevant at the time. Immediate notification/acknowledgment that communication has been received is recommended. This will ensure that it is reported correctly in the short time frames required by the UK claims system.

5 Housing Health and Safety Rating System (HHSRS)

5.1 Description

The Housing Health and Safety Rating System was brought into statutory effect by the *Housing Health and Safety Rating System (England) Regulations 2005*. The assessment was introduced to satisfy requirements for the assessments of hazards under the *Housing Act 2004*. It is the method used for evaluating a dwelling's fitness by assessment of all hazards present in a dwelling, ranking both dwellings and housing conditions according to the seriousness of the health threat posed.

5.2 Duties and responsibilities

When environmental health practitioners (EHPs) inspect a dwelling, they look for any risk of **harm** to an actual or potential occupier of a dwelling, which results from any **deficiency** that can give rise to a hazard. They judge the severity of the risk by thinking about the **likelihood** of an occurrence that could cause harm over the next 12 months, and the range of harms that could result. An EHP makes these judgments by reference to those who, mostly based on age, would be most vulnerable to the hazard, even if people in these age groups are not actually living in the property at the time.

5.3 Scope and enforcement

If there are risks to the health or safety of occupants that the EHP (if acting on behalf of an enforcement agency) thinks should be dealt with, they have various powers at their disposal to ensure that owners and landlords take corrective measures. If the officer finds a serious (or category 1) hazard, the local authority is **required** to take one of the courses of action outlined in the statutory enforcement guidance. Category 2 hazards are those that are judged to be less serious, but authorities can still take action.

HHSRS applies to all let property and the enforcement agency has the right to assess any let property. Licensed HMOs will be formally assessed under the scheme. The remainder will usually only be assessed following a complaint, but some authorities do operate proactive assessment programmes. Both landlords and agents (depending on the type of agreement with landlords) have a duty to ensure there are no uncontrolled hazards. Records should be kept to demonstrate this.

6 Sales and acquisitions

6.1 Description

An estate agent introduces and/or negotiates with people who want to buy or sell freehold or leasehold property in the course of business, acting on instructions from a client.

6.2 Duties and responsibilities

A client purchaser/seller has a responsibility to communicate and describe any significant defects and provide statutory (inspection/test) information/certificates.

Agents have a common of duty of care to their clients, employees and viewers (prospective purchasers) to advise and inform, for their physical safety.

It is always important to inform a seller if damage has occurred to a property during a viewing. If that damage subsequently led to an accident (e.g. a broken paving stone or loose stonework that caused a trip hazard) then the agent could be liable if the seller was not informed and/or no action was taken to prevent the accident.

6.3 Terms and conditions

Terms and conditions should be explicit about duties, responsibilities and powers but can be generally described as follows.

6.3.1 Agreement to sell

This should exclude responsibility for the health and safety arrangements for managing the building (this is particularly important for empty buildings). Agents should not take on any responsibilities for maintaining the condition of a property or the items within, but they do have:

- a legal responsibility for their employees and any other party that may be affected by their activities
- a duty of care to any party whom they take to visit a property or allow entry to a property in the course of their instruction, including applicants (buyers), photographers, floor planners, valuers, surveyors and
- a duty to ask the seller for details of any risks or hazards connected with the property and its environs, particularly those that may result in an injury.

Remember that *caveat emptor* (buyer beware) does not exist; full disclosure of risks and significant defects must be made at the outset.

The selling agent does not have any legal responsibilities for notifying defects under HHSRS, but if hazards are evident when visiting the property, clients should be

informed. Agents are advised that they should always include details of fixtures, fittings or appliances within a property that they have not checked, and therefore cannot guarantee the safety of, within their terms and conditions when dealing with applicants.

Agents are not expected to try to identify or predict every possible accident that may occur, only what is reasonably foreseeable. If there is an accident at a property, the person suffering the injury may have a claim against an agent if he or she were negligent by not identifying and warning of the risk. If the accident was a consequence of the property or part thereof being in poor repair, then the owner of the property may also have a civil liability. Generally, an agent's duty extends to:

- taking steps to identify any foreseeable risks by:
 - gathering information from sellers and their agents and
 - allowing access to a third party to undertake a report and/or condition survey (in agreement with the seller).
- taking appropriate action to prevent injury resulting from identified risks by:
 - putting in place a procedure for communicating risks/hazards to all those they might impact and
 - agreeing with the seller who will address identified risks and checking this is carried out prior to viewings
 - putting in control measures to mitigate against harm/injury, for example:
 - securing the property
 - reinstating or providing additional lighting
 - displaying warning signage and/or physical barriers for protection
 - undertaking viewings in daylight hours
 - wearing appropriate personal protective equipment (PPE) and
 - restricting viewing conditions (remember that control measures/restrictions should aim not to impede a sale).

Agents are advised to decline to show applicants a property if there is a material risk of injury or accident. If a seller or applicant is insistent, to reduce liability, consider asking applicants to sign a disclaimer. However, disclaimers may not be fully effective in these circumstances and can only relate to responsibilities under civil law and general duty of care.

6.3.2 Sales boards (including board safety and marketing)

Vast numbers of sales boards are displayed at properties across the country and, provided an agent has taken a few simple steps, the likelihood of a sales board causing injury to another party is low. Unfortunately in some areas sales boards are abused, but even in such circumstances an agent could retain a very limited liability for another's deliberate act of vandalism or disturbance. Agents should ensure that:

- boards are fitted securely to prevent them becoming accidentally detached and to discourage misuse (this is particularly important for larger boards or those fixed at a high level)
- boards are in good condition with no damaged fixings or sharp edges
- boards are not positioned where they may cause obstructions that could affect the safety of others; (for example, obstructing visibility on roads or concealing entrances/exits)
- boards remain reasonably secure
- they respond quickly to any reports of damage or boards that have been found in a dangerous location and
- damaged post stumps are removed.

Many agents use third parties to install sales boards. Agents should satisfy themselves that the companies they appoint will ensure boards are fitted safely and securely. Terms of engagement should take into account liability for accidents from boards that are inadequately secured and insurance documentation should be checked. Some companies will only guarantee the secure fixing of boards for a limited period.

Agents who employ staff to install and remove boards should carry out risk assessments of those tasks. Considerations include:

- manual handling
- use of hand tools
- working on roadsides
- use of ladders and
- tasks unsuitable for lone/single workers.

6.3.3 Viewings

Before carrying out viewings it is advisable to read the RICS guidance note *Surveying safely* (current edition) and follow the advice of the Suzy Lamplugh Trust (see www.suzylamplugh.org).

Considerations for lone workers:

- vet viewers
- give employees awareness training so they can identify risks to themselves and others and
- have standard written procedures/risk assessments providing guidance on what to do about identified risks/hazards or the potential for them (risks should

include inclement weather, commercial activities taking place at/around the viewing, etc.).

6.3.4 Joint agency

Where more than one agent is instructed, they must each satisfy their own legal duties for the safety of employees and others. As they are acting independently, agents have no legal duty to each other, or responsibility in the event of an accident during a viewing by another agent. Agents should carry out their own assessment of risk and make independent enquiries with the seller. In the interests of safety, sharing information is encouraged but agents should not rely on this to satisfy their duties.

If an accident has occurred, however minor, as a minimum, agents should encourage sellers to inform other agents of the circumstances, or do so directly so that no further accidents occur.

6.3.5 Subagency viewing

If acting as a subagent, the main agent has responsibility; however, as in 6.3.4 above, the subagent should inform the agent of any obvious hazards.

6.3.5.1 Open house viewings

Opening properties for multiple applicants to view at one time has become an increasingly popular sales technique. From a health and safety perspective, the risks are the same, with the addition that applicants are unlikely to be as well supervised. Agents must therefore ensure that they do as much as possible to communicate to applicants any risks that cannot be removed. Consider also:

- checking the property before applicants arrive and removing any obvious trip or slip hazards
- making sure someone is present to welcome applicants and providing any instructions (e.g. 'please keep your children with you') and
- if viewings are by appointment, providing general instruction in advance (e.g. wear appropriate footwear, or, there is no access to the loft).

6.3.6 Unaccompanied viewings

In the rare event that an applicant may be able to view a property completely unaccompanied (e.g. a derelict or remote plot), any hazard information and instructions should be provided in advance. Purchasers should be informed that they must take responsibility for their own safety.

6.3.7 Online estate agents

Online agents still have a duty to establish and communicate adherence to legal compliance and the need for the purchaser to act with due diligence. They must also highlight the property's significant defects and physical risks/hazards before allowing viewings.

6.3.8 Passive intermediaries

Intermediaries who merely act as a listing agency and put private sellers in contact with buyers and provide no other

estate agency function are outside the definition of an estate agent and do not have any health and safety responsibilities for property either. However, if they arrange viewings or provide other services to the parties, they have the same health and safety responsibilities as a conventional estate agent.

6.3.9 Vacant property

Vacant or derelict properties may have additional risks that need to be considered. The condition of derelict properties can vary significantly and, in some cases, it may not be appropriate to allow people to enter all or parts of the property. Particular concerns include:

- vermin
- falling materials
- asbestos and
- the stability of surfaces and handrails.

If the condition of the property is unknown, always err on the side of caution. A recommendation for a structural survey in advance may be required.

Also bear in mind that, if a property is unoccupied, the insurance cover may have been reduced or even stopped. If there is concern about potential accidents, sellers are advised to confirm that their insurance covers this (although agents have no right to insist on it).

When carrying out viewings in vacant or derelict properties take into account the following:

- **Electricity:** do not attempt to switch electricity supplies on or off at the mains. If there is no electricity there is also no lighting, so trip hazards may not be obvious. Book viewings to allow maximum use of daylight and check that this is sufficient for all areas, particularly stairwells and basements.
- **Heating:** dress accordingly, particularly during winter months, and advise applicants to do the same.
- **Vandalism (damage to the exterior, broken windows, etc.) and squatters:** look for signs on arrival and do not enter if a property appears to have been broken into. Inform the vendor immediately. If there is any indication that an unauthorised person may be in the property, do not enter. Contact the vendor and, with their permission, the police. If vandalism or squatting become a regular occurrence, consider whether it is appropriate for viewings to be carried out by just one person.

6.4 Development sites

6.4.1 Developer/agent responsibility

Commercial contractors have legal obligations to ensure the safety of others. Therefore, where work is being undertaken by a commercial contractor or property development business, they must make sure that it is safe for a property viewing to take place. This does not in any way diminish the duties of the agent, but they must check with and defer to the developer/contractor if they state a

viewing is not possible, or a particular area cannot be accessed. Even if a contractor/developer does say a viewing can take place, agents are advised to always make their own judgment on arrival.

Developers will also have additional responsibilities to those of sellers with regard to assurances for the condition of fixtures and fittings and equipment, including gas boilers and electrical installations. Although it may subsequently become a condition of sale, unlike a letting agent, a sales agent has no obligation to ensure the condition of these items. Agents may be asked to provide some of this information to applicants during the sales process, but should be clear whether or not they take any responsibility for validating the information. Agents should emphasise to applicants that it is the applicants' responsibility to verify any documentation or the condition of fixtures, fittings and equipment and to address this with the developer (normally via their solicitor or conveyancer prior to completion).

Agents should alert applicants to the condition of the site in advance, as well as whether there are any restrictions on site, particularly regarding clothing, footwear and children.

6.4.2 Single property developments

Carrying out viewings in a property while it is under development poses a number of challenges. Health and safety risks will depend on the condition of the property at the time, the amount of work currently being done and how well the site is maintained. Sites will need to be considered on a case-by-case basis. Agents need to decide, using risk assessment, whether a site is suitable for viewing or not, and if they need to put in place any restrictions in the interests of employee or applicant safety (e.g. whether it is acceptable to show an upper floor accessed only by a ladder, or a room that does not yet have flooring).

When dealing with single-site developments, including owners developing their own property for sale, it is advisable to address the following issues:

- Check that all areas of the property are safe to access and any significant hazards are clearly marked or discussed in advance (e.g. unprotected openings).
- Consult the contractor/developer about the work going on at the time. Ensure they know the viewing is taking place and decide whether any particular works should be stopped during the viewing.
- Check what PPE (e.g. hard hats, high-visibility vests, protective boots, gloves, eye protection and ear defenders) should be worn and who will provide it for employees and applicants. Hard hats, high-visibility vests and protective footwear will normally be required on any site and agents may wish to set their own minimum requirements that exceed those of the developer/contractor.
- Check whether the site is suitable for children.
- Find out if a contractor needs to be present during the viewing.

- See what the emergency arrangements are and what first aid is available.

6.4.3 Sites under construction

Large construction sites are busy, dangerous places, particularly to those unfamiliar with them. Sites will be under the responsibility of a single main contractor who will stipulate any conditions of accessing the site. This is likely to include that certain PPE is to be worn and that specific rules must be followed. These will normally be explained during a site induction (e.g. that mobile phones should not be used). Fire and emergency evacuation procedures will also normally be explained as part of this induction. Agents who have staff based on site permanently should ensure they are familiar with these requirements and complete a site induction with the main contractor.

Sites usually have designated routes for pedestrians and vehicles (including car parking areas) to follow to ensure that pedestrians are protected. These must be used at all times. Be aware that routes may change as the site develops.

Agents must follow the instructions of the main contractor and ensure that applicants do too. Sales assistants who are based on site (in a sales office or show home) or visit regularly should always confirm with the main contractor before bringing an applicant onto a site, regardless of their familiarity with it.

6.4.4 Show homes/apartments

Viewings in show homes or show apartments are no different to those in any other property. Risks should be evaluated in the same way and any concerns addressed with the developer. However, unlike an occupied property, agents may be the only people regularly using the property and may need to carry out extra checks when arriving at or leaving a property. Consider:

- whether there is a safe, clear access route to and from the property
- where to park vehicles
- what procedure should be followed in a fire situation (especially part of a construction site)
- whether electrical wiring has been fully commissioned and is safe to use
- if all electrical items are in good condition and safe to use (if more than one year old some items may benefit from portable appliance testing (PAT))
- who will check smoke detectors are working and replace batteries when they fail
- who will replace light bulbs and what is required to do so (if a ladder is needed, agents need to determine if staff need any training)
- switching off all lights and electrical equipment when the site is closed each day and
- manual handling tasks involved in site set-up and general cleaning and maintenance.

6.5 Acquisitions

Documented arrangements should include:

- the appointed agent/surveyor asking for legal compliance documents for the purchaser (this should be in the contract terms and conditions)
- safeguarding the safety of surveyors who may be sent to inspect and produce a report for pre-purchase enquiries (see the RICS guidance note *Surveying safely* (1st edition)); and
- insurance cover for the property during the period between exchange and completion.

6.6 Buying agents

Buying agents' duties are similar to selling agents' and most of the practices already explained apply. The main difference is that there will be no contract between the seller and the buying agent, so agents are responsible only for their own employees and their buyers.

Agents must still ensure that their employees are sufficiently able to identify hazards when viewing prospective properties for a buyer and can take precautions to prevent injury. Where they have been instructed, enquiries should be made with the selling agent about any known hazards, particularly if taking clients around properties without the selling agent present. Any instructions from a selling agent must be followed.

Having identified a suitable property, if agents are concerned about hazards that may affect the safety of their buyer during a forthcoming viewing, they should discuss these with the selling agent or the seller in advance.

Any accidents that occur should be notified to the selling agent (if present/instructed) or the vendor.

6.7 Consultants and contractors

Any third party instructed by an agent to attend a property should be treated as a contractor and managed accordingly. This may include floor planners, photographers and energy performance certificate (EPC) surveyors. Agents should ensure that these parties have sufficient insurance and follow safe working practices.

It is advisable to ask for copies of risk assessments (but remember that self-employed people and companies with fewer than five people do not have to write them). Third-party contractors must also be informed of any known risks and instructions they must follow for their own personal safety. (See section 12, Contractor management.)

6.8 Site sales and staff

At large development sites agents may be asked to provide on-site staff on a permanent or semi-permanent basis, working either directly from a show home or a site office. This introduces additional duties for an agent, although they are no different to those required in any high street sales office.

This guidance note does not cover these requirements in detail, so agents should take further steps to ensure they are familiar with all their legal duties. Some of the main considerations are:

- the availability of basic welfare provisions, including toilets, hot water, drinking water and heating
- the need to carry out workstation assessments
- the requirements for fire-risk assessments and fire safety provisions, including fire extinguishers, fire detection/alarms and fire evacuation drills and
- the testing and maintenance of electrical wiring, electrical equipment and gas appliances.

It is important to agree whether the agent or the developer will be responsible for carrying out any tasks necessary in site sales offices. Agents must remember that they have a legal duty to employees and should ensure that any duties the developer has agreed to carry out are completed or they may be liable if this results in a fire, accident, injury or work-related ill health.

Parties for consideration may include:

- corporate owners
- letting agents
- agents
- viewers
- contractors/consultants
- occupiers
- statutory undertakers
- administrative receivers and
- loss adjusters.

7 Letting agents

A letting agent in the UK is someone through whom an agreement is made between a landlord and tenant for the rental of a residential property. It may or may not include some management of the property.

7.1 Description

Types of agreement for consideration include the following arrangements, but may differ slightly depending on what is negotiated between the agent and their client:

- let only, with landlord fully responsible for repairs
- let only, with the collection of rent and authority for minor repairs and
- full letting agency with full responsibility for letting and managing the property.

The exact extent of the landlord/agent responsibility should be clearly stated in the terms of engagement.

7.2 Duties and responsibilities

A letting agent's role has many similarities to that of a sales agent and the risks associated with carrying out property viewings are comparable (see 6.3.2–6.3.6). Contract terms and conditions should specify responsibility.

Unlike a private resident, landlords have specific obligations that must be met before a tenancy agreement can be made. Agents should be fully familiar with the obligations that private landlords must meet for the safety of tenants and should undertake sufficient due diligence to ensure these have been met. Agents should not agree a tenancy and should not hand keys over to tenants if they are aware that a landlord is failing to meet their legal obligations. These are to ensure that:

- if an HMO licence is required for the property there is a valid one in place
- there is a valid gas safety certificate for any boiler, shared gas flue or other gas appliance
- there are adequate, working, smoke and carbon monoxide detectors
- electrical appliances and systems are safe
- there is a valid electrical wiring certificate
- furniture and furnishings are sufficiently flame resistant.

Each of the above is expanded on throughout the guidance.

Duties include (and may still apply even if the agent is not continuing any responsibility once a tenancy has been agreed):

- ensuring landlords are aware of their duties and legal responsibilities. These should include securing health and safety audits, fire-risk assessments and other inspections for statutory compliance
- supporting landlords and tenants in environmental compliance, particularly where there is a need for management arrangements to facilitate recycling, energy use and/or carbon-related issues. The requirements will vary depending on the make-up of the building and operational management and
- securing the landlord a right of access. This is an implied right under section 11 of the *Landlord and Tenant Act* 1985, where the landlord has a responsibility to repair and maintain under the lease. The landlord must give 24 hours' written notice to the occupant unless there is an emergency, but even then contact with the occupant should still be made wherever possible.

7.3 Arrangements

Arrangements should be in place for communicating complaints/problems/requests to the landlord, for example:

- for the agent to inform the landlord only, which should be documented
- for the agent to inform the landlord and take instruction and
- where the tenant is required to deal directly with the landlord.

There is a legal requirement to issue certain pieces of information to the tenant and it is recommended that these are included in a tenants' handbook. This should include:

- emergency arrangements
- operating instructions for items provided and
- statutory certificates; for example, alarms, boilers, electrical goods, gas safety certificates.

For the letting of single units the provision of items and user information will depend on the contract terms.

The landlord/owner is always responsible both for the provision of information to the tenants and the maintenance of the property, including the approval and release of funds for work required.

Tenants have an obligation to comply with the lease and regulatory requirements for the landlord. Subtenants have a

duty to comply with the tenants' obligations, and respect the need for communication and co-operation when highlighting risks and potential risks.

8 Lettings property management

8.1 Description

This involves the management of single/multiple units on behalf of the landlord/owner where the landlord is the responsible person. If the 'owned' property is part of a block there may be additional obligations with regard to common areas.

8.2 Duties and responsibilities

In UK legislation the term 'lease covenants' is used to include terms that specify obligations and lay out the responsibilities for the landlord and tenant respectively. It is usual for the landlord, tenant and subtenant to have reciprocal responsibilities. The need to satisfy the landlord's legal duties is subject to contractual arrangements that also extend to contractors employed on behalf of the client. In addition, these should require the following:

- not to damage content, fixtures, fittings
- to prevent pipes from becoming blocked
- to report problems to the landlord
- where there are landlord assets in a property with a full repairing and insuring (FRI) lease, there is an implied obligation to allow landlord's agents in to carry out insurance inspections; for example, boilers, lifts, pressure vessels and

- to provide risk assessments and method statements (RAMS) to the landlord on request and submit a licence for alteration for more significant works.

8.2.1 Maintenance of the property

Section 11 of the *Landlord and Tenant Act 1985* specifies landlords' obligations regarding maintenance and repair.

Where there is not a contractual obligation on landlords there may remain an implied obligation under the Act to allow the landlord on to the premises to carry out minor maintenance; for example, for gas appliances/repair. The landlord also has an implied obligation to allow tenants 'quiet enjoyment' of the property; that is, they may only visit with:

- good reason
- notice and
- consent.

There should be direct liaison with tenants about access, fire safety, maintenance and repair.

The landlord cannot contract out of statutory obligations.

Anyone identifying a risk to safety and health associated with the property should report it to the landlord or his/her representative. This may include outgoing and incoming tenants, block agents and caretakers, appointed and maintenance contractors.

9 Houses in multiple occupation (HMO) and selective licensing

9.1 Description

In England and Wales a property is an HMO if it is let as a main or only home to at least three tenants who form more than one household and share a kitchen, bathroom or toilet. Properties can be an entire house, flat or converted building, or any of the following:

- bedsits
- shared houses
- households with a lodger
- purpose-built HMOs
- hostels
- guest houses (if rented out of season)
- bed and breakfasts providing accommodation for homeless people and
- some types of self-contained flats converted from houses.

9.1.1 Mandatory licensing

Under the *Housing Act 2004*, those managing or controlling certain prescribed HMOs must have a licence to continue to rent out these properties. Those HMOs subject to mandatory licensing are buildings consisting of three storeys or more that are occupied by five or more tenants in two or more households. However, converted blocks of flats are not subject to mandatory licensing.

9.1.2 Additional licensing

Local councils have discretion to introduce additional licensing for other types of HMOs, which are not subject to mandatory licensing, including poorly converted self-contained flats. This may be in a defined geographical area or across the whole of a council's area. These schemes aim to deal with situations that cannot be improved by any other means. The council has to consult local landlords before introducing additional licensing and they have to publicise it when it comes into force.

9.2 Duties and responsibilities

Landlords and/or their agents have a duty to keep HMOs in good repair and to protect occupiers and those visiting the property from injury. Fire escapes should be free from obstruction and common areas should be clean and safe. Water systems should be managed in line with safety

guidance and water storage tanks should be covered. Electricity and gas installations should be inspected and certified in accordance with the regulations. Occupiers also have a duty not to do anything that would cause risk to others; for example, obstructing means of escape or allowing rubbish to become a health hazard. Occupiers, as well as landlords and their agents, can be prosecuted by the local authority for breaches.

9.3 Enforcement

In an area subject to selective licensing, all private landlords must obtain a licence. If they fail to do so, or fail to achieve acceptable management standards, the authority can take enforcement action.

Definitions of what constitutes an HMO differ in Scotland and Northern Ireland.

Further detailed information about HMOs and the licensing and management of them can be found on the government advice websites:

- www.gov.uk/government/publications/licensing-of-houses-in-multiple-occupation-in-england-a-guide-for-Landlords-and-managers
- www.scotland.gov.uk/Publications/2004/07/19731/40890
- www.nihe.gov.uk/index/advice/renting_privately/hmo.htm

9.4 Selective licensing

Sections 79, 80 and 81 of the *Housing Act 2004* provide for the introduction of a scheme of selective licensing of private landlords in a local housing authority's area. Selective licensing is intended to address the impact of poor quality private landlords and anti-social tenants. It was developed primarily to tackle problems in areas of low housing demand, although the Act also allows for selective licensing in some other circumstances. Many of the provisions relating to selective licensing are similar to those relating to the mandatory and discretionary licensing of HMOs, regimes that were also introduced by the *Housing Act 2004*. However, selective licensing is not restricted to HMOs and can apply to other categories of property as well.

10 Estate/block management (including retirement housing)

10.1 Description

This includes the management of residential/mixed-use units with common areas/shared utilities.

Managing agents' obligations for residential blocks vary depending on the type of block and tenancy. This section of the guidance note indicates the significant obligations of agents in different types of blocks, and the necessary considerations for meeting these obligations.

10.2 Duties and responsibilities

There are two basic and very distinct arrangements of tenure:

- 1 In long leasehold apartments, the apartment owners pay a service charge for the maintenance and upkeep of the common areas of the building. Generally, the freeholder/landlord owns the building and typically is responsible for maintaining the common areas; the freeholder may pass that responsibility on to a management company or a managing agent. The management of these buildings is traditionally described by the term 'block management'.
- 2 In a multi-apartment building the freeholder/landlord lets the apartments on short tenancies, such as assured shorthold tenancies.

It is very important to understand the tenure arrangements of an apartment building and which party is responsible for what. In the long leasehold arrangement, the freeholder/landlord is generally responsible for the health and safety of the common areas but not inside the apartments, where they are owned/in the control of others. In the multi-apartment arrangement, the freeholder/landlord is generally responsible for interiors of the apartments as well.

The freeholder, landlord or management company may employ a managing agent for the day-to-day running of the estate.

In the multi-apartment arrangement, the management of the apartments themselves is covered under section 8, Lettings property management. This 'block management' section deals with the management of the common areas outside any individual apartments.

Fundamentally, block management revolves around the provision of communal building services and the management and maintenance of common areas. Common areas include:

- all shared areas/common areas (but may not include ceiling/floor voids between apartments) and
- shared facilities in an HMO that may fall under the agent's management. For sheltered accommodation agents may have responsibility for the maintenance, upkeep and safety of all areas.

The extent and complexity of duties will vary based on other significant factors including the size and age of the block, the nature of the tenancy and the tenants themselves. Blocks may be short leasehold, long leasehold or both. They may be purely residential blocks or may interact with other property types.

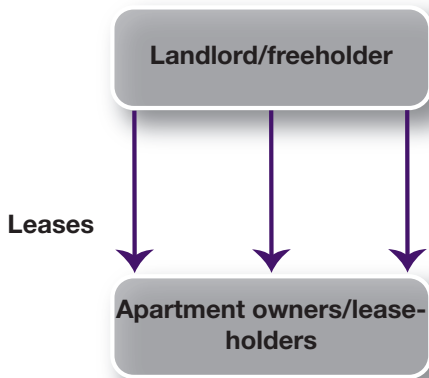
Usually there will need to be management arrangements for things such as:

- lifts
- asbestos
- fire safety
- gas safety
- water hygiene/legionella
- external areas and gardens
- roof/loft access and
- shared facilities; for example, gyms, laundry, swimming pools, common rooms, bars.

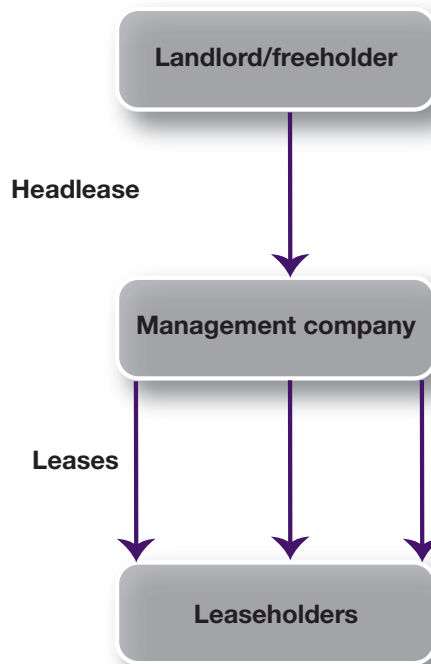
Those who have duties and responsibilities for residential blocks include landlords, managing agents, tenants and head leaseholders.

The following diagrams indicate several classic models of long leasehold tenure management (Figure 1).

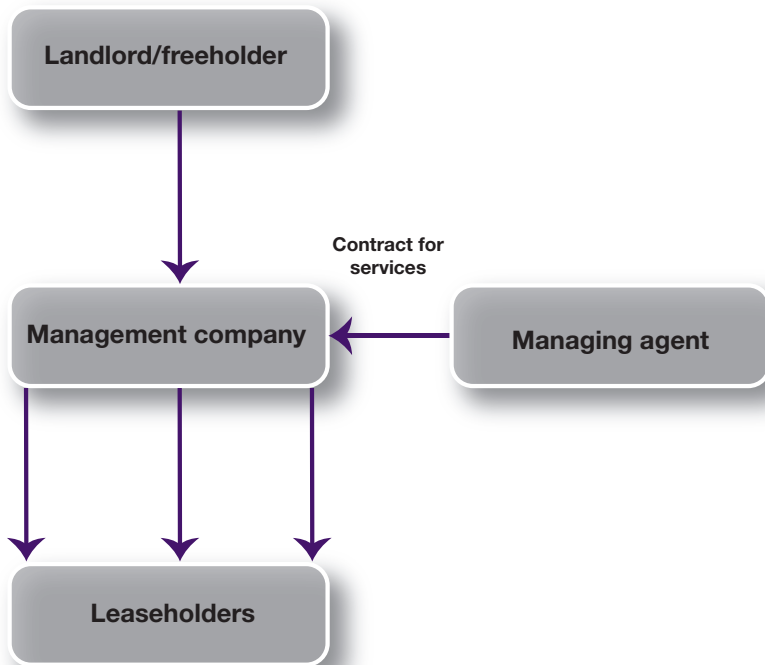
Simple leaseholds



Headlease arrangement (simple)

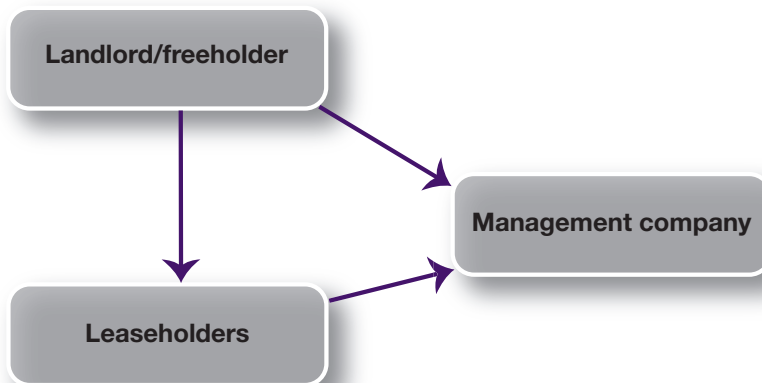


Headlease arrangement (with managing agent instructed by management company)



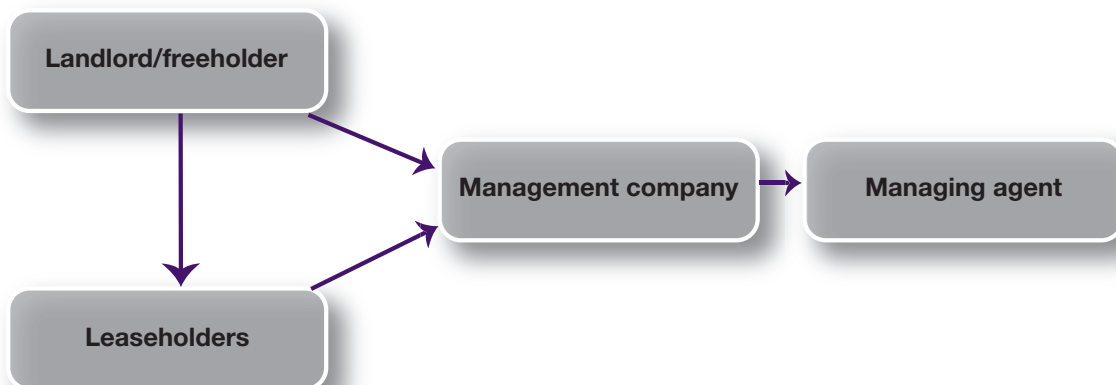
- 1 The managing agents may collect the service charge from the leaseholders on behalf of the management company and manage the 'estate' on a day-to-day basis
- 2 The management company may be owned/run by either the landlord/freeholder/the leaseholders

Tripartite agreement (simple)



- 1 Leaseholders pay ground rent to the landlord
- 2 Leaseholders pay a service charge to the management company
- 3 The management company carries out maintenance and repair of common areas only

Tripartite agreement (with management agent instructed by management company)



- 1 Leaseholders pay ground rent to the landlord
- 2 The managing agents may collect the service charges on behalf of the management company and run the 'estate' on a day-to-day basis

11 Build to rent

11.1 Description

'Build to rent' is the collective name for large-scale, purpose-built, institutionally owned stock that is built for private rent. In the UK it is seen as one way of increasing housing supply and is being encouraged by government incentives.

Build to rent from a management perspective combines processes and practices from both lettings management and block management, minus the service charge issues. These newly developed blocks are likely to benefit from economies of scale enabling specialist staff to be employed and permanent on-site concierge services.

11.2 Duties and responsibilities

The duties and responsibilities of the landlord are around the letting and management of the individual units, together with the common areas. There is a responsibility to ensure that visitors to the building, as well as residents, are safe. There are often 'high end' facilities on site, such as gyms and swimming pools, bars and entertainment space, including communal kitchen facilities.

Usually there will need to be arrangements for things such as:

- external areas, car parks and gardens
- fire safety
- lifts
- roof/loft access

- shared facilities; for example, gyms, laundry, swimming pools, common rooms, bars
- storage of parcels
- dealing with unacceptable behaviour
- water hygiene/legionella
- waste collection
- access for meter reading etc.

11.3 Maintenance of the property

A build to rent property management team is likely to have the advantage of having been involved from the design stage. Any potential issues capable of being foreseen at the design stage should have been resolved and some of the health and safety risks presented by older buildings will not be an issue. However, this should not lead to complacency and the property should be regularly risk assessed to ensure it remains a safe place for all those living in, working in and visiting the building.

There should be access to, and awareness of, building design information using the Construction design and management (CDM) health and safety handover file and operating manuals. Check that the management procedures consider these, particularly with regard to maintenance, cleaning and the management of residual risks.

12 Contractor management

Almost every property agent will at some point engage with or instruct third-party contractors. Irrespective of the complexity or specialism, the delegation or contracting of a task to a third party does not remove all responsibility from the agent. While liability and risk may be managed, statutory or contractual liability cannot be delegated. Agents could be found wholly or partially liable for failures by contractors that result in injury or loss. To prevent being inadvertently put at risk, or failing to adhere to a legal obligation, agents should view the management of contractors as a necessary and important task.

This section discusses the obligations of agents when managing contractors and the methods for doing so to ensure safe working practice and minimise risk and liability.

Landlords/owners/letting agents will always have an obligation to provide hazard information relating to the property in a timely manner. Examples include:

- the identification of residual risks
- the presence/location of asbestos-containing materials
- peculiarities relating to plant and equipment
- site-specific arrangements/emergency arrangements.

12.1 Who or what is a contractor?

The term 'contractor' includes any person or organisation that is not a direct employee but is contracted to work on premises under your control or to carry out work on your behalf. Typical examples include:

- carpenters/joiners
- carpet/flooring fitters
- electricians
- fire/security alarm engineers
- general building contractors
- glazing installers
- kitchen fitters
- lift maintenance engineers
- painters/decorators
- plumbers
- roofers
- satellite installers/maintainers and
- telecom engineers.

Appointment will be by way of a signed contract, specifying terms and conditions of work, which could be a formal written contract document or a set of terms

submitted as part of a quotation for work that is then accepted by way of signature by the instructing party.

Note: Before signing any contract or accepting terms, you ensure that you understand the specifics of the agreement, scope and liabilities set out. If in any doubt, seek specialist advice.

Companies or individuals such as floor planners or photographers are also contractors, although their activities usually present minimal risk. The principles of management in this sub-section do apply; however, more appropriate guidance may be found in section 6, Sales and acquisitions.

The term 'contractor' is not intended to include companies or individuals delivering goods (postal workers, resident deliveries, groceries, furniture, etc.) or auditors or inspectors (risk assessors, loss adjusters, emergency services, enforcement officers, etc.), although agents have a general duty of care to these individuals, proportionate to their management responsibilities.

12.2 Why contract work?

The primary reason for taking on a contractor will usually be to obtain a specialist skill or knowledge that agents do not have in-house. By undertaking work directly without being able to demonstrate competency, agents may be increasing their liability. Typically, as the list of contractors above indicates, this will be for installation, maintenance or repair of equipment or of a property.

Landlords have legal and contractual obligations to carry out maintenance and repair that may be passed on to agents to carry out on their behalf. This includes the following obligations (specifics are set out in statute and/or should be defined in the terms of a lease):

- to provide accommodation where category 1 or 2 hazards are minimised, assessed using the HHSRS
- for the routine inspection and maintenance of plant and equipment (gas boilers, fire alarms, electrical equipment, etc.)
- for the repair and maintenance of the structure and exterior of a property
- to maintain provision of utilities – continuity of supply (water, gas, electricity, etc.)
- for periodic redecoration or refurbishment.

The appointment of a contractor to carry out a task must not be seen as delegation of legal duty. If agents have responsibility for managing a property, this includes a duty

to ensure that the activities that are carried out under their control do not result in the injury or harm of any person.

12.3 Principles of good contractor management

There are four requirements that agents need to follow to ensure that they have effective contractor control. They cover the whole contracting process from appointment through to completion of the work.

12.3.1 Select competent contractors

When appointing contractors it is essential that you ensure they have the necessary health and safety knowledge to carry out the required role without putting themselves or others at unnecessary risk. This is determined by evaluating their professional qualifications, skills and experience. Check also that contractors can demonstrate that they have adequate arrangements for the management of health and safety.

The amount of due diligence required depends on the complexity of the tasks and associated risks. For basic checks that should be carried out for every contractor see a, b and c below.

(a) Membership of a professional/trade body

Most specialist industries have their own professional body. Registration with the professional body often requires contractors to complete a form of assessment or to demonstrate a specific level of competency. This provides an independent verification of a contractor's ability. This is not a requirement for all types of contractor but is a good indication of suitability. For some tasks, such as work with gas or electrical equipment, registration is considered a minimum requirement. Where this is relevant, it is referenced in section 13, Guidance by topic.

If it is determined that a particular task has a specific competency requirement, you must make sure that the individuals who will be carrying out the work satisfy this criteria, as opposed to the company as a whole. They should carry, for example, Construction Skills Certification Scheme (CSCS) cards.

(b) Insurance

Always ensure that contractors have adequate insurance. In the UK, £10 million employer's liability insurance is a legal obligation. In most cases it is also pertinent to check public liability and professional indemnity insurances. The amount required will be proportionate to the scale of contract, but it is sensible to set a minimum expectation. Agents should ensure that they understand any minimum insurance limits stipulated by clients.

(c) References

References from other current or recent employers are always a strong indication of performance, giving confidence that contractors can deliver a good standard of work. There are now numerous online sites that can be used to source local contractors based on reference. Always ensure that the references are recent (at least within the past 12 months). It is also worth taking time to follow up on references, particularly for larger contracts. Speaking directly to a referee will give you a good picture of how contractors operate and allow you to ask specific questions about areas of concern.

For larger or more specific work, you may need to complete a more thorough tender. This is likely to include specific questions to determine that contractors have the specific skills and experience required. For a formal tender, consider the following:

- **Health and safety policy:** any company employing five or more employees must have a written health and safety policy. This document will explain how contractors manage risks and their general attitude and approach to health and safety management. If the company has fewer than five employees it is still worthwhile asking them to describe their approach.
- **Examples of risk assessments and method statements:** at the tender stage it may not be possible to obtain task-specific risk assessments, but a contractor will be able to provide documents used on previous similar jobs that will indicate a thorough understanding of the risks associated with their work and how to manage them. Companies with fewer than five employees do not need written risk assessments. In such cases you should ask the contractor to explain how they identify hazards and control the associated risks.
- **Past health and safety performance:** requesting accident statistics from a contractor provides a solid indication of the effectiveness of a company's risk control. Notifiable accidents (those that must be reported to the enforcing authority) should be requested as separate data to other accidents. However, the numbers should not be considered in isolation. First, if comparing statistics with other companies, ensure that the relative size of each company is taken into account so that a fair comparison can be made (methods for equalising statistics based on working hours are available). Second, asking a contractor what action was taken after accidents occurred can be more telling than the numbers. Proactive contractors will be able to show that they have taken measures to prevent similar accidents recurring, which will be supported by a

drop in the number of accidents, or no repeat accidents of a similar type.

- **Previous enforcement action:** request information about any previous enforcement action that has been taken against a contractor in the past three to five years. This can also be checked on the HSE website.

12.3.2 Arrangements for managing subcontractors

For larger jobs, contractors may need to subcontract certain elements, or simply to increase the number of workers available. The subcontractor selected may not have the same focus on health and safety as the main contractor, meaning that the information provided by the main contractor may not be a true reflection of how they propose to operate on this contract.

You should specify during the selection process whether subcontracting is acceptable and, if so, stipulate any conditions that you have. You should request information from contractors about how they will select and manage their subcontractors. You would expect to see a similar process to that which you are completing with the contractor, as well as arrangements for communicating health and safety information and supervision of activities.

A number of professional schemes can be used for, or provide an indication of, competency in health and safety management. In the UK the most widely recognised are those under the umbrella of Safety Schemes in Procurement (SSIP: www.ssip.org.uk). By demonstrating membership of these schemes, contractors provide a level of reassurance that they have robust health and safety management systems. These do not, however, provide evidence for task-specific information, so it may not be appropriate to rely on them in all situations. British Standards Institute and others also provide prequalification questionnaires that can be purchased.

Note: sole traders are not always subject to the same obligations as larger employers; for example, the preparation of written risk assessments, or holding employer's liability insurance. This does not, however, exclude sole traders from assessing and managing the risks posed to others and agents should still carry out due diligence.

12.3.3 Make sure others are not put at risk

The general expectations about contractors' performance should have been made clear during the selection or tendering process. Once this has been completed and a contractor is appointed, these expectations need to be properly defined.

Try to clearly define health and safety responsibilities with your contractor in advance as, in some cases, they affect time or cost. It may be appropriate to express these as part of a contract, or as a set of site rules that any contractor should be expected to comply with.

Considerations include the requirements for:

- disposal of waste
- emergency situations
- hours of work
- maintaining fire escape routes
- minimising noise, dust and unpleasant odours
- reporting of accidents
- segregation and responsibility for work areas
- sign in/out procedures
- site security/storage of materials
- permits and permissions.

Before any work is permitted to begin on site, you should request a risk assessment and method statement (RAMS) from the contractor. The documents you receive should be specific to both the work required and to the site itself. It is likely that elements of the assessment could be applied to any similar situation; however, a wholly generic document is not acceptable. For complex tasks, contractors may need to visit the property in advance to prepare an accurate RAMS.

RAMS should demonstrate how the work will be carried out and how the associated significant risks will be overcome: to include a step-by-step site/task-specific methodology for completing the work. It should include:

- site set-up requirements and security arrangements
- reference to any specific controls that are needed before work begins
- reference to the risk assessment
- the equipment required and how it should be transported
- any specific sequence that must be followed to complete the work
- arrangements for clearance of the site and disposal of waste
- any checks that must be carried out before leaving the site
- any documentation that needs to be completed or left on site.

While you need to ensure that these documents are sufficient, it is not your role to specify the exact method of work or dictate the means of control that a contractor will follow. This is the competency that you are paying for. Your responsibility is to ensure that the contractor has considered the relevant risks and applied controls that are appropriate for the site.

To do any type of document review, you must ensure that the person with that responsibility has the necessary understanding of risk and control. The fact that you need to appoint a company or individual with a specialist skill means that you are unlikely to understand all the risks associated with a particular task. However, it should be possible to recognise that the main risk areas have been identified by the contractor and that suitable controls will

be put in place. For complex tasks that extend beyond the routine tasks instructed by an agent, it may be necessary to seek specialist advice.

If work is likely to affect tenants directly, or if tenants' activities are likely to affect the contractors, it is important that tenants are notified in advance and any restrictions that they need to adhere to or disruption to building services are explained. Any objections or concerns raised by tenants can then be dealt with in advance, which will allow the work to be carried out more smoothly. When communicating with residents consider:

- contractors' working hours and access required into tenanted areas
- any areas that cannot be accessed during the work and alternative arrangements
- requirements for residents to keep particular areas clear or refrain from certain activities
- alterations to normal routines; for example, rubbish collection
- any impact (temporary disconnection or isolation) on building services or utilities
- potential noise, dust or fumes and
- temporary changes to emergency procedures.

It may be necessary to reinforce certain restrictions or temporary changes with on-site signage.

Third parties may also need to be notified of some works and/or their permission sought.

Isolation of utilities or services that affect multiple tenants will require the permission of the block manager or head leaseholder (when not undertaken by an agent acting on their behalf).

It may be a condition of building insurance that the insurer is informed of any isolation of life protection or security systems, particularly sprinklers: and/or the storage of hazardous chemicals in the premises overnight.

Work affecting public footpaths or highways is likely to require a licence from the local authority. Examples include the:

- erection of scaffolding
- suspension of parking bays for deliveries and trade vehicles and
- operation of mobile elevated work platforms (cherry pickers).

12.3.4 Ensure contractors are not at risk from hazards in the property

Contractors have legal obligations to their own employees. They will be unable to fulfil this obligation if they are not provided with pertinent information about a property. Therefore, as the person responsible for a property, agents also have a duty to provide appropriate information to a contractor about any relevant hazards in the property that may affect their employees' safety. If by failing to do this a

contractor selects an inappropriate work method and an injury occurs, the agent is likely to be found legally responsible.

Contractors should be given the relevant information before the risk assessment is prepared so that they can ensure the risks are adequately controlled. This information should include:

- the presence of asbestos (or any further investigation that needs to be carried out before work begins)
- any physical hazards that need to be overcome
- areas with a height restriction
- limitations of access including the delivery and storage of materials or the storage and removal of waste
- fall risks
- any equipment requiring specific isolation procedures, or that must remain in use
- the presence of children, or other vulnerable people and pets
- the location of pipes or cables that could be damaged during the work
- any lack of lighting.

This information will allow contractors and agents to finalise details associated with the scope and timescale of works, responsibility for work areas, and to co-ordinate activity in a property and any temporary alterations required to building operations and emergency procedures. Agents remain responsible for the building as a whole at all times so they must ensure activities are co-ordinated; for example, the property-specific fire management arrangements.

The information provided and controls agreed should be reflected in risk assessments and method statements.

Where works require access to areas of a property that are not under the direct control of the agent, agents should request information from the controlling parties (e.g. superior landlord, other agents, or residents). Where there is no, or limited, knowledge about hazards, this must be communicated to the contractors so that they can investigate and proceed with appropriate precautions. Time must be allowed for investigative surveys, such as asbestos, despite the impact on the programme.

12.3.5 Ensure that risks from contractors' activities are controlled

Co-operation is necessary to ensure safe working. For contractors to manage risk properly and fulfil their own legal duties, they need to take certain steps and put their own control measures in place. If you ask multiple contractors to work together, you must ensure that they are not adversely affected by each other's activities. You may need to take steps to:

- facilitate communication between contractors
- co-ordinate contractors' activities so that they are each able to work safely

- assist contractors to resolve health and safety issues and implement control measures and
- ensure co-ordinated fire/emergency evacuation procedures.

These matters can also affect time and cost. It is important that project deadlines allow for identified risks and, if previously unknown hazards are identified, work programmes are adapted to allow these to be properly controlled.

Whether you have one or multiple contractors, it is very important to clarify any site rules that must be adhered to. For larger contracts most matters are likely to already have been discussed, but for smaller reactive or maintenance tasks these may need to be specified on the day. Site rules always need to be specific to a property. Typically they include requirements relating to:

- use of barriers and segregation of work areas
- keeping exit routes clear
- noise restrictions
- sign in/out procedures
- leaving work areas tidy (potentially with specific consideration of children)
- use of lifts and transport of materials
- emergency procedures and assembly point locations
- site security and use of ID badges
- protection of fixtures and fittings
- availability of documents (risk assessments, proof of competency, etc.)
- supervision of works.

For works of a particularly hazardous nature or in work areas with high risks a permit to work should be considered part of the control process. A permit to work is a document, issued by a competent person in authority, to allow a specific work activity to be carried out in an agreed manner. The permit should stipulate the work area, time and duration of works and specific controls that must be implemented. Typical uses of permits to work include:

- work with three-phase or high voltage electrical equipment
- work involving asbestos, or where there is a risk of disturbing asbestos
- hot works (e.g. welding, soldering, etc.)
- work on unprotected roofs
- isolation of life safety systems (fire alarms, sprinklers, etc.) and
- isolation of communal plant for significant periods (lifts, boilers).

When using permits to work it is essential that the person issuing the permit has sufficient knowledge about the risks of the work and the controls that are needed to ensure that a suitable work method has been proposed. Permits may often include controls set by the agent.

Permit systems should provide an end-to-end process so that on conclusion of the work there is a check that the

work is completed and no residual risks remain. If work is incomplete and an area is unsafe to access or equipment should remain isolated, this must be actively managed until the work can be completed under an extended or new permit. Consider the implications of lone working.

The responsible person (e.g. contractor/agent) should be able to show that permit to work systems are actively managed and not just a paper process.

Permits can often be overused and confused with an authorisation to access. An authorisation to access is usually used to indicate to on-site staff, residents or others that contractors have been given permission to enter and work in a specific area. This is particularly beneficial for sites controlled remotely or with only front of house staff present. However, authorisation to access is not intended as a safety control.

There is an expectation that all contractors will follow site rules precisely at all times. If they do not, they will be fully liable for the consequences. But you should not rely on this. There is a responsibility to ensure that the control measures are effective and are adhered to. You must therefore observe works in practice.

Monitoring is about ensuring that the controls and work methods proposed or agreed with a contractor have been put into effect. It is not about direct supervision of works: that remains the responsibility of the contractor (a supervisor). The amount of monitoring carried out will depend on a number of factors, such as:

- the familiarity of and confidence in the contractor
- the complexity of the work and the potential for accidents or uncontrolled risks
- the location of the works and the impact on a building or its occupants and
- any history of failures or accidents.

When monitoring, you may wish to see evidence that:

- site rules are being adhered to
- risk assessments/method statements are being followed
- permits to work are being adhered to
- individuals working on site are competent to do so
- the contractor is managing supervision
- work areas are segregated
- waste is being managed and
- equipment is being stored appropriately.

It is advised that any monitoring is recorded as evidence of an active contractor management process.

If you identify poor practices, or are informed of concerns by others, you should always take action immediately, proportionate to the level of risk. In turn this may require increased monitoring to ensure standards are then maintained. In cases where there has been a blatant disregard of risk:

- the work should be stopped
- the area should be made safe and

- the contractor should be removed from site.

12.4 Construction Design and Management (CDM) Regulations

In the UK the CDM Regulations place duties on those involved with 'construction work' – the definition of construction work used in the regulations is wide and includes some works that may commonly be viewed as maintenance works. The regulations cover work on both domestic dwellings (homeowners can become 'Domestic Clients' under the regulations) as well as commercial buildings and places statutory duties on those involved including the 'Client' (usually the person/organisation paying for the works), 'Designers' and greater duties on 'Principal Designers', and 'Principal Contractors'. The law can impact fairly small projects and is aimed at improving health and safety management of building works of all those projects within the remit of the regulations. There are requirements for making formal appointments of duty holders. Requirements increase where there is more than one 'contractor' (effectively meaning 'trade') on-site, and requirements for formally notifying HSE for larger projects that have more than 20 people on site at any one time and take more than 30 days or 500 'man hours'.

The rules for letting/managing agents have changed. Since April 2015, any work involving two or more contractors will require a CDM Principle Designer to be appointed. So, refitting a kitchen involving an electrician and a kitchen fitter may be caught by CDM regulations. This guidance note does not provide specific instruction about the CDM Regulations, or the duties of people involved. It is necessary (and a very strong recommendation) that you review the HSE website (www.hse.gov.uk) for further detailed guidance immediately a project is being considered (not least as the formal appointments need to be made promptly on the start of design work). Note that agents, and managing agents may attract duties under some circumstances and they must ensure that they understand their obligations, and should be advising clients appropriately; (it is a legal obligation of those in a 'Designer' role, building surveyors may well attract duties as 'Designers' and/or 'Principal Designers'.)

Works involving alterations to buildings are also likely to be subject to Building Regulations approval or require planning permission from the local authority. Agents should also be familiar with these requirements.

12.4.1 Tenant liaison and service charges for building works

When carrying out work in the common area of a property using service charge funds, agents or landlords are obliged to consult residents who, in turn, must be given the opportunity to input into the decisions made. A financial threshold (based on the size of the building and type of work) determines when this process must be followed. The

process can also take several months. From the perspective of health and safety and of contractor control this process has several impacts:

- Tenants' input into the selection of a contractor may mean that contractors with an unknown or poorer safety record have to be considered. This increases the burden of management.
- Pressures on work programmes can mean that there is less time to investigate risks or can lead to the prioritisation of work methods based on speed rather than risk control.
- The time required to go through the consultation process may prevent the expedient resolution of a risk. In such cases it may be necessary to implement temporary controls or, where the risk is sufficient to warrant it, to seek dispensation through a tribunal to forego the consultation; for example, the replacement of a faulty fire alarm system.

12.5 Tenants' contractors

In a multi-tenanted residential block there are likely to be different parties engaging contractors so co-ordination and co-operation are therefore key. Landlords or agents with responsibility for the management of the block are likely to stipulate rules that must be followed for the benefit of all tenants. These should be followed by all parties.

Agents managing blocks need to co-operate with tenants and other agents to allow their contractors to operate while ensuring that site rules are followed and other occupants are not adversely affected. Site rules should be made readily available. Agents operating in a block should familiarise themselves with these requirements.

If any work is likely to impact on common areas or other tenants, permission should be sought from the block manager who can then work with the agent to facilitate the work with minimum disruption to others.

Leases will typically require permission (a licence) from the landlord for major alterations to properties. Licences may in turn include, or can be used by agents to apply, specific conditions that must be followed for risk control.

12.6 Common challenges in residential properties

The following provides further advice about common hazards and challenges arising from contractor works. These may be the result of contractor work instructed directly by an agent or by a third party. Further advice on most of these topics can be found in section 13, Guidance by topic.

12.6.1 Access through the resident's demise

It is not always the case that communal plant, roofs, water tanks, lift motor rooms, and so on, can be accessed through common areas: sometimes the only access is through a resident's demise. While a lease will normally require the tenant to allow access for maintenance and repair, this does not confer an automatic right of entry. Residents must still be given due notice for routine maintenance, which requires co-ordination with the contractor.

Agents managing flats that provide a means of access for common plant should be aware of their obligation to provide access. They should inform tenants of this and that the route must be kept clear. Agents must also ensure that tenants do not have access to these areas (the block manager/landlord should ensure the access is secure). In the case of roof access, this may also reduce the control options available.

12.6.2 Access to welfare facilities

Often there are no communal welfare facilities in residential blocks. Employers have a legal duty to ensure that welfare facilities are available for their staff; therefore, where there are no facilities available, contractors need to be informed so they can make suitable arrangements. Contractors may need to provide temporary facilities for larger projects.

12.6.3 Damage to fire separation

The removal, relocation or installation of cables or pipework can often result in breaches being made in walls or other surfaces that provide fire separation (a protective barrier to prevent the spread of fire). Agents must be diligent in ensuring that any such breaches are filled promptly with suitable fire-resistant material providing a sufficient amount of protection (equivalent to the surrounding fire-resistant material).

Clear instruction should be given to contractors about routes that may or may not be used for running cables or pipework. Residents or agents managing flats in a block should apply for permission before running cables or pipes through common areas. Plastic trunking for housing cables needs to be rationalised as it may cause an additional hazard in the event of a fire.

12.6.4 Dust

Fixtures, fittings and fabrics should be protected where work can be expected to generate volumes of dust. Dust also has the potential to spread large distances, for example down stairwells or in unprotected service risers, so measures should be taken to prevent this where possible. If contractors' employees need to wear a protective mask, you should risk assess and question whether others also need to be protected. Consider the impact of dust on smoke detectors: it can set detectors off accidentally. Knowing this encourages contractors to use hoods to cover smoke detectors but they may be left in place accidentally after the works are complete.

12.6.5 Fumes

If chemicals or adhesives are used that may generate unwelcome fumes throughout a property, you must ensure that there is adequate ventilation to remove the smell and allow fresh air to circulate. Fumes can linger in a building after works have been completed and can be uncomfortable. In extreme cases, you may need to insist that forced extraction is provided, and works may need to be stopped until this is provided. Contingencies should be included in method statements, and this should be checked prior to instruction of contractors when it is a foreseeable issue. Where manufacturers recommend opening windows/doors to ventilate during use, consider breaches in security and insurance implications.

12.6.6 Hazards that may be introduced

During projects, the equipment materials and chemicals that need to be used may introduce additional risks affecting the management of the block or the safety of residents; for example:

- a significant increase of readily combustible materials
- flammable chemicals
- substances that are harmful if misused or
- work equipment that may cause harm.

It should be agreed with contractors (or those instructing them) that these types of hazard should be kept to an absolute minimum and, where possible, items introducing a particularly high risk should not be left on site overnight.

It is important to have information about what is being used or stored so that, in the event of an emergency such as a fire, emergency services can be informed. Material Safety Data sheets will be available from contractors for hazardous materials, copies of which can be requested as and when required. Chemicals stored in premises overnight may have insurance implications.

Alterations to properties or refurbishment works may also mean that items are temporarily removed or features created that pose new risks; for example, the removal of handrails or balustrades, or lifting of floorboards. There should be temporary controls and warnings to prevent any harm to occupants. If left in this condition outside contractors' working hours, controls must be robust enough to work effectively when there is no direct supervision of the area. All types of occupant must be accounted for, particularly children.

12.6.7 Materials obstructing access or escape routes

Correctly locating work materials or waste is important so as not to cause any obstruction or compromise a means of escape, firefighting equipment or accommodation routes. Any contractor found doing this should be instructed to remove the items immediately.

Carrying out refurbishment work in communal areas poses a particular challenge. These works must be carefully planned to ensure that residents retain access to their flats,

there is a sufficiently clear route for escape in an emergency and contractors can work effectively. Communication and co-operation between managing agents, residents and contractors is essential.

12.6.8 Noise

Disruption to residents from noisy works needs to be considered at the planning stage of any project. Unlike a commercial property, the hours of occupation of a residential property will vary immensely, but early morning and evening is likely to upset residents. Hours in which particularly noisy works may be carried out should be agreed with contractors and tenants should be given warning.

12.6.9 Transportation of goods and materials

Movement of goods and materials around a residential property can be challenging: staircases, narrow corridors and fire doors all have to be negotiated. Assistance or instruction should be provided to contractors to ensure that goods can be moved around the building without disruption to others. Agreeing time periods with residents and contractors for moving large amounts of materials or equipment will help this to run smoothly.

If fire doors need to be temporarily held open they must be checked to ensure that they are not left propped open.

Where lifts are made available for contractors, they should be protected to prevent damage by larger objects. Times of use should be agreed so as not to disrupt other occupants and weight limits should be observed.

12.6.10 Waste removal

Waste from construction works is classed as trade waste and cannot be disposed of in normal waste collected by the local council. Some may also be defined as hazardous waste that needs to be collected and disposed of separately. It is usually best to agree with contractors that they will dispose of any waste. Copies of waste transfer notes should be requested as evidence of the correct disposal of special/hazardous waste.

Remind contractors that they must take care when removing waste materials from a building so as not to cause damage to fixtures or furnishings. Carpets and other fabrics should be protected and cleaned afterwards, where necessary.

When large projects are being carried out that require the construction of a scaffold, some councils will not collect waste from bin stores where the scaffold hinders or extends over the access. Arrangements for waste collection need to be agreed with the council (e.g. leaving waste on the pavement when it is not normally permitted) or alternative arrangements should be made.

13 Guidance by topic

13.1 Access provisions

13.1.1 Relevant issues

The responsible person needs to consider egress as well as access, not only for able-bodied people but also for people with disabilities, children, elderly and vulnerable people.

Access to a property needs to be considered for all users, visitors and maintainers of a property.

Access to a building for residents and visitors should be obvious and signage/directions should be placed to support simple navigating in and around buildings. Where those buildings have service facilities – for example, lifts – information relating to their use should be displayed. Where there are two or more building lifts, each specifically serving different floors, additional signage may be required to prevent people using the wrong lift.

Where there is secure access to buildings, intercoms should be easy to use (with buttons labelled) and doors with maglocks should be programmed to release on activation of the fire alarm. Ideally lifts should be programmed to return to the ground floor on activation of the fire alarm so that entry to the upper floors can be restricted. Signage should be displayed warning against the use of lifts during a fire emergency.

Access for maintenance should be safe. If older buildings are refurbished, the opportunity should be taken to consider simplifying access to it retrospectively.

Landlords have a right to access the property to maintain it and/or to carry out inspections, depending on the terms of the lease, especially where plant and equipment belongs to the landlord but is in the tenant's demise. Where this is the case, although tenants have a right to quiet enjoyment, access for this purpose should not be unreasonably withheld to landlords and their agents.

13.1.2 Access for all: management of less able-bodied people

When providing accommodation, landlords/owners and/or their representatives should consider the suitability of the property for less able-bodied people, in particular access/egress and facilities such as bathrooms, toilets and stairs.

While it is not a statutory obligation to carry out a disability access audit, it is often a good idea as this will identify potential enhancements to the property that will widen its appeal to residents. It remains the option of any less able-bodied person to seek redress through the courts (in the UK) if they feel they have been discriminated against.

Therefore, where tenants ask for reasonable adjustments to be made that would improve access/means of escape,

applications should not be unreasonably refused. See also 13.17 Responsibility for people with disabilities.

For clarity, the phrase 'less able-bodied' may include people who have mobility issues, and who may use wheelchairs, motorised scooters, walking frames or sticks. The phrase also includes people who may have defective (or no) vision or, perhaps, hearing, and in some circumstances may include some mental impairments. Therefore, when considering access for disabled people, the meaning of the term may be very wide.

Where buildings are of mixed use and, for example, include both retail and residential accommodation, access and egress requirements may require different approaches for accessibility. Consideration should be given to retail units and the nature of their business – for instance recruitment agencies invite people in who are unfamiliar with the building.

13.1.3 Fire safety arrangements

Perhaps the most important consideration should be given to fire safety arrangements. If occupants are hard of hearing it may be necessary to provide visual, or, if requested, vibrating, warnings when fire or smoke detectors are activated.

If the occupant with mobility issues lives several storeys up in a block, consideration must be given to being able to evacuate them in an emergency. They should be able to evacuate to a safe place outside the building; however, if this is not possible then it may be necessary to provide a safe haven/refuge adjacent to their accommodation. This needs to be able to withstand fire/smoke for at least 30 minutes, have fresh air available, as well as a method of communication with the outside world. Attending emergency services officers will need to be alerted to the stranded person: although the primary arrangement should be for these people to be evacuated before the emergency services arrive rather than relying on them for evacuation.

All these matters should be dealt with in what UK regulations call a personal emergency evacuation plan (PEEP). Advice on developing these plans should be sought from an appropriately competent person.

Where buildings are manned, evacuation of less able-bodied people should be included in the building-specific arrangements. These should be communicated to all those this affects as part of the PEEP (see also 13.17 Responsibility for people with disabilities).

13.1.4 Practical advice for implementing reasonable health and safety management

Lighting should be assessed so that it is appropriate to indicate trip hazards or change of level and overhead

obstructions (see 13.15 Lighting). This should include hazards in plant rooms for engineers.

Floor surfaces may cause slip hazards, particularly if they are likely to be affected during adverse weather. People entering during poor weather can make flooring wet; solid floors particularly (e.g. polished stone) become slippery in wet conditions and non-slip matting/matwells should be provided.

In external areas or car parks, pedestrian and vehicle routes should be segregated as much as possible.

Should any of these things be a particular concern, carry out a full risk assessment to control the relevant hazards.

In larger premises it may be wise to implement an access system or log, to manage visitors to the site so that there is awareness of who is present and in what area. This is important for both safety and security. If the site uses access control, including turnstiles or automatic doors, the evacuation strategy should take into account whether they should remain locked or open in the event of a fire (see 13.9.4 Fire arrangements/strategy).

13.1.5 Recommendations for further detailed advice

- When considering arrangements for less able-bodied or disabled people, see 13.17.5 Recommendations for further detailed advice.
- Additional guidance on slips and trips and vehicle/pedestrian segregation is available from the HSE website.

Refer to the Met Office for resources to help forewarn about inclement weather.

13.2 Asbestos management

13.2.1 Asbestos, the responsible person and duty holders

It is a legal requirement that all owners of commercial premises manage asbestos in a building. It is therefore necessary to identify if, and where, asbestos-bearing materials may be found. There should be no asbestos in a building constructed later than 2000 (when its use became illegal) but this does not completely rule it out. Legislation states that it is up to the person in control of premises to determine if and where there may be asbestos-containing materials, and that it should be assumed to be present unless there is evidence to the contrary. Note that residential blocks used for generating revenue will be classed as 'commercial' premises and as such communal areas will be subject to relevant regulations.

As in many health and safety-related regulations, there is a requirement for an 'appointed person' who is responsible for ensuring that there are systems to manage asbestos risk, and that these management systems are actively operational. It is recommended that an expert adviser be designated, by contract, to assist the appointed person in their duty.

It is a requirement in law to ensure that information about asbestos is available to all who need it. This includes contractors/workmen and residents (in case they use a power drill to drill into asbestos, or seek to remove floor or ceiling tiles that contain it, for example). The information should be kept on site with a copy off-site for recording purposes.

Surveys should capture all landlord areas and common areas, commonly including:

- ducts and risers
- areas above ceilings, below floorboards and loft spaces,
- boiler/plant rooms/basements
- refuse stores and areas that may be fire/sound proofed.

Where flats are void, landlords should take the opportunity to survey.

It is also recommended to any residents' management company that the directors/partners consider themselves as duty holders. The movement of money may result in the company being treated as a commercial venture and, as such, when acting in common, it should conform to the various asbestos-management laws.

Where there is a long chain of contract arrangements referring to the management of the property, the ultimate responsibility to manage asbestos remains with the owner.

13.2.2 Asbestos surveys

There are two types of asbestos survey:

A management survey – the minimum required for managing a commercial building.

A refurbishment survey – required where any intrusive/refurbishment/demolition works are planned.

The HSE guidance note HSG264 sets out the information that must be included in a survey report, which will include listing areas that were not accessible at the time of the survey, where it has been found, what type it is, and recommendations on how it should be managed e.g. removed, treated, labelled etc. The person in control of the premises should then assess who may be affected, and how this information should be communicated to them: where it is contractors who may be affected, this would mean asking them what their working methods would be in buildings, where it is to be retained and managed.

The HSE guidance *Asbestos essentials* will identify which materials can be removed by licensed and unlicensed contractors, and by what method.

13.2.3 Asbestos management plan

Where asbestos has been discovered, the survey information should be included in an asbestos logbook and this should set out the asbestos management plan: this is a legal requirement. Records should be maintained and management/survey recommendations actioned. Management arrangements should specify for example:

- visual inspections of retained materials: as recommended in the survey
- removal/remediation (encapsulation)
- labelling and emergency procedures/arrangements.

13.2.4 Removal of asbestos

Expert advice is to be sought before removing or working with asbestos and, as stated above, normally is only to be carried out by licensed contractors. Where the material is removed, ensure a clearance certificate is delivered by the licensed contractor and that both the survey and management plans are appropriately updated.

There are many common areas where asbestos-containing materials may be found e.g.

- roofing/guttering
- some tiles (floor and ceiling)
- toilet cisterns
- lifting equipment especially brake pads
- in electrical cupboards/risers as an insulating material
- insulation/lagging of pipework
- gaskets in pumps and equipment and
- fire doors or sheeting boards used as part of compartmentalisation in older buildings.

13.2.5 Practical advice for the implementation of reasonable health and safety management

13.2.5.1 Single units/AST tenancies

All landlords and agents should be aware of the risk from asbestos and should act on any concerns. Commercial organisations should provide asbestos awareness training to staff.

If it is suspected that a material may be asbestos, consult a specialist and have it surveyed. This is particularly important if the material could be damaged in any way during day-to-day use. If asbestos-containing materials are identified, and following specialist advice it is determined that the material can remain *in situ*, inform tenants of its presence. Carry out ongoing monitoring to ensure it does not deteriorate.

If any short duration repairs are to be carried out, unless it can be confirmed that a material is not asbestos, contractors should be advised to proceed with caution and assume asbestos is present. This includes work requiring drilling into walls or ceilings and removing units or panelling. For more substantial works, surveys should be carried out in advance.

AST landlords are advised to consult block managers/landlords for any information they may hold about the presence, or likelihood, of asbestos. This may be based on:

- previous surveys
- information from previous owners/tenants or

- information from other tenants who have carried out similar works.

Any materials that are, or are believed to, contain asbestos must be disposed of as hazardous waste and cannot be included in general waste. The same level of precaution should be taken when transporting asbestos as when it is removed or handled, and it should be carried out by someone who is appropriately trained and competent to carry out the task. The HSE guidance note HSG264 explains how asbestos-containing materials should be managed, remediated, removed and disposed of. Transport methods must prevent the spread of debris throughout communal areas. Waste transfer notes should be obtained as evidence that asbestos has been properly disposed of.

13.2.5.2 Communal areas

Managers of blocks or larger properties must ensure that common areas have been surveyed. Following the survey it is important to review the findings and determine, in accordance with the management plan:

- materials that require removal or encapsulation
- materials that can remain *in situ* and be monitored and managed areas of the building that have not been accessed during the survey and whether these need to be accessed and surveyed or can be assessed subsequently ahead of any activity that may cause disturbance and
- information that needs to be communicated to contractors or occupants.

If work needed in common areas requires formal consultation, landlords and managers need to consider whether the risk necessitates restricting access to areas until work is complete or if it would be better to seek dispensation from a tribunal to do the work sooner.

13.2.5.3 Documentation

Good record keeping is essential when managing asbestos. It should be possible to show a clear audit trail of asbestos that is present or has been removed throughout ownership/management.

- Surveys and re-inspections should use photographs, plans and/or references that are consistent so that reports can be compared directly.
- Evidence must be kept that registers have been communicated and are reviewed by contractors before works.
- If asbestos is removed or encapsulated, records of this work should be kept. This needs to include details of:
 - the material and the work carried out
 - four-stage air clearance test certificates and air monitoring records and
 - waste transfer notes.
- After any alterations, asbestos registers must be updated and recirculated.

13.2.5.4 Emergency procedures

In the event that a known or suspected asbestos containing material is disturbed, prompt action must be taken to prevent further spread of the material and any further exposure to asbestos fibres. Procedures should be included in asbestos management plans and should address the following:

- isolation of the affected area
- washing/changing facilities and support for anyone who may have been exposed to airborne fibres
- assessment and sampling
- removal and cleaning of the affected area
- notification to the enforcing authority
- investigation into management failings.

13.2.6 Recommendations for further detailed advice

- The HSE: www.hse.gov.uk/asbestos
- Further advice can be sought from the Asbestos Removal Contractors Association (ARCA) www.arca.org.uk

13.3 Car/bicycle parking, clamping and disabled vehicle access

13.3.1 Relevant issues

Much of the health and safety in this sub-section relates to common sense regarding security and health and safety.

Depending on the space available, all vehicles should be parked in secure areas. Where there is a designated car park or underground area, it is best controlled by a barrier with swipe-card access. If a barrier is used it needs to be regularly maintained and serviced in line with manufacturers' recommendations. Moving parts should be guarded where appropriate.

Sufficient pedestrian walkways should be clearly designated, well lit and have non-slip surfaces. Preferably they should not have any areas where an assailant could hide. Landlords must also ensure that there are suitable procedures to manage the risks associated with ice and snow; it might be necessary to get pedestrian and vehicle areas gritted and add appropriate 'take special care' warning signs during inclement weather.

Ensure that there are appropriate racks/cages for bicycles or the opportunity to secure them from theft. When considering what form of racks/cages to install, think about the ability of all clients (current and future) to be able to lift and manoeuvre bicycles while placing them in/on the equipment. All areas should be well lit, and preferably non-slip.

There should also be a secure a well-lit storage area for motorbikes.

Consider any requirements for deliveries. If they may be made by large vehicles, allow clear areas for turning circles where possible. Ensure that sufficient access to the building is maintained for emergency vehicles.

All the above areas would benefit from CCTV coverage for the security and well-being of residents.

13.3.2 Parking for disabled people

Disabled access requirements should be considered at all properties. Each car parking space needs adequate gaps left on either side, identified using hatched markings, to enable access for wheelchairs/mobility aids. Consider the rear of the vehicle too, as some specialised vehicles have rear-loading access for wheelchairs. Also consider the width and gradients of any pedestrian walkways – would these be adequate for disabled people and their mode of transport/movement? Where parking for disabled people is in enclosed areas, consider visual fire/emergency alarms as well as audible alarms.

The location of parking for disabled people should take into account:

- access to the premises (the closer the better) and
- the potential for any obstruction of emergency access for everyone in the event of fire or other emergency.

If there is lift access to the parking, for instance to/from underground car parking, it should be large enough for motorised wheelchairs/mobility scooters.

13.3.3 Automated gates

Where automated, sliding or powered gates are used, ensure that there are adequate fail-safe systems so that obstructions (e.g. a child) are not at risk of being crushed. Pay particular attention to any gaps between gates and adjacent structures that reduce as the gates move. When considering the safety features of automatic gates, note:

- the force of the gates, which should be limited when they are opening and closing. The gates should also automatically reverse if they hit someone or something
- whether there are sensors that can stop (and reverse) the gates if contact is detected. This could be light beams (photoelectric devices) that stop the gates before they reach an obstacle, or appropriately placed pressure sensors
- whether there are parts of the gates where someone could become trapped or get crushed while they are moving. If so, these need to be protected. People could get injured, for example, as the bars of the gates pass the gate post
- that the gates must have an emergency release mechanism in case someone gets trapped. It should not be possible to reach any controls inside a property boundary by reaching through the gates
- the position of any controls and whether it is possible to try to reach these through the gate, which could lead to entrapment or crushing if the gate then moves and
- any protection or maintenance of parts required to ensure continual operation in cold weather.

Specialist advice may be needed to determine whether automated gates have the necessary safety features.

13.3.4 Clamping

Subject to a few exceptions (e.g. railway stations, airports, docks and similar) it has been illegal to clamp/immobilise vehicles on private land since October 2012. For further information see the *Protection of Freedoms Act 2012*.

13.3.5 Practical advice for the implementation of reasonable health and safety management

In the first instance carry out a risk assessment of the parking facilities, and their intended use, taking into account disabled access, size (including height) and volume of traffic. Other considerations include: lighting, drainage, removal of noxious fumes and fire (i.e. from and within underground/enclosed parking facilities), surface of the ground and the need to, clearly, segregate pedestrians from vehicle movements.

Potentially, you may need a traffic management plan, which may include speed limits, signage, and perhaps a one-way system.

Consider carefully any gradients proposed for ramps for disabled people or other access: are they too steep, will they get icy in inclement weather?

13.3.6 Recommendations for further detailed advice

- The Homes and Communities Agency
- Gate Safe.

13.4 The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

13.4.1 Introduction

Although other legislation (for example, the *Health and Safety at Work, etc. Act 1974* and the *Gas Safety (Installation and Use) Regulations 1998*) already tangentially covers the risk to residential tenants from smoke and carbon monoxide, the specific aim behind these Regulations is to reduce the number of injuries and deaths attributable to smoke and carbon monoxide poisoning in the private rented sector in England.

13.4.2 Applicability

The regulations place duties on 'relevant landlords', who are defined as being the immediate landlords (essentially, the owners of the reversion in the case of leases, or the licensors in the case of licences) in respect of 'specified tenancies' (but excluding registered social housing landlords).

A 'specified tenancy' is a tenancy of residential premises in England that grants one or more persons the right to

occupy all or part of the premises as their only or main residence, provides for payment of rent (whether or not that is a market rent) and is not a tenancy of a type specified in the schedule to the regulations (for example, leases where the tenant shares accommodation with the landlord, long leases, student halls of residence, etc.).

13.4.3 Key provisions

Relevant landlords will be required to have at least one smoke alarm installed on every storey of their properties subject to specified tenancies and a carbon monoxide alarm in any room (including halls or landings) within those properties containing a solid fuel burning appliance. Although 'solid fuel burning appliance' is not defined in the regulations, the government's guidance for landlords and tenants suggests that it would include a coal fire or a wood burning stove. On this basis, a functioning open fireplace would constitute a solid fuel burning appliance for the purposes of the regulations, but the guidance states that a non-functioning, purely decorative fireplace would not. The position is less clear regarding open fireplaces, which *could* be used (because their chimneys have not been blocked off), but, in practice (for example, due to a restriction in the terms of the tenancy agreement) are not. It is submitted that the onus would be on the landlord to prove that what would otherwise be a solid fuel burning appliance, is non-functioning and purely decorative.

Thereafter, a relevant landlord must ensure the alarms are in working order at the start of each new tenancy. A 'new tenancy' is one granted on or after 1 October 2015 but not including:

- (a) a tenancy granted pursuant to an agreement entered into before that date
- (b) a periodic shorthold tenancy that arises under section 5 of the *Housing Act 1988* on the termination of a fixed term shorthold tenancy or
- (c) a tenancy that comes into being on the termination of an earlier tenancy, where the parties and premises at the start of that tenancy are the same as the parties or premises at the end of the earlier tenancy.

The duties will be enforced by local authorities who can serve remedial notices on landlords who are not complying with their duties. Failure to comply with a remedial notice can lead to the imposition of a fine.

13.4.4 Relevant issues

Carbon monoxide is toxic. It is odourless and colourless and can be produced by incomplete combustion of gas and other fuels. In fairly low concentrations it can cause nausea and headaches. In higher concentrations it can cause death by asphyxiation (because it displaces oxygen in the immediate atmosphere). There are approximately 50 deaths every year in the UK from carbon monoxide poisoning.

Carbon monoxide detectors should be provided in all properties where there is a gas or solid fuel appliance. Detectors must comply with current British Standards and be installed in accordance with manufacturers'

recommendations. The fitting of carbon monoxide detectors is mandatory in England, in all residential property that is let when a new solid fuel burning appliance is installed and, from 1 October 2015, for all rooms with an existing solid fuel appliance. Alarms must be tested at the start of all new tenancies.

13.4.5 Practical advice for the implementation of reasonable health and safety management

- Discuss the matter with maintenance contractors. Ask if there are any locations where they, as competent persons, advise that detectors should be installed.
- When they are installed, ensure they are tested and records are kept.
- Consider discussing the matter with clients or tenants, potentially at a tenant liaison meeting or similar.
- Ensure that appropriate warning is provided in any tenants' handbook.

13.4.6 Recommendations for further detailed advice

- The HSE
- The Gas Safe Trust
- Gas Safe Charity.

13.5 Communication and the provision of information

13.5.1 Recipients of information

There are two main recipients of information:

- tenants, via the tenants' handbook and notices displayed throughout the property and
- contractors and visitors, via the facilities/building manager or notices at reception or in the plant room.

13.5.2 Tenant liaison/committees and resident 'wardens'

It is advisable to set up a residents' committee/group where possible. Once this is in place, an agenda item about health and safety (and potentially environmental matters) should be added for each meeting. Minutes of these meetings should be taken and circulated as appropriate.

If there is a permanent facilities/building manager who attends the site during normal working hours but, for example, not at night/weekends, it remains possible that there might be occupiers with responsibility for, for instance, fire safety/evacuation outside normal working hours. In these circumstances careful and stringent assessment and training must be undertaken. Guidance should be sought from competent advisers on a property-by-property basis.

13.5.3 Service desk and help desk

Residents must have an emergency number to call, particularly for lift emergencies. If this is for a service desk, clear information should be provided to the occupiers as to:

- acceptable use of the number; that is, what it is meant to achieve and what will not be dealt with by calling it
- anticipated response times and
- the information they will need to give to the person answering to identify the property and problem.

This information should be included in tenants' handbooks and displayed in a prominent place on an appropriate wall.

13.5.4 Tenants' handbooks

It is advised that tenants' handbooks are reprintable documents (as they will need to be issued to every tenant). If possible, it is advisable to put all the standard information on a website for tenants. If the tenants' first language is not English, consideration should be given to providing the information in their native language.

As well as the contractual arrangements and house rules, the following information should be included in the handbooks:

- emergency and general needs contact numbers
- fire safety arrangements within their demise and whether or not a 'stay put' or 'get out' policy is in place. Either way, clear instruction as to the emergency arrangements must be provided
- gas safety certificate (if there are appliances in their demise). If the landlord owns and is responsible for the safety of the appliances, tenants will need to understand that tests need to be carried out every year, and a copy of the certificate given to them. If the tenant is responsible for the appliance they need to be advised that they are responsible for the servicing, maintenance and the annual statutory tests, and that they are required to provide a copy of the certificate to the landlord/managing agent before the last one expires
- advice as to where (or not) fire extinguishers are (if it is a manned site there should be some in reception)
- smoking rules
- rules about waste disposal, including the disposal of electronic equipment (the *Waste Electrical and Electronic Equipment Regulations 2013*)
- if asbestos is known to be present, this information must be provided along with any related dos and don'ts (such as knocking in nails to hang pictures where there are asbestos panels, scraping up asbestos floor tiles, moving ceiling tiles or entering any plenum ceiling if one exists, etc.) and
- management of anyone who carries out any works in the demise (i.e. contractor, odd-job man, etc.; see section 12 Contractor management).

13.5.5 Practical advice for the implementation of reasonable health and safety management

The tenants' handbook is a useful tool for communicating site-specific emergency procedures and advice, particularly where the property is not manned regularly and tenants need to act in an informed and timely manner. The document could also be expanded to include lease requirements and outline the responsibilities of landlords/tenants (although this will not form part of a contract and should not be relied on in the same way).

A suggested index and contents for the tenants' handbook is:

- introduction
- general site information and useful contacts
- tenants' general contract requirements
- fire/bomb evacuation procedures
- emergency considerations (including disaster and recovery information where tenants are excluded from the building)
- multi-tenanted evacuation plan
- insurance claims and
- landlord/tenant compliance responsibility.

13.5.6 Recommendations for further detailed advice

- Consult ARLA and ARMA for further advice and information regarding the content of tenants' handbooks.
- RICS, ARLA and ARMA can provide additional advice about statutory consultation required under section 20 of the *Housing Act 2004*.
- The HSE website provides further information on communication required during construction projects (CDM): www.hse.gov.uk/
- Your company's own policy should also set out requirements for consultation with employees, which has not been covered specifically in this topic.

13.6 Control of substances hazardous to health

13.6.1 Relevant issues

Substances hazardous to health can be classified as:

- substances classified as very toxic, toxic, harmful, corrosive or irritant
- substances labelled as having a maximum exposure limit
- hardwood dusts/dusts present in substantial concentration
- any biological/carcinogenic substances and
- any other substances that may cause a danger to persons/the environment.

Most hazardous substances have Safety Data sheets that provide information on:

- the substance
- its qualities
- how it should be stored and
- information on what should be done in an accident, particularly if first aid is required.

Household chemicals falling into this category, including most domestic cleaning chemicals, have this information printed on the container.

Lead paint is also a hazardous material and care should be taken if redecoration involves its removal.

13.6.2 Assessing the risk

An employer can delegate the assessment of risk and potential hazard to another person as long as that person is competent; that is, a person who understands the implications of exposure limits, and is familiar with the controls that can be used. The following steps can be used as a guide:

- 1 determine the hazard – the potential of a substance to cause harm
- 2 establish the risk – the likelihood of harm occurring and controls to be used
- 3 secure information
 - (a) from product labels: all hazardous substances must be labelled by law. Do not keep substances in unlabelled containers. Most labels flag up the fact that the substance is hazardous and its classification, but this is not usually enough information to make an assessment in a work situation
 - (b) from Safety Data sheets: all suppliers have a legal duty to provide Safety Data sheets for hazardous substances. These provide information on how and where to use the substance safely and
 - (c) from HSE guidance notes: the HSE publishes EH40 Workplace exposure limits periodically, which sets out the WEL (workplace exposure limit) of all hazardous substances.
- 4 make all information available to all those who may be affected by the substance.

13.6.3 Controlling the risk

- Assess how the substance can cause harm (by inhalation, ingestion, absorption, injection, etc.).
- Determine whether the effects are long term, short term, minor or fatal.
- Identify who can be harmed.
- Decide which controls can and should be used.
- Implement controls, monitor and re-assess where appropriate.
- Supply PPE, free, where appropriate.

- Provide information, instruction and training for all substance users (including those who may be responsible for storage and or cleaning up work areas).
- Where substances are left in occupied premises, there is a duty to inform anyone who could be harmed by them (including tenants, residents, contractors, etc.), particularly where storage of substances may impact on the building insurance. This may be done by placing a warning notice on the storage area.
- Instigate a health surveillance programme where you suspect that your employees' long-term use of these substances/exposure to them may cause a health problem. Schedule 5 of the regulations sets out mandatory health surveillance for exposure to certain substances (e.g. asbestos).

Always:

- read the label to ascertain whether the substance is hazardous
- use and store as directed by the manufacturer
- display information for emergency first aid/fire purposes and
- make information available to anyone who may come into contact with it.

Never:

- use/store substances in unlabelled containers
- ignore the manufacturer's instructions, particularly when mixing substances
- interfere with/borrow substances that are not yours
- smoke when using hazardous substances or
- work alone when using hazardous substances.

It is advisable to leave a copy of the Safety Data sheets adjacent to a first aid box close to where chemicals are being used/stored.

It is also good practice to keep details of all hazardous substances held on site in a place where details can be passed easily to the fire brigade in the event of an emergency.

13.6.4 Recommendations for further detailed advice

- On the HSE website there is more detailed information on specific chemicals, including lead www.hse.gov.uk/lead

13.7 Electrical safety

13.7.1 Relevant issues

Electricity is a basic service and a right of every tenant. Without it they cannot operate equipment, and other general amenities (heating, hot water, cooking equipment) are unlikely to function. At the same time, electrical faults or failures can result in serious injury, fire or, in worst case scenarios, loss of life. In a report entitled *Landlords risking*

lives and livelihoods by ignoring electrical safety, published by the Electrical Safety Council (now Electrical Safety First) in June 2013, it was estimated that, due to a lack of maintenance and repair, a rental tenant is seven times more likely to suffer serious electrical shock than a homeowner. Electrical supply, installations and equipment therefore need to be looked after and maintained in a safe condition.

There are three different groups to consider.

- 1 **Fixed wiring (i.e. the mains supply around the property):** landlords must ensure that electrical installations and wiring are maintained in a safe condition throughout a tenancy. Standards of electrical safety change as technology develops; for example, the need to provide residual current detection (RCD) protection on any new consumer fuse board. It is therefore important that inspections are carried out regularly to make sure these changes are complied with. To do this, the installation should be checked by a suitable competent (National Inspection Council for Electrical Installation Contracting (NICEIC-) accredited) electrical contractor on a periodic basis. Electrical Safety First advises every five years, but advice should be taken from a competent contractor who, for some smaller properties, may issue certificates valid for longer periods. It is mandatory for electrical installations in HMOs to be inspected at least every five years. For common areas of residential blocks a maximum of five-year intervals is also advised. Note that, if periodic inspections are not arranged or, following an inspection, the repairs or improvements recommended by the competent person are not completed, this could invalidate the building insurance. Some older lighting circuits may not have an earth ring. Professional advice should be taken about whether this is acceptable. It is not acceptable to connect a fitting designed to connect an earth ring to a circuit that does not have this provision.
- 2 **Small portable electrical equipment (e.g. kettles, fridges, freezers, lamps and televisions):** landlords have obligations to make sure that any electrical equipment provided is safe, it is designed for the purpose it is provided for and instructions (user manuals) are available to tenants to make sure they can use the equipment correctly.

Any equipment provided must comply with current UK regulations to be considered safe to use. The inclusion of a CE mark would indicate compliance. Even though conversion plugs are available, products produced for other countries, particularly those outside the EU, should not be provided to tenants.

Portable appliances should be subject to regular portable appliance testing (PAT) which, depending on the equipment and its condition, ranges from visual inspection to an electrical test. Some electrical equipment may be prone to abuse and misuse, so (in the interest of both landlord and tenant) annual inspection by a competent person is advised.

- 3 **High voltage (HV):** if a large residential unit has an HV installation, it should be locked shut and access prohibited to everyone except a suitably competent (specifically 'nominated') person. Expert advice should be taken on all HV installations; most will be under the control of the local electricity utility but some are not. It is important to be very clear as to ownership and control of such installations.

13.7.2 Disposing of electrical equipment

Requirements for the correct disposal of electrical equipment must be adhered to. It is not acceptable for electrical items to be disposed of in general waste. Items should be disposed of responsibly, either by being collected by a specialist company that is a licensed waste carrier or returned to the supplier for disposal (providers of electrical equipment are obliged to make arrangements for disposal, although they might charge a fee). Local authority recycling centres will accept electrical waste but it will be classified as business waste and fees will be incurred. When using a waste carrier, retain waste transfer notices as evidence of correct disposal.

13.7.3 Installation of electrical equipment

Part P (Electrical Safety) of the Building Regulations requires the installation of a new circuit, replacement of a consumer unit or work in rooms containing a bath or shower (subject to distance), swimming pool or sauna, certified by an electrician registered on a competent person's scheme (e.g. NICEIC or ELECSA) or by a building control body.

13.7.4 Practical advice for the implementation of reasonable health and safety management – basic checks

While there is an absolute need to have equipment and installations checked periodically by a competent person, this should not stop landlords and agents from carrying out basic visual checks from time to time. This is particularly relevant during changes of tenancy to stop the need for extra, expensive inspections. There are many good sources of advice available to help identify damage or potential electrical faults. Some of the most common faults include:

- damage to electrical cables where the outer casing has become worn, pinched or damaged, exposing cables or bare wires
- items that are extremely hot to touch or that show signs of overheating (e.g. discolouration, burn or scorch marks, melting of plastic covers or cables)
- visible dents, missing covers and/or exposure of live parts
- discolouration, burn or scorch marks around electrical sockets
- bent or damaged prongs on plugs and
- signs that moulded plugs may have been altered or tampered with.

If faults are identified, or are referred to an agent or landlord by tenants, the equipment or socket should not be used until it can be replaced or properly assessed by a competent person. Equipment should be removed and damaged sockets covered. If this cannot be done immediately, it is important that tenants are clearly told that they should not use them. Checks, repairs and replacements should occur as soon as possible – particularly if the fault is with a basic amenity such as an electric cooker or lighting.

When assessing damage, the vulnerability of different age groups needs to be considered (relative to the type of tenant – particularly young children). There is also a responsibility to protect domestic animals from electric shock risks.

While a competent person is on site completing PAT, it is worth asking if they will also carry out a basic visual inspection of plugs, sockets and fuse boards. This will give an increased level of comfort that installations are safe in the period between formal inspections.

When checking a tenanted property for electrical hazards or assessing electrical equipment, also consider the following:

- **Over-use of extension cables:** a reasonable number of sockets in easily accessible locations should be provided for tenants to power their own equipment. If there are only a few sockets or they are difficult to reach, tenants need to use extension cables. Powering too many items through a single socket can overload a circuit which, when it fails, will create a surge (although many modern extensions are fitted with a residual-current device (RCD) and/or surge protection to stop this). This surge could cause damage to other equipment or even a fire. The aim is that every piece of electrical equipment provided that requires a permanent power supply should have its own socket.
- **Use of electrical equipment in bathrooms, kitchens and externally:** areas such as bathrooms, around sinks in kitchens and external places need a higher level of protection against electrical shock. For example, to stop water getting in, light fittings in a bathroom must be appropriate for where they are to be installed. Standard electrical sockets should not be fitted in bathrooms or externally and further competent advice should be sought. If tenants are using extension cables in a bathroom they should be stopped immediately.
- **Cable runs:** poorly positioned cables can introduce safety hazards. If tenants are allowed to arrange for extra phone points or satellite connections to be installed, it is important to ensure that the routes chosen for cables do not cause problems or damage to the property. For example:
 - damage to window frames or stopping windows from closing, which creates drafts

- running cables through fire compartments without fire stopping
- running cables through and around door frames in a way that stops doors from closing or may damage cables
- running cables across door thresholds or corridors creating trip hazards; and
- cables stretched taught, causing the sheaths to loosen exposing wires.

Even when appropriate cable runs are identified, cables should be securely fixed, ideally using trunking. Loose cables can easily be caught and damaged accidentally or may be inviting for young children to play with.

- **Overriding fuses:** replacing or bypassing a fuse means that an excessive load can be drawn through a circuit. This can lead to overheating and then fire. It is becoming less of a problem as modern equipment is now fitted with moulded plugs to stop fuses being changed or bypassed, but landlords should still be aware of it, especially if older equipment is being used. It is important to check fuse boards: modern boards use sealed units with RCD protection that cannot easily be tampered with, but older ones have removable fuses that could be replaced with a higher rating or, in the worst cases, a conducting object such as a nail. These types of boards should be replaced to meet modern standards.

In areas known to be vulnerable to flooding, consider the location of electrical points of connection/fuses in relation to the floor level.

- **Common areas:** relative to tenanted demise, electrical risks in common areas are limited. Wiring still needs to be checked periodically and sockets should be correctly placed and visually inspected. Portable appliances also need to be inspected, whether they are permanent fixtures (e.g. lamps) or items provided for use by staff (hoovers, etc.). There should be a formal inspection programme for portable appliances and a clear procedure for staff to follow if they identify damaged or faulty equipment.

Blocks may also be fitted with additional electrical powered systems that need to be regularly maintained to prevent electrical faults or failures. This may include:

- low voltage systems such as telecommunications equipment
- door access control systems
- CCTV
- fire alarms and
- general lighting and emergency lighting.

There are also likely to be electrical risers in common areas that link flats to the common supply or common systems. Tenants should not have access to these cupboards and they should be checked regularly to ensure they are locked so that they are not used as storage areas or for waste.

Similarly, there should be no access to electrical intake rooms (or they should be strictly controlled). However, tenants will need access to electrical meters (if they are not within the demised area). When works are carried out by assured shorthold tenancy landlords in blocks (depending on the arrangements in a block), they may need access to temporarily isolate supplies. All such areas should include:

- non-conducting rubber matting and
- signs warning of the electrical hazard.

Emergencies also need to be considered. Where periodic access by tenants is needed, suitable controlled arrangements should be introduced.

It is not uncommon, particularly in older blocks or traditional mansion blocks, for meters and electrical intakes to be fitted in basements or basement vaults that are prone to damp. This needs to be controlled as contact can result in electric shocks. Where damp cannot be completely eliminated, and it is not possible to relocate installations, they should be adequately protected and the situation closely monitored.

Large blocks may also need lightning protection, such as conductors: without this, aerials, satellites or other conductors on roofs could be struck by lightning. This can then cause an electrical surge and in turn damage electrical equipment and property, and potentially cause a fire. Lightning conductors should be tested at least every 12 months.

13.7.5 Recommendations for further detailed advice

- Health and Safety Executive (HSE): www.hse.gov.uk
- Electrical Safety Council: www.electricalsafetyfirst.org.uk
- Government advice for Landlords: www.gov.uk/renting-out-a-property/Landlord-responsibilities
- NICEIC: www.niceic.com
- ELECSA: www.elecsa.co.uk

13.8 Emergency preparation and property resilience

13.8.1 Level of risk

- Residential property has a higher risk apportionment when it comes to emergency preparation because people (including children, disabled people and those whose first language is not English) sleep on the premises.
- Where residential property is above retail premises, particularly where the retail occupier may be cooking (a restaurant), using naked flames or undertaking any form of works that could affect the safety of the residents, there are higher risks for the residents, particularly if the work is carried out while the residents may be asleep, or any work(s) impact the capacity of the emergency exit routes.

13.8.2 Being prepared

There are various aspects to being prepared for an emergency:

- managing the immediate incident (focused on life safety and property damage minimisation) and
- business continuity (focused on returning the business/property back to commercial benefit in the optimum period).

Note that some fire and emergency services might not respond to an electronic notification of a fire (i.e. through a remote monitoring station): they will need confirmation from a person who can actually see/smell the fire. A major fire will potentially be spotted and reported by a passing member of the public: a small fire may not be visible outside. It is necessary to call the local emergency services at the earliest opportunity. Residential property managers need to be aware of, and make arrangements for, this scenario.

This guidance note assumes that all reasonable and foreseeable fire/smoke prevention and detection has been installed and maintained before an incident that requires evacuation of the premises occurs.

13.8.3 Incident/emergency management

Incident (or emergency) management is a term used to describe the planning and management of the immediate consequences of a major disruption (e.g. a fire, significant flood or similar). The immediate incident or emergency may continue for a few hours or days, but is unlikely to carry on after all people are accounted for and the building is locked and secured. After this the business continuity plan will come into effect (see 13.8.4 Business continuity).

It is imperative that all occupants of the building fully understand the emergency evacuation procedures (including evacuation, where required/advised), and where they are expected to gather after the evacuation.

Leadership is crucial for managing an incident successfully. While the emergency services will take control when they arrive, there are actions to be undertaken before and after they have left (see 13.8.5.1 Incident and emergency planning).

Arrangements should also include procedures for severe weather. Where the property is in an area susceptible to flooding, emergency plans/tenants' handbooks should include regional flood warning contact numbers. Landlords should sign up for alerts and encourage tenants to do the same.

13.8.4 Business continuity

Business continuity management (BCM) is a distinct risk management discipline designed to provide guidance in an emergency and to assist in returning the commercial aspects of the property back to full functional operation and therefore safeguard the owners' income.

The key to BCM is planning: looking at all elements of the business and what could go wrong, and the

consequences if it does (this exercise is called business impact analysis (BIA) and may benefit from expert advice). Advice is often available from insurers. Many consultancy practices also offer appropriate services.

In relation to residential property, BCM may include considering rehousing occupants while a property is rebuilt, and at a rate below that which was previously being charged (thus guaranteeing income while work is done). It may be as simple as coming to agreements with other residential property owners. Alternatively, the business may simply cease trading. Whatever the expectations, it is better to consider the options and discuss them with insurers while there is no emergency going on.

Once the results of the BIA have been understood and an appropriate response planned, a business continuity plan (BCP) should be written up as a blueprint for returning the business to a sound commercial footing after an emergency.

13.8.5 Practical advice for the implementation of reasonable health and safety management

13.8.5.1 Incident and emergency planning

Before an incident occurs, it is strongly recommended that an appropriate amount of incident management planning is carried out. It may be necessary to seek expert help, but often it is a case of imagining a worst-case scenario and working through how such a matter will be dealt with. A plan should be documented and given to those who might need it. One copy should be kept near the final exit and a copy should also be given to any attending emergency services.

Matters that should be included in the plan (sometimes called a battle box/tenants' handbook) are:

- the name of the incident management leader (and his or her team, if appropriate) – this could be a facilities or building manager and should be someone who is on site 24 hours a day if possible, and definitely at night)
- a list of all occupants present at the time of the incident (including any visitors)
- the names of the fire wardens or their equivalent; that is, those who will have checked that the building has been completely evacuated or who will know if someone is missing and, potentially, where they are. Details may include information on disabled refuges and people who could be trapped there
- details of all the shut-off valves for utilities (i.e. gas, electricity, etc.), details of dry or wet risers and firefighting equipment
- plans of the building, including compartmentalisation and details about access to firefighting lifts
- details on how evacuated residents are to cope with day-to-day issues (such as access to cash/bank accounts and car keys, etc.) if the property is destroyed and

- insurer and insurance broker details.

Post-incident matters to consider include:

- management of evacuees – where they are to go, and a register of where they have been dispersed to
- details of next of kin – to advise of the status of occupiers
- security – ensure the building is secured against theft/looting
- reclamation and salvage – managing the opportunity to retrieve any goods (including occupants' chattels) that may be of further use
- a location for a temporary office from which to manage the aftermath from (this might include the redirection of telephone lines and email) and
- potential appointment of an insurance loss adjuster – who may be appointed directly by the insurer.

13.8.5.2 Business continuity planning

It is recommended that businesses consult the Business Continuity Institute's website (see in particular its best practice guidance) and/or discuss options with insurers.

13.8.6 Recommendations for further detailed advice

- The local fire service
- The Business Continuity Institute: www.thebci.org
- The RICS paper *Business continuity management – Planning for business resilience* June 2012.

13.9 Fire safety and management

13.9.1 Relevant issues

Fire safety regulation

In residential housing, fire safety regulation is split between two separate regulatory bodies:

- the fire and rescue authority and
- the local housing authority.

The local fire and rescue authority will be responsible (under the *Regulatory Reform (Fire Safety) Order 2005*) for enforcing all fire safety matters in common areas of blocks, including corridors, stairs, any communal recreational areas, bin stores, underground car parks.

The local housing authority is responsible (under the *Housing Act 2004*) for fire safety in individual dwellings in its area. However, the *Housing Act 2004* also covers common areas of the building, overlapping with the *Fire Safety Order 2005*. The housing authority will work within the rules of the Housing Health and Safety Rating System when it defines and measures risk and can, as a result, be somewhat constrained.

The result is that both regulatory bodies normally work closely together. Either can provide useful guidance and advice about complying with fire safety law to those responsible.

13.9.2 Legal compliance

The legislation governing fire safety in the UK is the *Regulatory Reform (Fire Safety) Order 2005* (RRO). This legislation applies to residential premises but cannot be enforced against individual leaseholders in respect of private residential dwellings. To bridge this gap, the fire authority works in conjunction with the housing authority and the LACORS guidance sets out which authority should take the lead in enforcement in respect of different types of residential property.

To assist with the application of fire safety legal requirements in residential property there are three main guidance documents. These are:

- *Fire safety risk assessment: sleeping accommodation*, published by the UK government when the RRO was first enacted.
- *Guidance on fire safety in residential accommodation*, published by LACORS. This guidance applies to any residential property converted into residential units and/or any other residential property that does not comply with 1998 Building Regulations.
- *Fire safety in purpose-built flats*, published by Local Government Association focusing specifically on purpose-built blocks where a 'defend in place' strategy is intended. At the time of writing, this is the most recent publication and many of the management principles set out in this guidance may apply to other residential property types.

13.9.3 Responsible person

The definition of 'responsible person' is given in article 3 of the *Regulatory Reform (Fire Safety) Order 2005*. It is therefore a legal term that is often referred to in respect of fire safety matters and should be recognised as such. In practice, when considering residential property, the responsible person is likely to be either the owner/landlord of a block or a managing agent. Note that the responsible person can mean a business (corporate body) or an individual. Either way, it will be the business or person who has legal responsibility (statutory duty) for ensuring that fire safety legislation has been complied with.

13.9.4 Fire arrangements/strategy

Begin by compiling a fire strategy for the property. It should describe how fire safety is designed into the building and include the property use, escape routes, whether it is manned/unmanned, fire detection/warning and fire fighting. The strategy should identify the role of various parties in an emergency including tenants, emergency services and others.

The fire strategy should:

- be driven by the building construction – particularly when considering whether residents should evacuate

or stay put. (This is known as a 'defend in place' policy and may need to be considered by a fire engineer rather than a risk assessor.)

- be communicated locally – complying with British Standard 5499 Safety Signs, including Fire Safety Signs and the Health and Safety (Safety Signs and Signals) Regulations 1996 on pictograph signage and with consideration given to tenants speaking different languages
- be shared with the emergency services, especially where the layout of the building is complicated and/or the building alarm is not linked to a central manned security desk
- include the evacuation of less able-bodied people (refuge points are meant to be used as temporary stopping places only). In mixed-use premises, commercial premises should include among other things Personal Emergency Evacuation Plans (PEEPs) for their employees. Where evacuation chairs are provided, people should be trained to use them
- be referred to when refurbishment is planned to make sure that fire compartmentalisation is not compromised
- be reconsidered when works are taking place alongside the normal operation of the building and
- include irregular emergencies, such as fire service strikes.

13.9.5 Fire-risk assessment

A fire-risk assessment should be prepared for any multi-tenanted residential block that incorporates shared common areas. Commercial landlords for mixed-used properties are also obliged to carry out fire risk assessments. These should take account of the fire safety risks to residential tenants.

Detailed guidance for carrying out fire-risk assessments is provided in various guides, the most prominent of which is the government guidance *Fire safety risk assessment: sleeping accommodation* (see 13.9.13 Recommendations for further detailed advice). However, this publication does not give specific guidance for residential premises. More targeted guidance can be found in other guides; for example, *Fire safety in purpose-built blocks of flats*, the *LACORS Housing – fire safety: Guidance on fire safety provisions for certain types of existing housing*, the *LACORS Housing – fire safety* guidance. Due consideration should also be given to the needs of disabled people. The government has prepared a separate guide for this purpose called *Fire safety risk assessment – Means of Escape for Disabled Persons*. Approved Document B of the Building Regulations also provides relevant information, although this is a more technical document and intended for use when designing new buildings.

The fire risk assessor must be competent, and should have both training and experience of the environment. The assessment needs to identify people at risk (which should include the emergency services and neighbours if

pertinent) and any fire hazards or potential for fire hazards. Examples of fire hazards include:

- obstructed fire exits, a build-up of rubbish and non-functioning/absent (vandalised, broken, removed and/or not provided) fire equipment
- the environment and habits of the residents/visitors (doors left open/windows in escape routes left open/smoking in common areas, etc.)
- protection of escape routes (compartmentalisation (fireproofing)/lighting/accessibility by the emergency services, etc.) and
- arrangements and awareness of action to take if a fire is discovered (competent person on site/communication of arrangements to tenants and their visitors/the evacuation of less able-bodied and/or vulnerable people).

Ensure that the responsible person(s) and fire risk assessor(s) are competent for the role.

13.9.6 Means of escape

Fire escape routes must be kept free of obstacles/combustible rubbish. If tenants continue to store these under staircases or in fire routes, warn against this verbally and/or in writing. If it continues, display signs warning that articles will be removed.

Newer blocks tend to have residential units that are constructed as 'fire resisting pods'. That means that a fire in one of these will burn itself out before spreading to other flats and/or common areas. In this scenario it is common to adopt a 'stay put' policy where residents will remain in the building as a safer option than evacuating. In older premises this is not an option and a partial/full evacuation needs to be communicated and arranged.

13.9.7 Escape routes

It is important to remember that, because smoke is also a killer, reducing the escape time is crucial. The following should apply to dedicated escape routes:

- They should be separated from the flats by fire-resisting construction. This may not always be the case in older properties or conversions, which in turn will dictate the emergency procedures and evacuation strategy.
- Maximum travel distances apply and provision must be made for fire and rescue services to enter the building and fight a fire. This may require features such as firefighting shafts with a firefighting lift, and dry or wet rising mains should be free of combustible items, such as furniture and rubbish, which may accumulate there.
- Door closers should be inspected to make sure that doors close quickly, and any devices that keep doors open during normal day-to-day trafficking should be tested to make sure they release when the fire alarm is activated.
- Doors onto escape routes should be considered. Check that circulation doors are fire doors (i.e. contain

fire-resistant glass and have intumescent seals between the door and glazing, and at the abutting edges, etc.). Also check lease arrangements for the tenants' front doors as, over time, these may have been replaced by decorative doors. In some older premises where there are waste cupboards/light fittings above the front doors, these might have compromised compartmentalisation (i.e. resistance to fire), which may need to be addressed.

- Where there are rubbish chutes or plant rooms/risers in the fire escape route, check fire protection to the escape route. Long corridors may need to be broken up with additional fire doors. Consider installing carbon monoxide (CO) monitors if appropriate.

13.9.8 Fire signage

Signs are imperative to communicate:

- local fire arrangements
- the direction of escape and
- fire exit doors.

Signs next to lifts on every floor should warn against using the lift in a fire (because the lift could open on a floor that is on fire). It is good practice to connect the lift to the fire alarm panel so that the lift falls to ground level when the alarm is activated and remains there).

13.9.9 Emergency lighting

Escape routes from the building should be adequately lit. Normal mains lighting is often compromised in a fire and can fail early on, so a secondary means of lighting the escape routes is needed. In smaller buildings this may be achieved by using light from adjacent street lighting but, in most cases, electrical emergency escape lighting will be needed.

Emergency lighting should be designed, installed and maintained in accordance with BS 5266-1: 2011, *Emergency lighting – Part 1: Code of practice for the emergency escape lighting of premises* (BS EN 50172). Emergency lights should be provided to illuminate stairs and other changes in floor level, exit doors, escape routes, intersections, escape signs and fire alarm call points. Emergency escape lighting may also extend to areas outside the building, where necessary, to ensure that people escaping can move away from the building to a place of safety.

13.9.10 Fire doors

Ensure that doors in escape routes – and particularly in plant rooms where they affect building escape routes – have the correct fire rating. This may include additional intumescent elements for vision panels and door openings. Doors must not be propped open and, if electronic door closers are in use, they must be a type that meets the current standards required by the fire service.

Fire doors should be checked every six months to ensure they close properly and that any intumescent material is in

good order as a malfunctioning fire door will lead to smoke and fire spread. Records of the checks should be maintained.

13.9.11 Firefighting

Consider providing fire sprinklers. The fire service recommends retrofitting sprinklers in high-rise residential buildings. If there are already sprinklers, and they need to be removed for any reason, ensure that other means of extinguishing fires are provided and that insurance cover is not breached. If in doubt, talk to your local fire service. Like firehoses, sprinklers were often installed as part of the original fire certificate approval (note: fire certificates no longer exist, so you should only use them for historic information): insurers will require an assurance that removal of either does not compromise the building safety in a fire.

13.9.12 Maintenance and testing

Ensure that there are arrangements to test fire alarms, fire alarm panels, sprinklers, hosepipes, extractor fans, pressurised staircases, smoke vents, risers, emergency lighting and fire extinguishers. Fire extinguishers should be inspected monthly, and must be serviced annually in line with British Standard 5306-3: 2000. CO₂ extinguishers more than 10 years' old need an extra cylinder test or should be replaced. Water, foam and powder extinguishers must be discharged and refilled every five years. If extinguisher tamper tags have been removed, ensure the extinguisher is re-tested as soon as possible.

Ensure any 'fire stopping' disturbed or removed during refurbishment or other works is properly replaced with appropriate material (this requirement should be explicit in any contract for refurbishment, etc. works, and checked on completion of the works).

Place a fire logbook on site to record these inspections and fire inspection visits.

Ensure that any plant/equipment belonging to the landlord, including landlord assets in tenants' premises, is regularly tested so it remains statutorily compliant.

13.9.13 Recommendations for further detailed advice

- Find local fire and rescue services at www.cfoa.org.uk
- The *Regulatory Reform (Fire Safety) Order 2005* and the *Housing Act 2004*: www.legislation.gov.uk
- *Housing health and safety rating system (HHSRS): guidance for Landlords and property-related professionals*: www.gov.uk/government/publications/housing-health-and-safety-rating-system-guidance-for-Landlords-and-property-related-professionals
- *Fire safety risk assessment: sleeping accommodation*: www.gov.uk/government/publications/fire-safety-risk-assessment-accommodation
- *Fire safety in purpose-built flats*: www.local.gov.uk/web/guest/publications/-/journal_content/56/10180/3369777/PUBLICATION

- *Fire safety in housing*: www.cih.org/publication/display/vpathDCR/templatedata/cih/publication/data/Fire_Safety
- LACORS guidance on fire safety in residential accommodation: www.lacors.gov.uk/lacors/NewsArticleDetails.aspx?id=19844
- *Fire safety risk assessment: Means of Escape for Disabled People*: www.gov.uk/government/publications/fire-safety-risk-assessment-means-of-escape-for-disabled-people
- Approved Document B to the Building Regulations: HSE guidance note HSG264
- Fire Sector Federation: HSE guidance note HSG264

13.10 First aid and fire wardens

13.10.1 Deciding if fire wardens and/or first aiders are necessary

To determine the need for first aid and fire wardens you'll need to consider:

- the size of the property
- the number of occupants (including potential visitors) and
- whether or not there is a permanent owners' representative/employee on site.

In any event, providing these services will depend on assessment of the risks.

Advice on whether fire wardens and/or first aiders are needed may be derived from the fire-risk assessment and/or fire-risk assessor.

First, carry out a risk assessment of both the requirements for the provision of first aid and/or trained first aiders, and fire wardens. Refer to the fire-risk assessment when doing this. Your fire-risk assessment should take into account that, in the event of a major incident (e.g. fire), the first priority is to evacuate everyone. In these circumstances first aid will be administered by the emergency services. That means that providing first aid to occupiers may be best served by having a first aid box on site and making arrangements with local doctors' surgeries (assuming they are close enough).

Where there is a permanent landlord's employee/representative on site, it is recommended that they are trained both in first aid and as a fire warden. Where there are other occupiers prepared to act as either first aiders or fire wardens, they must be sufficiently trained. If there are few occupiers, the tenants' handbook could include a recommendation that all tenants should have their own first aid box. The handbook should also make clear whether or not there are any first aiders or fire wardens at the property and if so, who they are (a list posted at the reception area or near lifts is common).

Anyone who is either a first aider or fire warden, or has similar responsibilities, must be capable of carrying out those duties. In some circumstances – for example,

student accommodation where there is no permanent landlord's representative/employee on site – selected residents may be asked to perform fire warden/watch duties and/or security as 'competent persons' under the *Fire Safety Order 2005*. i.e. persons with sufficient training, experience or knowledge to implement fire-fighting measures. The responsible person must ensure the training and equipment is sufficient, taking into account the nature of the premises. They may be offered benefits in kind, such as reduced rent rather than a salary. Nevertheless, the duties are effectively contracted and statutory responsibilities will apply to both parties (not least tax).

13.10.2 First aid

The *Health and Safety (First-Aid) Regulations 1981* require employers to provide adequate and appropriate first-aid equipment, facilities and people, so that employees can get immediate help if they are injured or taken ill at work.

Under these regulations, employers have no legal duty to provide first aid for non-employees. However, where there are significant numbers of occupiers in commercial premises the owner should assess the need to provide first aiders.

Where landlords choose to provide first aiders, they must ensure that they have the right insurance to protect employees or others who are appointed (and trained).

13.10.3 First-aider qualifications

A first aider is someone who has been trained.

13.10.4 Numbers of first-aiders (where appropriate)

If it is deemed appropriate to appoint one or more first-aiders, the HSE gives guidance as to the number expected in a workplace. See the website or get advice from appropriate experts. For example, St John Ambulance is a well-recognised advice and training provider in the UK.

13.10.5 First-aid boxes

Where landlords provide first-aid boxes they should be in a prominent location and regularly checked to make sure appropriate stocks are maintained. No tablets or medicines should be kept in any first-aid box. Suggestions for the contents of first-aid boxes are available from reputable chemists/pharmacies and other providers (e.g. St John Ambulance).

13.10.6 Fire wardens

Where landlords have a permanent presence on site (e.g. receptionist, security or building manager) they are expected to lead and manage any incident that requires evacuation of the building. It is recommended that landlords provide fire warden training for those permanently situated on sites (or any other occupant who agrees to take on the responsibilities of a fire warden) so that they can manage an incident. Prospective fire wardens should ensure:

- their training is adequate and current (as must landlords). This includes maintaining an appropriate level of competence to carry out the specific tasks of a fire warden. They must also remind landlords or their representatives, in good time, when training (including a refresher) is needed
- the emergency services have been called in the event of an emergency
- accurate fire/evacuation plans are posted in appropriate areas throughout their building
- a fire-risk assessment has been carried out for the building in at least the past 12 months. If there is no current fire-risk assessment (i.e. one has not been carried out in the past 12 months) they should immediately liaise with the landlord or his/her representative and ask that one be carried out
- all tenants have copies of the fire/emergency evacuation plans (possibly through the tenants' handbook)
- fire-fighting equipment in their area of responsibility is prominently displayed, unobstructed at all times and in accordance with British Standards, has been inspected monthly and serviced within the last 12 months (in accordance with the maintenance regime). If fire extinguishers have been serviced more than 12 months' previously they should report this to the landlord or his/her representative immediately
- all fire exits and escape routes within their given area of responsibility are kept clear at all times, and fire doors are kept closed and
- any hazards on site that could result in fire or could endanger lives are reported to the person in control of the building (or other occupants).

Where possible, it is recommended that landlords or their representatives arrange two evacuation exercises per year. They should record the exercises and time taken to evacuate the building, and report this back to the occupants affected.

All tenants, and in particular those appointed as fire wardens, should have easy access to the fire-risk assessment for the premises.

13.10.7 Risk assessments

Appoint an appropriately competent person to carry out a fire-risk assessment for the property. This is the landlord's legal responsibility. It should be reviewed at least every 12 months or when anything significantly changes (i.e. occupancy levels rise or building works have been carried out that cause alteration to evacuation or compartmentalisation, etc.).

Carry out a risk assessment, taking the fire-risk assessment into account, to decide if first-aiders, first-aid boxes and/or fire wardens are needed. If people are appointed as either first-aiders or fire wardens, ensure they are appropriately trained and competent to do so.

Consult the local fire service to establish their parameters for answering automated fire alarms, and about the time they would take to reach the property if there is a fire or other emergency.

13.10.8 Recommendations for further detailed advice

- The local fire service
- The Health and Safety Executive: www.hse.gov.uk
- St John Ambulance: www.sja.org.uk
- The Fire Protection Association: www.thefpa.co.uk

13.11 Food safety

13.11.1 Food safety and hygiene regulations

If there are communal catering facilities where foodstuffs or beverages are for sale (or provided as a benefit) there are a wide range of food safety and hygiene regulations that need consideration and monitoring. Similarly, where there are cooking facilities, there is a greater risk of fire.

It is advisable to check (with your local enforcement office) if there are any licensing requirements, including registering the premises as a food business. If you intend to sell alcohol or provide entertainment you will need to apply for a premises licence from the relevant local authority.

In the UK the local environmental health officers will have jurisdiction: see section 5 of this guidance note, Housing Health and Safety Rating System (HHSRS).

The risk associated with poor hygiene and safety in the storage, handling and preparation of food is well documented and can result in food poisoning outbreaks including:

- salmonella
- botulism and
- listeria.

Where landlords are responsible for, or supply, catering facilities, the responsibility for maintenance remains with them unless the matter is sufficiently covered in tenancy/lease agreements. Such clauses should ensure the tenants' obligation to comply with and maintain food safety and hygiene standards in accordance with the regulations.

Electrical equipment (i.e. fridges, toasters and electric cookers, etc.) needs to be PAT checked (refer to 13.7 Electrical safety). Microwaves need to be maintained to prevent leaked radio waves.

Any gas appliances (i.e. cookers) need to be checked annually by a competent engineer (the contractor must be on the gas safety register). Any gas supplies should have an emergency cut-off. Tenants should know where to cut off gas supplies. Fire blankets may be recommended by the fire-risk assessment.

Appropriate hand washing facilities should be available wherever food is cooked or prepared.

Be aware that tenants may try to bring in kitchen/catering equipment (e.g. small fridges): ensure that they understand that such equipment remains their responsibility.

Should any events take place that include cooking, all the usual environmental health precautions still apply. If gas cylinders are used (i.e. for barbecues) ensure that they are handled safely.

Where residential accommodation is above a catering facility (including restaurants, pubs, clubs and takeaways) there is a greater risk of fire to occupiers, particularly where catering continues when residents are asleep. In particular check that extractor fans/ducts are kept clear of grease and fat. They should be deep cleaned at least once a year, especially if they run through or near accommodation units. Highlight these and similar matters in the facility's fire-risk assessment.

If catering facilities are contracted to external suppliers (caterers), careful due diligence needs to be given to their food safety and hygiene practices. Request a monthly report and check who is responsible for servicing and maintaining the equipment. Where gas is used for cooking it is particularly important to ensure there is an emergency gas shut-off valve.

If catering is in-house (i.e. by your own employees) then the full remit of food safety and hygiene regulations need to be complied with, in addition to usual facilities management servicing, maintenance and statutory inspections. For example:

- staff should be appropriately trained in food safety and hygiene
- there should be daily temperature checks for all refrigerators on opening and closing and during the operation of the catering facility
- cooked and uncooked food and meat must be prepared and stored separately from each other and other foodstuffs
- the catering facility must have a food safety management system to ensure the safety of all food stored, prepared and served on the premises
- risk assessments for use of all catering equipment must be carried out and
- there should be PAT checks for equipment.

Consider how waste, including organic waste and perhaps sharp materials (broken glass/china) is disposed of safely and in an environmentally friendly way.

13.11.2 Practical advice for the implementation of reasonable health and safety management

Wherever food is being prepared, the following should be carefully dealt with:

- cross-contamination: keep different foods apart from each other; for example, vegetables away from meat and cooked meat apart from raw

- cleaning: have a daily opening and closing cleaning schedule and adopt a 'clean as you go' policy
- ensure all staff are trained on the importance of washing their hands regularly when handling and preparing food
- chilling: ensure everything is chilled at the correct temperature and that records are kept and
- cooking: ensure everything is thoroughly cooked to a safe temperature before it is served.

The *European Food Information to Consumers Regulation (No 1169/2011)* came into force in December 2014 and requires all food businesses to provide allergy information on all food sold un packaged.

Ensure the safekeeping (and use, if appropriate) of any sharp knives or blades.

Ensure all equipment is maintained. Ensure everyone understands their responsibilities by way of tenancy/lease agreements. This includes PAT and checking for leakage of radio waves from microwaves.

Ensure that any kitchen extractor fans/systems are thoroughly (deep) cleaned regularly, to prevent both build-up of dirt/grease and the attendant risk of fire.

Ensure that all waste is handled appropriately.

It is wise to thoroughly clean any kitchen/catering facilities during vacancies and before re-letting.

13.11.3 Recommendations for further detailed advice

- FSA hygiene and food safety guidance: www.food.gov.uk/business-industry/guidancenotes/hygguid/
- The Chartered Institute of Environmental Health: www.cieh.org/
- Gas Safe – for annual safety checks on gas appliances: www.gassaferegister.co.uk/

13.12 Gas safety

13.12.1 Landlords' duties

In relevant premises landlords have a duty to ensure the servicing, maintenance and safe certification of gas appliances and flues provided for tenants' use. Relevant premises are those occupied for residential purposes under a licence or tenancy agreement for a set term or lease as defined in the *Gas Safety (Installation and Use) Regulations 1998* (essentially, a lease that is less than seven years).

Landlords must:

- meet statutory compliance by arranging annual checks of gas appliances and chimneys/flues and ensure they are maintained according to manufacturers' instructions. Checks must be carried out by a Gas Safe-registered engineer
- display a gas emergency notice at least next to the primary meter so that people who smell gas/suspect a

leak can phone for advice and help as soon as possible. For systems where gas has been supplied but the intention is not to continue, landlords must arrange for a safe disconnection and a purge of the pipes

- mark gas pipework with yellow tape and/or a gas sticker and protect it against unfavourable site elements; for example, extreme temperatures. Installation of a gas detector/monitor is recommended, particularly where the gas is being supplied in rooms that are not frequently used and so a leak might not be detected until there has been a significant build-up of gas. It is recommended that this is connected to the fire alarm panel so people in the building can be alerted as soon as possible. It is normal to install a warning light outside plant rooms located, for example, in the middle of a building car park. A shut-off valve that is in a plant room not accessible by anyone other than landlords/landlords' agents is not an emergency control. Gas plant rooms must have ventilation at both high and low levels, preferably on opposite walls allowing for the free flow of fresh air
- ensure that equipment is tested every 12 months and is confirmed as safe to operate
- give a copy of the test certificate to any new tenants before they move in and within 28 days of the test to existing tenants. If landlords refuse to give tenants a certificate, tenants can complain to the HSE. Landlords must also keep records for at least two years. Any appliance and flue serving the relevant premises – for example, central heating systems not installed in tenants' accommodation but still serving them – comes under this requirement. Tenants' appliances are not covered
- ensure that lease arrangements allow them to gain access to inspect and maintain the gas equipment. If tenants will not co-operate, landlords may have to serve written notice on them to gain entry (although they cannot force entry) and
- periodically test and inspect any carbon monoxide alarms.

Note: in longer leasehold properties responsibility for ongoing inspection and maintenance may, under the terms of the lease, be the responsibility of the tenant and not the landlord. In such cases the landlord is not normally obliged to obtain copies of gas certificates from tenants, except in circumstances where it is needed to ensure the safety of others, for example where there are common gas flues.

13.12.2 Competency

No-one should do anything that affects a gas fitting, flue or any means of ventilation used in connection with the fitting in such a manner that the subsequent use of the fitting may be a danger to any person. Only an appropriately competent gas engineer should carry out work on gas appliances and live pipework/flues.

Gas engineers should carry a Gas Safe Register card: this should show their photo, company name and a card expiry date. The reverse of the card will show the work they are registered to do.

Work on gas intakes and meters may only be carried out by a utilities company.

13.12.3 New installations: premises with two or more floors above ground

Meters should not be sited under or on a stairway or in any part of the premises where the stairway or that part of the premises is the only means of escape in a fire.

If you smell gas/suspect a gas or carbon monoxide leak, immediately:

- open all doors and windows
- turn off the gas supply at the meter control valve. If gas continues to escape, or you cannot find the valve, call the National Grid on the gas emergency freephone number: 0800 111 999; and
- ensure that all investigations/actions are carried out by a Gas Safe-registered engineer.

13.12.4 Practical advice for the implementation of reasonable health and safety management

Ensure that all gas appliances have been identified and responsibilities for maintenance and inspection clearly defined. Appliances include:

- boilers and flues
- kitchen equipment
- hydroboils (instant boiling water heaters) and
- propane tanks or connections thereto.

Be aware that gas can kill by both explosion and asphyxiation. You are strongly advised to provide carbon monoxide alarms.

Each item requires its own gas safety certificate provided by a Gas Safe-registered engineer.

The location of gas shut-off valves should be confirmed and the information held readily available for emergency services in the event of an incident or evacuation. Valves should be checked periodically to ensure they are working correctly. Instructions should also be displayed.

If boilers are connected to a central flue, that flue must be inspected for any connected item to pass its annual gas check. Also ensure that the type of equipment and the way it is connected is appropriate for the flue design. Getting this wrong can mean that exhaust gases from one boiler can be circulated in another demise.

Flues can also become blocked: nesting birds can be a common problem. In blocks where a central flue is provided occupants must be instructed to consult with the block manager before installing new equipment.

13.12.5 Recommendations for further detailed advice

- Refer to the Gas Safe Register for additional advice and to check the competency of engineers: www.gassaferegister.co.uk
- Gas Safety Charity: www.gassafetycharity.org.uk

13.13 Housekeeping

13.13.1 General practices

A well-maintained, tidy and clean property will give the physical impression that agents or landlords take care of tenants' welfare and safety. Poor housekeeping has the opposite effect. Chips on stair nosings or banisters, newspapers left on the floor or rubbish bags left in the corridor may seem like minor issues, but each can pose a health or safety hazard that can encourage others to treat a property poorly, leading to more significant risks or potentially hiding other hazards.

13.13.2 Day-to-day housekeeping

Within a tenanted area, landlords have limited responsibility for day-to-day housekeeping. For a longer leasehold tenant there may be none at all. AST landlords should repair damage to items or furnishings they have provided for tenants and the lease specifies it is the landlords' not the tenants' responsibility to repair. This should be done quickly once the landlord has been notified, or once damage has been identified during an inspection (responsibility for the damage and therefore cost is a separate matter).

Tenants are usually directly responsible for housekeeping and cleaning in their demise. Landlords will have satisfied their initial duty if the layout of the flat allows all living areas to be properly cleaned. This includes ensuring that fittings such as sinks, baths and basins have been properly fitted and that surface materials, particularly in areas used for sanitation of food preparation, can be properly cleaned.

In residential blocks it is part of the landlords'/owners' (and therefore managing agents') responsibility to maintain the common areas in good order and as a safe working (and living) environment. This includes not just repair, but keeping areas clear, tidy and clean.

Poor hygiene, or using materials that cannot be cleaned properly, may encourage pests or the growth of harmful bacteria and may increase the risk of illness, particularly gastro-intestinal diseases.

13.13.3 Setting tenancy standards

Landlords or agents need to set an appropriate standard for all tenants: without this there are limited grounds to insist that tenants improve the standard of housekeeping in a property. Before the start of a tenancy, the property should be clean and tidy. As part of an initial inspection with new tenants the condition of the property should be properly recorded, commenting on any minor damage or

stains, and the general level of cleanliness. This then sets the standard for the duration of the tenancy and how a property should look when the tenancy ends.

To ensure the property is kept clean, it is sensible to provide tenants with basic equipment, including a vacuum cleaner, mop and bucket. It is usually expected that tenants will provide their own cleaning products.

In HMOs it is important to make clear to tenants where the responsibilities for any shared areas lie; that is, with them or the landlord.

13.13.4 Cleanliness in blocks

Block managers need to arrange general cleaning of common areas. They also need to ensure tenants do not abuse common areas (i.e. that they do not treat them as an extension of their own demise or presume that any waste left there will automatically be cleared). This may not be a particular issue where flats are occupied by leaseholders, who contribute to the service charge, but can be a concern where the majority of occupants are AST tenants.

Problems may need to be addressed with individual tenants. Matters to consider are:

- bikes or prams left in corridors causing obstructions to emergency/exit routes
- newspapers or other small items of rubbish left in corridors/exits
- rubbish bags left in corridors or near exits rather than being taken to designated areas (unless a waste collection service has been agreed)
- repeated spillages in common areas
- post not being collected from pigeon holes, and/or junk mail disregarded and
- waste left in meter cupboards or riser cupboards, or if these are used as storage: they should be kept locked wherever possible.

From time to time common areas may be used for temporary displays, such as planters, Christmas decorations or marketing materials. It is important to think carefully about their placement so they do not create trip hazards, obstructions, or fire hazards. Once a display is no longer required it should be removed promptly.

When contractors are operating in blocks it is important to inform them about general housekeeping rules and agreeing areas where they may store materials and leave waste. Allowing items to build up in common areas or in plant areas can create obstructions or fire hazards.

13.13.5 Storage areas

If general storage areas are provided for tenants, it is important to ensure they are only using their demised areas and not expanding into corridors or other common areas, such as car parks.

Do not ignore waste storage areas. It is important to ensure that these areas are kept relatively clean to avoid pests such as mice or rats. Check stores to ensure bins

are being used properly and bin lids are closed. Waste areas should be emptied regularly.

Where possible keep the area locked so that the general public cannot use the bins/skips as shelter as they are at risk of being 'tipped' when the waste is collected. Check that the waste disposal contractor has a process for checking bins/skips are not hiding any persons before emptying them (this is a known risk, and should be part of their provision of good practice).

While routine cleaning regimes should keep most matters under control in blocks, attention should also be given to items of minor maintenance and repair that can easily lead to minor injuries to residents, such as cuts or splinters, or potentially falls. Consider:

- damage to stair nosings
- loose or torn carpets
- chips or splinters on wooden panels or handrails
- cracks or damage to steps or ramps
- torn or loose matting
- loose or trailing cables
- window cleaning
- signs of woodworm or damp and
- cracks in plaster that may indicate further problems.

The risk from these hazards will depend on their location, size and visibility, and the type of occupants. It may be necessary to take temporary measures, such as displaying warning signs, until they can be repaired properly. These should be addressed quickly and signage should be removed promptly before it becomes another housekeeping issue.

13.13.6 Recommendations for further detailed advice

- Also see 13.24 Waste management.

13.14 Lifts and lifting equipment

13.14.1 General responsibilities

Lifts and lifting equipment include all varieties of plant and equipment that can lift or carry people or goods. They are all subject to safety regulations and certification – in particular the *Lifting Operations and Lifting Equipment Regulations* 1998 (LOLER) and the *Provision and Use of Work Equipment Regulations* 1998 (PUWER).

Equipment covered under this topic includes (this list is not exhaustive):

- persons and goods lifts, including firefighting lifts
- hoists, including dumb waiters, and ropes and pulleys
- disabled lifts and/or scissor lifts
- mobile elevating work platforms (MEWPs); that is, cherry pickers or scissor lifts and
- escalators/moving walkways or travelators.

All of these require a thorough examination by a competent person (usually, but not exclusively, the competent person or examiner is appointed on the landlord's behalf by his/her insurers or insurance brokers). All equipment also needs proper maintenance and servicing in accordance with manufacturers' requirements (full records of this should be readily available), and all those who work on the equipment (e.g. examiners, competent persons and maintenance contractors) will require site-specific risk assessments and methods of safe working.

13.14.2 People-carrying equipment

People-carrying equipment requires a thorough examination every 6 months (a certificate should be issued). Equipment that carries goods only requires testing every 12 months. If the examination certificate is out of date or advises that equipment should be taken out of service, it is a criminal offence to operate the equipment until a competent person has said it is safe to return it to service. It is recommended this advice is requested in written (e.g. email) form.

Although LOLER does not strictly apply to lifts in residential or domestic (as opposed to commercial) premises, it is strongly recommended that lifts are inspected and thoroughly examined in line with the duties set out in LOLER to ensure that they are adequately maintained and inspected.

This includes any stairlifts or other mobility enhancing hoist/lifting equipment.

13.14.3 Mobile elevating work platforms [MEWPs]

Where MEWPs are used, for instance a cherry picker to wash windows or a scissor lift to provide access to work at height, check that:

- the appropriate certification (thorough examination) is current
- the operator is competent (training records)
- the machinery is properly maintained in accordance with manufacturer's recommendations
- adequate insurance is in place and
- appropriate personal protection equipment (PPE) (i.e. lanyards, etc.) is used.

13.14.4 Rescue

Points to think about when considering how to carry out a rescue from an immobilised lift are:

- It is recommended that arrangements for rescue are discussed with maintenance contractors. Consider the time taken for them to attend to an emergency.
- Include a clause setting out expectations for emergency response in any contractual arrangements.
- It is recommended that you request from the expert maintenance contractor detailed and site-specific advice as to the operation of and operating procedures for all lifting equipment that will need to be employed.

13.14.5 Practical advice for the implementation of reasonable health and safety management

Identify all items of lifting equipment (do not forget lifts for disabled people or goods scissor lifts, installed window washing cradles, dumb waiters, traditional lifts, escalators, etc.).

After carrying out careful due diligence, choose a recognised expert maintenance contractor. Discuss with the contractor, on site, the various elements of lifting equipment management including:

- the items themselves and whether the contractor has access to operation manuals and the appropriate competencies to work on the equipment
- who is responsible for arranging the thorough examination tests and reviewing all current certificates to understand the current legal status of any noted defects
- checking the availability of records of maintenance/servicing and all appropriate risk assessments/method statements
- arranging any emergency call-out (including response to entrapments) procedures
- the results of all thorough examinations. Seek advice from either, or both, the examiner or contractor as to the meaning of any defects (all defects should be remedied in time for the next thorough examination). Any defect advised as requiring immediate remediation effectively advises that the equipment is an immediate or imminent danger to users. It is required that the equipment is immediately taken out of service until the defect is remedied, and confirmed as such by a competent person and
- any hazards in the lift motor room; for example, potential asbestos, unguarded edges or moving parts. Agree any remedial requirements to ensure safe working with the contractor.

13.14.6 Recommendations for further detailed advice

- Local authority environmental health officers.
- The Safety Assessment Federation (SAFed) for information on competent examiners: www.safed.co.uk
- The Lift and Escalator Industry Association (LEIA) for information on competent maintenance contractors: www.leia.co.uk
- The HSE has information about the appropriate regulations (LOLER and PUWER): www.hse.gov.uk

13.15 Lighting

13.15.1 Primary considerations

When choosing or evaluating the suitability of lighting there are two primary considerations:

- the amount of light provided; and
- the type of fitting used.

13.15.2 Natural and artificial light

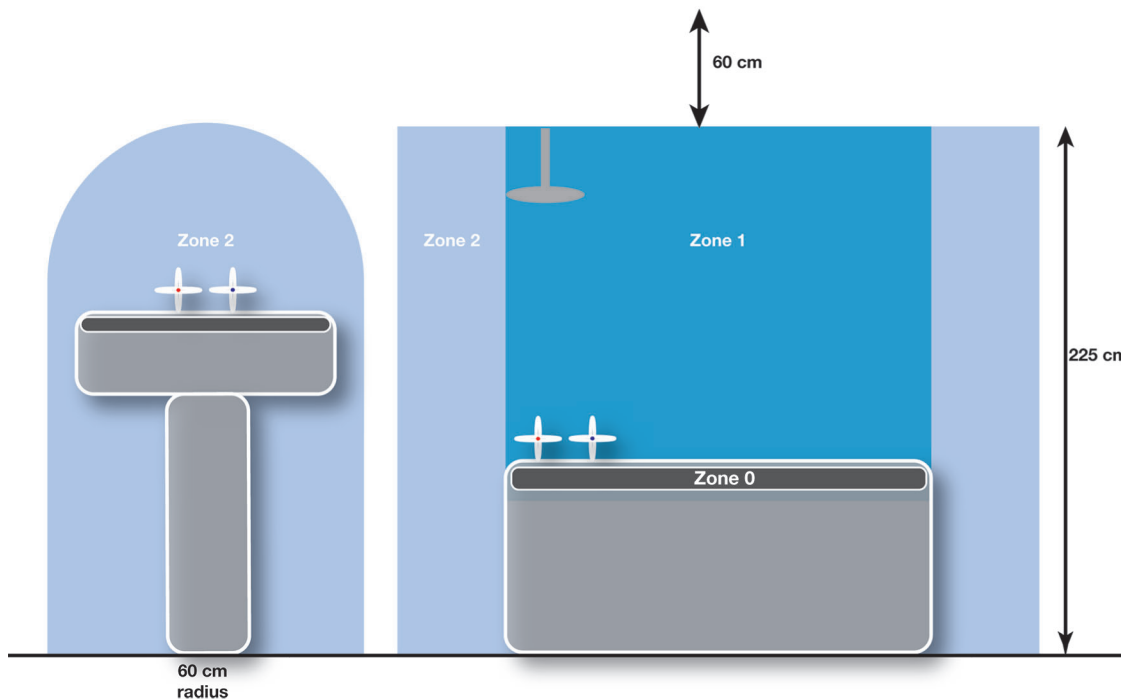
Natural light is important for tenants' well-being. Ideally there should be sufficient natural light from windows to allow normal day-to-day tasks to be carried out without eye strain. Obstructions to windows such as tree branches and foliage should be managed to ensure that a sufficient level of natural light is maintained. There may be particular challenges for basements and attic rooms.

The volume of light (measured in lux) needs to be appropriate for a location's intended use and to indicate relevant hazards. For example, lighting on a staircase or in a kitchen, where knives will be used, is more important than in a corridor. Equally, poor lighting design and placement can create glare, reflection or shadows, which create problems including people colliding when emerging from badly lit junctions, stumbling or falling at an unseen change of level, or tripping over objects left in corridors. Lighting must therefore be appropriately placed, particularly in communal areas.

Generally, within residents' demises fittings are for small enclosed spaces; therefore, it should be straightforward to assess whether lighting is sufficient. There is some useful guidance produced by the Chartered Institution of Building Surveyors (CIBSE) which provides information for non-specialists about lighting for most constituent areas of communal residential buildings (SLL LG9). The HSE also provides guidance.

Fixings must be appropriate to their location. Protection against electric shocks is the primary consideration in bathrooms and other wet areas. These areas are classified in zones depending on the amount of protection needed. Fittings have an ingress protection (IP) rating: the higher the rating, the greater level of protection provided. See Figure 2.

Figure 2: Bathroom zones

**Zone 0**

- Area: Inside the bath or shower cubicle
- IP rating required: IPx7

Zone 1

- Area: The area directly above the bath or shower up to a height of 2.25 metres
- IP rating required: A minimum of IPx4

Zone 2

- Area: Around washbasins; the area directly next to Zone 1; any area more than 2.25 metres directly above the bath or shower cubicle
- IP rating required: A minimum of IPx4

Note: A minimum rating of IPx5 is needed in Zones 1 and 2 if water jets are likely to be used for cleaning. Typically, and for simplicity, when purchasing these fittings the classification will be provided by zone.

13.15.3 Choosing and placing fittings

Always use a competent electrician to fit, repair or replace lighting. Lighting circuits should be installed according to current wiring regulations. When running cables, ensure that any damage to fire-resistant materials or partitions is suitably fire-stopped. If spotlights are used they must have fire-rated caps to stop faults that could lead to fire spreading through a cavity space.

Consider the potential for damage (including deliveries or vandalism) or contact with bulbs. The latter is particularly important when children may be able to reach them.

Freestanding fixtures, such as lamps, should be considered portable appliances and inspected accordingly; see 13.7 Electrical safety.

13.15.4 Emergency lighting

Lighting is important for emergencies such as power failures or fire, when people may need to leave a building quickly. Emergency lighting must be provided and

maintained in communal areas. For more information about this, see 13.9 Fire safety and management.

13.15.5 Practical advice for the implementation of reasonable health and safety management

Lighting is unlikely to give most AST landlords a cause for concern but a few matters should still be considered.

Replacing bulbs: tenants should replace bulbs themselves but there may be circumstances where doing so puts them at risk (e.g. properties with particularly high ceilings or fittings over staircases). If tenants cannot replace a bulb without a significant risk of a fall, landlords should find a third-party contractor to do it, and advise tenants accordingly. If landlords provide a stepladder, it is important that it is checked to ensure it is in good condition. It is not appropriate to ask tenants to change bulbs that require the use of more than a four-step ladder, or on a staircase where they cannot be reached from floor level.

Use of incorrect bulbs: bulbs with a too high wattage can cause units to overheat, leading to fire. Scorch or burn marks on walls or ceilings can indicate this type of fault. Ensure tenants can see the maximum wattage a fixing has been designed for.

Repairing fixings: it is not acceptable for tenants to be left without lighting as this could lead to accidents. Reports of faulty fixings (or bulbs that need replacing but are too high for tenants to reach) need to be responded to quickly. Reports of flickering lights must be treated equally seriously as this can mean a further fault.

Candles: providing candles, even as a temporary alternative to electric lights, is not appropriate because of the fire risk. It may also be wise to restrict or prohibit the use of candles by tenants for the same reason.

When managing blocks, the biggest challenge is often choosing the right level of light for common areas. A common area can be classified as a workplace for some people but following the guidance for lighting in commercial settings may not always be appropriate (and can lead to areas being unnecessarily bright). The decision should be based on assessment of risk. For example, activities carried out by staff in the communal corridors of a block are relatively low risk (e.g. cleaning and minor maintenance) so, where necessary, it is feasible by risk assessment to justify a lower lighting level.

Areas where workplace guides should be strictly followed are:

- reception areas where there are permanent desk-based staff and
- plant areas where contractors are carrying out maintenance activity and need good lighting.

Areas where greater lighting levels or placement of lighting is important include:

- external areas; for example, stairs to basement vaults where lighting may be limited and
- at main entrances for general safety and for security.

13.15.6 External sources of light

When determining lighting levels, consider external sources of natural and artificial light. However, remember that natural light and the amount of secondary lighting sources differ throughout the day (e.g. street lighting). Where natural light is a significant factor, plan commercial and staff activity accordingly or provide extra temporary lighting for significant work (e.g. redecoration works).

External lighting shining into a property, particularly into bedrooms, may cause difficulties for some residents. Where this is identified, landlords should provide black-out curtains or blinds.

13.15.7 Saving energy

To save on unnecessary use of lights and reduce energy consumption, communal area lighting is often on timer switches. When these are used, it is important to make sure that lights will be on for sufficient time. Consider:

- the layout of communal areas and potential for accidents (slips, trips, and falls). This should be properly assessed to determine if timer switches are appropriate
- the placement and visibility of switches so that occupants can turn lights on easily
- the need for sustained lighting for work activity such as cleaning; in this case there should be a means to override timers and
- emergency lighting (see 13.9 Fire safety and management) – this should **not** rely on or be affected by timer switches.

Using motion sensors instead of timer switches is a widely used solution to these problems.

13.15.8 Recommendations for further detailed advice

- The HSE has further guidance on lighting: www.hse.gov.uk/humanfactors/topics/lighting.htm#lighting
- The Chartered Institution of Building Services Engineers (CIBSE): www.cibse.org/

13.16 Lone working

13.16.1 The nature of lone working

The term 'lone worker' can cover a range of people and situations. These can generally be divided into two groups:

- people who are working in isolated locations with no one else present and
- people who are not isolated, but have no direct support.

The emphasis is that lone workers are not necessarily 'alone': they may simply lack support from others. A simple, commonly used definition is those who work by themselves without close or direct supervision.

In a residential setting, lone working typically includes:

- letting agents meeting tenants or prospective tenants
- sales agents showing applicants around properties
- staff travelling to and from properties
- sales or administrative staff left alone in sales offices open to the public
- on-site staff working in isolation for long periods
- on-site staff carrying out manual tasks unaided and
- contractors working unaided, often in isolated areas.

The nature of this work means that the same resources and support may not be available compared to those in an office, for example. Therefore, whether someone is valuing a property for market or manning a reception desk, it is important that extra steps are taken to look after lone workers' safety and that they know how to manage the potential hazards they may encounter. These include:

- no immediate first aid if there is an accident, potentially increasing the severity of an injury

- working in unfamiliar environments where hazards may not have been identified and
- having to move or handle equipment alone.

Furthermore, risks to a lone worker's personal safety, which may not be directly related to their work tasks, are an equally important consideration. These might be:

- a greater risk of personal threat or assault from, for example, false applicants, aggressive tenants or visitors
- lack of support during an emergency (no means of raising the alarm)
- lack of response to a medical emergency and
- reduced social interaction or support during the working day leading to increased stress.

13.16.2 Practical steps to protect the health and safety of lone workers

Not only do employers need to ensure lone workers are aware of and/or can identify risks to their safety and health, they need to ensure, as far as reasonably practicable, that they implement controls and follow procedures independently. The steps that generally need to be considered include:

- carrying out risk assessments for all lone worker activities to identify the hazards they may face and the steps they need to take to control the risks
- providing appropriate and adequate training, not only in relation to the work being carried out but also how to undertake dynamic risk assessments in an isolated environment, identify risks independently and deal with them accordingly
- providing appropriate equipment and other means to allow lone workers to control risks (e.g. PPE)
- formulating emergency procedures for lone workers to follow and training them on such procedures
- ensuring lone workers have the support and advice they need to deal with unexpected hazards
- identifying tasks that are not suitable for lone workers to carry out and inform them accordingly and
- monitoring lone workers' behaviour and practice to ensure they follow procedures.

13.16.3 Risk assessment

Part of any risk assessment process should be considering whether lone working is necessary or whether it can be avoided. Many activities are perfectly acceptable for lone workers, but situations where lone working would not be appropriate include:

- meeting tenants who are known to be aggressive or when there have been previous incidents or complaints
- where keys are being collected from tenants who are reluctant to leave
- where there are known problems with trespassers (e.g. homeless people), or where there is evidence that areas are regularly used for drug abuse

- work requiring the movement of heavy objects and
- any working at height.

It is important that employees do not feel that they will be criticised for not carrying out tasks where they cannot control the risk, or for asking for support from others. Introducing a buddy system among lone workers is a good solution for on-site staff, particularly if there are other blocks nearby where staff face similar difficulties.

13.16.4 Personal safety

The issue that is of most relevance to all lone workers is personal safety. Numerous steps can be taken to assist with this. Personal safety measures do not need to be complicated or intrusive, but there should be clear guidance and procedures for what to do in an emergency and how to help people calling for assistance. Staff should receive specific training about lone worker emergency procedures. As the hope is that the procedures will not need to be used regularly, it is important they are not forgotten – so refresher training should be given regularly.

13.16.5 Communication

Knowing where someone is at any time is essential if emergency assistance is to be provided quickly. For agents, this starts with basic diary management. It is very important that full property addresses and contact details for tenants and applicants are recorded and can be identified by colleagues if someone calls for help or does not return after an appointment. This saves vital time when making enquiries or tracing someone's whereabouts.

It is helpful to ensure that colleagues know how long a person expects to be out of the office. If someone does not return at the expected time other staff may be prompted to phone and confirm there is no problem. It is also advised that, if agents are not returning to their office after an appointment, they notify a colleague that they have finished and are heading home. Otherwise, if an incident occurs, it could be as long as 16 hours before someone is even aware there is a problem. It can also be useful to arrange for someone to contact you if they have not had a phone call by an agreed time.

If staff need to call for assistance, they will need to be able to do this quickly and in some cases discreetly. It is good practice to require lone workers to keep a mobile phone with them at all times and have essential numbers to hand. Most phones allow you to set up quick-dial numbers to save time.

In blocks, on-site staff may not see other work colleagues every day; for example, in buildings that are only staffed during the day. So where there are concerns about personal safety it may be appropriate to introduce a check-in/out procedure which, if not followed, will raise an alarm that something may have happened. Because of the requirements of residents, staffing hours may not correlate with the hours of office-based staff, so remote call centres may need to be used.

Ensure that contractors are not forgotten. Contractors carrying out routine maintenance may be in areas that are

not used by other occupants. If a residential block does not have on-site staff, contractors should be informed so they can assess the lone working risks they will face. Where there are on-site staff, they should confirm with any contractors where they will be working and how long they expect to be. An agreement can be made to check on the contractor after a period of time. Maintaining a sign in/out register is also important for contractors' safety.

13.16.6 Behaviour

People should always be alert for their own personal safety and, particularly in isolated areas, consider how they act and the decisions they make. This includes, for example:

- remaining alert to who is around while travelling, rather than being absorbed in music or on the phone
- walking confidently in unknown areas, avoiding constant references to maps (a clear sign they are alone)
- parking vehicles in well-lit areas
- not leaving valuables, such as expensive phones or tablets, exposed, or leaving them on view in vehicles parked in public areas
- avoiding having vehicles blocked in on driveways
- when showing a property, trying to keep exit routes clear and
- not giving information that implies they are isolated; for example 'it's home to a quiet night in front of the TV after this' or 'I have a long drive home, it will take me several hours'.

13.16.7 Personal safety devices

In the event of a personal assault, staff will need to call for assistance. In some cases, it may be possible simply to shout for help, but not in isolated areas.

A panic phrase is a well-known device for calling for help. It is an agreed message which, if spoken over a phone or radio, will trigger an emergency response. An innocent-sounding phrase should be chosen so as not to draw attention to the fact that it is a call for help. It may not be possible to use this if a situation occurs suddenly, there is no mobile phone signal, or a phone is engaged.

A wide selection of lone-worker devices is now commercially available, which may be more appropriate for some people. These range from simple panic alarms emitting high-pitched sounds to disorientate an attacker, through to alarms that can be activated by a single button which will contact an emergency response centre. The latter is also useful for an injury or medical situation as contacting help is just a button away.

Other physical measures can be taken in residential blocks or sales offices. These include door access controls to prevent unauthorised visitors. CCTV can act as a deterrent, monitoring isolated staff or recording events that can then be used as evidence.

13.16.8 Aftercare

If an incident does occur, whether it is a minor accident or an assault, the impact it may have on the lone worker and others in a similar position must be considered. It is important to review what happened carefully and adjust procedures and controls accordingly. Individuals may need extra support and reassurance before they are prepared to carry on as a lone worker. For instance:

- check if procedures were followed and, if they were not, reinforce them
- ensure others are informed about any revised procedures and why they are being introduced. Carry out additional/refresher training as a matter of course
- if an accident occurred at a property viewing, ensure other staff know where it happened, to inform additional risk assessment and prevent it happening again
- if appropriate, share information with other agents; for example, inappropriate behaviour of people during viewings.

13.6.9 Recommendations for further detailed advice

- The HSE has produced specific guidance for employers to assist with the assessment of risk for lone workers: www.hse.org.uk
- The Suzy Lamplugh Trust is a charity specialising in personal safety advice. It was established in 1986 after Suzy Lamplugh, a 25-year-old estate agent, disappeared when she went to meet an unknown client: www.suzylamplugh.org

13.17 Responsibility for people with disabilities

13.17.1 Legal requirements

European law is increasingly making sure that there is no discrimination against people with disabilities. The term 'disability' has a wide-ranging meaning and includes those with impaired mobility, sight and hearing, as well as those with temporary disabilities (e.g. a leg in plaster/support) which lead to lower levels of general ability. It also applies to people with certain mental health conditions.

Consideration should also be given to elderly people, who may also have a range of physical impairments. If residents include the elderly or very young there may be an enhanced responsibility to ensure their safety on the premises.

The requirement to reduce potential difficulties for less able-bodied people extends to access to public transport, public buildings and common amenities, including shops. It is therefore incumbent on those who provide services, including residential accommodation, to make appropriate arrangements to facilitate the needs of less able-bodied people.

13.17.2 Discrimination

People who consider they have been discriminated against because of their disabilities can take action in law.

Buildings constructed after 2005 should, generally, take into account access and welfare arrangements for those with disabilities. It is common for buildings constructed before this date to have carried out a 'disability survey' or 'access survey' to establish where facilities fall short of common needs. It is not however a legal requirement to carry out such surveys – they are generally carried out if a person makes a specific request or considers they have been discriminated against.

13.17.3 General practical considerations

Several obvious matters that should be considered (this list is not exhaustive):

- **Access:** steps may cause problems for some people. Methods of improving access include:
 - using colour differentiation on step edges (to assist people whose sight is impaired)
 - handrails
 - providing scissor lifts to bypass steps (refer to 13.14 Lifts and lifting equipment) and
 - ramps: consider the gradient and, if outside, whether or not the surface may become unsafe if icy or wet.
- **Car parking (see also 13.1.5 Recommendations for further detailed advice):**
 - provide adequately proportioned and allocated parking bays
 - make the route to/from car parks as short as possible and ensure pedestrian walkways are segregated.
- **Size/proportion of equipment/facilities:** there are many mobility-enhancing machines; for example, wheelchairs and motorised buggies, some of which are quite large, long and/or heavy. Ensure that lifts and ramps can cope with them, including the combined weight of machine and rider.
- **Access doors:** where there are security features to press to gain access or buttons to summon lifts, consider wheelchairs or buggy users who will need to reach them. Similarly, if there are automatically opening doors, ensure there is enough space for them to open without hitting a waiting entrant. For instance, it is unlikely that a buggy user will be comfortable or able to use a rotating door.
- **Toilets and welfare:** consider the access and necessary facilities to enable less able-bodied people to use toilet facilities, wash basins, kitchen and tea- and coffee-making facilities.
- **Assistance in an emergency:** consider how residents may raise the alarm from their room if they have fallen, are injured or need assistance. Be clear as

to whether arrangements with residents include this sort of support and, if not, assist the people concerned in making effective alternative arrangements. In particular, careful consideration is necessary to facilitate the safety of less able-bodied people in the event of a fire. People with impaired hearing may require visual, or possibly vibrating alarms. People with impaired mobility may require a fire warden or 'buddy' to assist their exit. But consideration must also be given to whether or not their egress requirements may obstruct others. It is therefore recommended that there is a personal emergency evacuation plan (PEEP) for everyone with disabilities. In buildings that operate an evacuation strategy, while it may be acceptable to provide 'safe havens' where disabled people can await rescue, there are strict requirements as to how these are selected and/or constructed (e.g. consider adequate protection against fire and smoke, including providing adequate clean air, emergency lighting and the ability to communicate with the outside). Immediate evacuation of everyone, including those with disabilities is far more preferable.

Where there are any fixed alarms (i.e. panic alarms in toilets for disabled people) or other equipment (such as induction loops or the communication between a refuge and security) they should be maintained in accordance with manufacturer's specifications, and tested monthly. Keep records of both maintenance and testing.

13.17.4 Tenants' arrangements

- Be aware of any residents with disabilities. Know the extent of their disability and their specific needs for the property, parking, and access.
- Ensure that all those people with disabilities agree with arrangements for evacuation in the event of an emergency.
- Ensure that any visitors with disabilities are aware of any special arrangements.

If tenants request reasonable adjustments from landlords, they are obliged to consider the request on the following basis:

- Tenants must make the request in writing and get consent to make the change.
- The proposed alteration or improvement must be reasonable. Improvements include:
 - alteration or addition to fittings and fixtures
 - alteration or addition connected to the provision of services to the premises
 - erecting a wireless or TV aerial and
 - carrying out internal or external decoration.

Landlords cannot unreasonably withhold consent, and if they do, they must provide a written statement explaining why. Equally, landlords cannot impose conditions unless

they are considered reasonable. Consent must be provided/withheld within a reasonable timeframe.

In a block, if tenants request adjustments to common areas based on issues relating to disability, the request must not be unreasonably denied. The request should be in writing and subject to consultation with any other relevant person who would be affected by the changes (in Scotland, any person entitled to occupy a tenement). The consultation must take place within a reasonable period.

Note: In this context, common areas are defined as structure, exterior and common facilities used in connection with the tenancy of the building. Refer to leases for any specific elements included or excluded from common areas.

Alterations to a physical feature may not necessarily be considered a reasonable adjustment but the following are **not** classed as physical features:

- furniture, furnishings, materials, equipment, other chattels in or on the premises
- signs or notices
- taps or door handles
- a door bell or door entry system.

After agreeing reasonable adjustments it is strongly advised that rights and responsibilities of the controlling party and individual must then be defined in writing. With regard to cost, it is not unreasonable for the disabled person to be responsible for the cost of the works and other associated costs together with the restoration of common areas if the disabled person leaves.

13.17.5 Recommendations for further detailed advice

- Consult the person concerned directly: they can best explain their specific needs.
- The best place to get advice on specific disabilities will be the specialist charities that support those people affected. It is recommended that you research these charities to clarify specific needs/requests for improvements.

13.18 R22, 'F' gases and ozone-depleting substances

13.18.1 Phasing out of ozone-depleting substances

There are a number of ozone-depleting substances (ODS) that can, typically, be found in older refrigeration, heat pump and air-conditioning systems. These can include temporary installations (such as air-conditioning 'A/C' cartridges) and possibly specialist cooling systems used to cool server/data rooms.

Because of their detrimental effect on the environment and atmosphere these have now been outlawed in many circumstances and are to be replaced with modern, less detrimental, equivalents.

Some equipment may not be able to be converted to the new gases (as they work at different pressures and have other significantly different characteristics to F gas and ODS). These may have to be replaced, thereby potentially incurring significant costs.

UK regulations also require that only specifically certified organisations and personnel are allowed to work with F gases/ODS.

Ensure that any new equipment installed is fully compliant with current legislation.

R22 has been one of the most commonly used refrigerants in the UK. This means the ban on R22 and other HCFC refrigerants may represent a very real business threat, particularly if the systems using these gases are critical to core business operations.

13.18.2 Responsibilities

Responsibility for phase-out varies.

- If the client owns the property that they occupy, the timing and costing of the replacement options are in their own control.
- For refrigeration and air-conditioning systems owned and controlled solely by tenants, in their own occupied demise, depending on lease arrangements, tenants will be responsible for meeting the requirements.

As this is a specialised matter it is highly recommended that expert advice is sought from a suitably competent contractor/consultant.

13.18.3 Recommendations for further detailed advice

- Government guidance on managing F gases and ozone-depleting substances: www.gov.uk/managing-fluorinated-gases-and-ozone-depleting-substances
- Defra: www.defra.gov.uk

13.19 Radiation

13.19.1 Radiation types

Four types of radiation may be encountered while managing property.

- **Microwaves:** as part of the PAT regime for the property, microwaves in common areas and/or as supplied by landlords for AST lettings should be included. After a microwave is five years old there is a common belief that radiation emitted by the device might leak; those carrying out testing should also include a leakage test and mark the equipment to record this has been done.
- **Mobile phone masts (base stations):** most frequently located masts on the rooftops of tall buildings,

there are strict rules about restricting access and warning signage. The radiation produced is non-ionising radiation.

- **Radon:** this is a colourless and odourless radioactive gas formed by the decay of small amounts of uranium that occurs naturally in all rocks and soils. Radon occurs everywhere both indoors and outdoors, but generally at low levels. Public Health England (PHE) has prepared maps of England, Wales, Scotland and Northern Ireland identifying areas/buildings that show high levels of radon and present a possible risk to health.

Radon enters a building through cracks/gaps in the walls and floors during and after construction through the ground. This is because the atmospheric pressure in the building is slightly lower than the pressure in the underlying soil. The radioactive elements formed by the decay of radon can be inhaled and enter your lungs. In the worst case scenario it can lead to lung cancer. Workplaces that may be affected include:

- nursing homes
- residential care homes and
- health centres.

Radon is measured in becquerels per cubic metre of air (Bq/m³). The average level in UK homes is 20 Bq/m³. For levels below 100 Bq/m³, the risk to individuals remains relatively low and is not a cause for concern. PHE recommends that radon levels should be reduced in homes where the average is more than 200 Bq/m³.

- **Ultraviolet radiation from the sun:** the government provides advice on exposure to the sun, particularly for those working in construction. This includes limiting direct exposure and methods of protection.

13.19.2 Practical advice for the implementation of reasonable health and safety management

The consequence of exposure to radiation in harmful quantities is that it encourages the growth of carcinogenic diseases. The risk increases with acute or cumulative exposure and is unlikely to be immediately identifiable.

At any property you should identify any significant sources of radiation. Where satellite dishes (or, on larger properties, mobile phone masts) are fitted on roofs there should be clear signage and access control procedures to prevent people from inadvertent exposure. Where there are specific concerns, seek expert advice.

If you are concerned about exposure to radon, consult the local authority. Monitoring devices can be installed.

13.19.3 Recommendations for further detailed advice

- BRE Group: www.bre.co.uk
- The HSE: www.hse.org.uk

- Public Health England: www.gov.uk/topic/health-protection/radiation
- Public Health England's radon maps: www.ukradon.org

13.20 Security and CCTV

13.20.1 Security: legal requirements

Any personnel employed either directly or via contractors are required, by law, to be licensed by the Security Industry Authority (SIA). There are two types of licence:

- a frontline licence, for security other than key holding. The small plastic licence card needs to be worn so that it can be seen easily; and
- non-frontline licence, which covers supervision of security staff and key holding. A letter rather than a licence card is produced.

Insurance only covers security staff when they are carrying out duties on the site on which they are employed.

13.20.2 CCTV: legal requirements

The use of CCTV is governed by law. There are two basic considerations:

- whether or not the CCTV is collecting images of the general public going about their lawful business, which is not allowed and
- whether the CCTV is used only to control various entrances to a property and the common areas in that property. This is subject to appropriate training of those responsible for monitoring the images and managing the data recorders.

It is a requirement under law that CCTV procedures and data handling is monitored and audited regularly. Where CCTV equipment covers private areas (e.g. residential flats) the equipment must be set to 'blurry' when sweeping these sensitive areas.

Signs should be clearly displayed so that people are aware that they are in a CCTV area. Signs should include the following information:

- the identity of the person responsible for the scheme
- the purpose of the scheme; that is, the reason for the CCTV
- details of who to contact about the scheme if the location does not make it obvious and
- if the CCTV is there to monitor a specific criminal activity, this must be declared; for example, 'Thieves will be prosecuted'.

Images should not be kept for longer than is necessary to fulfil their purpose and should be disposed of responsibly. If the images are not clear they can be edited to make them clearer.

All recorded information is protected under the *Data Protection Act 1998* and care should be taken to keep this secure when it is needed for the accident claims/police or local enforcement investigations.

13.20.3 Practical considerations

Ensure that, where CCTV is used, there is clear signage displayed explaining why it is being used (see 13.20.2 CCTV: legal requirements).

Restrict access to CCTV footage: only those registered with the company supplying the equipment should be able to view it. Release of CCTV footage should only be through a paper audit trail. Include the testing of the equipment in line with normal building electrical testing.

13.20.4 Recommendations for further detailed advice

- *Private Security Industry Act 2001*: www.legislation.gov.uk/ukpga/2001/12/contents
- Information Commissioners Office: <https://ico.org.uk>

13.21 Signage

13.21.1 Health and safety signage

The purpose of health and safety signage is to warn people about a hazard or to inform and/or instruct them about action that must be taken. In some circumstances it is a legal requirement to reinforce safety measures with signage. When it is used, it must be clearly visible and of an appropriate type. There is no value in putting a no smoking sign on the side of a pillar that no one can see, or using typed black and white notices that get overwhelmed on noticeboards.

There are five main categories of statutory signage:

- prohibition signs: indicated by a red circle
- mandatory signs: white circles with blue images/backgrounds
- warning signs: yellow triangles with black images and borders
- emergency escape and first-aid signs: green with white text and symbols and
- chemical hazard signs: orange with black symbols.

These signage types conform to UK and European standards, ensuring familiarity and understanding by the largest possible demographic. There are some small variations between UK and European signs, the most common being that emergency escape signs in the UK use a white man on a green background while European ones have a green man on a white background. Standards also change from time to time. Where this does occur, it is important that signage throughout a building is consistent.

It is also important to remember that residents who speak English as a second language may struggle to understand signs that are text-heavy. Very few people stop to read significant amounts of text, so keep signs simple with a greater reliance on symbols.

Considerations for people with disabilities are also important, including colour contrast relative to background,

reflection, height and size. These are also relevant to other general signage such as way-finding.

All signage should be well fixed and sufficiently durable. External signs need to be more robust than those used inside. When signage fades, it will need to be replaced. From time to time, signage may also need to be removed, for example during repair and refurbishment. It is very important to ensure that it is put back promptly or, where necessary, that temporary signs are displayed.

13.21.2 Practical implementation advice

In a residential setting, the balance between providing necessary information and retaining an appropriate environment can be challenging. Too few signs may be a breach of legislation; too many may result in an overwhelming amount of information that simply gets ignored or dissatisfies residents.

Residential property is likely to need minimal signage. The signage needed will depend how familiar occupants are with their environment. Flats may not need to display any signage at all. However, this will not be the case for common areas of blocks where it is important to account for visitors and contractors. Ultimately, decisions need to be based on risk, ensuring there is sufficient information for emergencies and so that people do not come to harm.

Areas and situations that commonly need signage include:

- **Electrical hazards:** typically signage is required on fuse boxes, panels concealing electrical units or electrical risers. In common areas signage is needed on electrical cupboards, in meter rooms and plant rooms. Information about how to deal with injury from electricity must also be displayed.
- **Asbestos-containing materials:** these must be labelled to warn of their presence and prevent disturbance during maintenance or repair work.
- **Roofs:** signage prohibiting roof access, including access into loft spaces, is often appropriate. Further signage may be required on roofs, for example, to denote unprotected edges or trip hazards.
- **No smoking signs:** these are typically expected in the entrance to common areas and must comply with specific requirements.
- **Changes of level:** warning of sudden steps, slopes, low ceilings, beams or pipes may be necessary to prevent injuries.
- **Exteriors:** keep clear or no parking signs may be necessary to keep access and escape routes clear.
- **Windows:** warning signs may be necessary where there is a risk of falls and/or windows cannot be locked or restricted.
- **Hot water:** caution signs may be appropriate on taps or showers for properties provided predominantly as sheltered accommodation, for older people or people requiring care.
- **Fire emergency:** overuse of fire signs is a common frustration in residential blocks. However, directional signage to aid a means of escape is essential in

common areas where there are alternative directions of travel, areas that are infrequently used (e.g. storage and plant areas) or secondary means of escape. Provisions for emergency services should also be clearly marked.

- **Evacuation instructions:** signage showing the actions to take in a fire must be provided to residents of blocks. Typically this will be in the form of a fire action notice. It may not be necessary to display these on every floor if the building's layout is simple (in some cases notices at exits is sufficient). Where occupancy turnover is particularly high, landlords may choose to display notices in flats (this is rare).
- **Fire extinguishers:** where these are provided, signs should show the location and the type of extinguishers. While an extinguisher itself may be obvious, signage clearly indicates when they are missing and what type they are (to prevent incorrect use). If extinguishers are not easy to locate they should be marked by further signs.
- **Lifts:** provide instructions in the case that the lifts fail. In modern lifts these may often be pre-printed on internal panels. It is advisable to put up signs indicating that you should not use lifts in the event of fire.
- **Basements:** in blocks, basements with common plant should be treated as commercial areas. Rooms are likely to require specific signs depending on their use. You may need additional escape signage for contractors.

The above list is not exhaustive and there are likely to be other situations where signage is required, perhaps only on a temporary basis. This may include:

- during cleaning, to indicate wet floors or trailing cables
- during maintenance work
- where tenants repeatedly ignore requests; for example, they are blocking secondary escapes or leaving bikes in common corridors and
- marking areas of damage or faulty equipment until repairs can be made.

Whenever temporary signs are used it is important that they are removed when they are no longer required. Signs that are left out unnecessarily will reduce the impact of other, relevant signs.

Where there is a necessity or desire to minimise the amount of signage used, tenants' handbooks, information leaflets or letters can be used as an alternative. This is particularly relevant to landlords of short-term tenancies where the use of signage in a flat is inappropriate. These methods are particularly useful for communicating specific information such as fire evacuation procedures, areas of restricted access (e.g. during refurbishment projects) and/or to remove the reliance on a block landlord or residents' association to maintain information in common areas. A similar approach can be adopted by block landlords when they need to provide information to contractors.

13.21.3 Recommendations for further detailed advice

- Further detail about the type and design of signs to be used to indicate specific hazards are widely available, including from the HSE website: www.hse.org.uk
- Block managers should take advice from their fire risk assessor about the extent of fire and escape signage required.

13.22 Smoking

13.22.1 Compliance with legislation

Legislation in the UK forbids smoking inside commercial premises and outside anywhere where the smoke may find its way back into the building. Signage should be displayed outside entrances to premises warning against smoking just outside the entrance.

People are allowed to smoke inside their own homes, so warning notices in residential shared premises should read 'No smoking in common areas/landlord areas'. This should be policed and tenants reminded that, in premises where balconies may be used as alternative fire routes, these constitute common areas.

In residential shared premises, an outside designated smoking area should be agreed and communicated to people using/visiting the building. Wall-mounted ashtrays can be used if they are located away from building openings (i.e. doors/windows).

There are regulations for the construction of smoking shelters and care must be taken in their placement: erecting them adjacent to walls may contravene these requirements. Care should also be taken not to site these areas in close proximity to external plant rooms. This is policed by local authorities and there can be on-the-spot fines for non-compliance.

13.22.2 Practical advice for the implementation of reasonable health and safety management

As smoking is allowed in residential premises (in tenants' areas), it is prudent to install a heat detector that is linked to the fire alarm panel. This will both give others an early warning of a fire and activate building smoke vents if appropriate. If flats are individually compartmentalised this is not an issue, but if they are not, then the need to evacuate others who may be affected by a fire emergency is more immediate.

Where smoking is allowed in a designated area, arrangements should be made to keep it clear of tobacco litter.

The use of e-cigarettes has dramatically increased recently. There is growing evidence that using incorrect charging apparatus has caused fires and explosions. It is advised

that a policy is distributed to all occupiers about the use, and in particular the charging, of e-cigarettes. The use of e-cigarettes by staff is a matter for company policy.

13.22.3 Recommendations for further detailed advice

- Local authorities are responsible for the enforcement of contraventions to smoke-free regulations and can be contacted for further advice.
- See also www.smokefreeengland.co.uk

13.23 Statutory energy and air conditioning

13.23.1 General compliance with changing requirements

The international initiative(s) to address the risks of global warming includes both the pursuit of energy conservation and the control of materials that could (or do) contribute to global warming. Below are some fundamental matters that all property owners need to understand and address as appropriate to their portfolio.

In the event that a residential property has significant air conditioning and/or refrigeration assets, it is recommended that further advice is sought from experts. Legislation and associated best practice is developing fast and the consequences of any breaches of the law can be significant.

13.23.2 R22

R22 is a refrigerant gas (also known as a fluorinated or F gas) that was commonly used in air-conditioning systems in the past. However, R22 and other HCFCs have been proven to be detrimental to the environment as they deplete the ozone layer, leading to excessive UV levels (see 13.18 R22, 'F' gases and ozone-depleting substances).

The use of virgin HCFCs was prohibited in the maintenance and servicing of refrigeration and air-conditioning equipment from 1 January 2010. Use of recycled HCFCs was permitted until 1 January 2015 when they were also prohibited. All systems containing such substances should now have been modified or replaced.

From 4 July 2011 all personnel working on F gases have been required to have one of four levels of specific qualification, appropriate to their activities.

See also 13.18 R22, 'F' gases and ozone-depleting substances.

13.23.3 Air-conditioning system inspections

The *Energy Performance of Buildings (Certificates and Inspections) (England and Wales) Regulations 2012* require inspection of all air-conditioning systems with rated outputs of more than 12kW at least every five years. The work must be carried out by an accredited energy assessor.

Having air-conditioning systems inspected by an energy assessor is designed to improve efficiency and reduce electricity consumption, operating costs and carbon emissions. Energy inspections will highlight improvements to the operation of existing systems or opportunities to replace older, less energy-efficient or oversized systems with new energy-efficient ones.

If the person in control of the air-conditioning system changes, and the new person in control is not given an inspection report, the new person must ensure that the air-conditioning system is inspected within three months of the day that they take control of the system.

Trading standards are responsible for enforcing requirements relating to air-conditioning inspection reports. They may request a copy of an air-conditioning inspection report, and this must be provided within seven days. A penalty charge notice may be issued to a building owner or manager for a failure to commission, keep or provide an air-conditioning inspection report.

13.23.4 Wet cooling towers and evaporative condensers

Some air-conditioning systems incorporate wet cooling towers that require a monitoring regime (as shown in *Legionnaires' disease: Technical guidance: Part 1: The control of legionella bacteria in evaporative cooling systems*).

13.23.5 Notification of cooling towers and evaporative condensers

The Notification of Cooling Towers and Evaporative Condensers Regulations 1992 require the notification of wet cooling towers and evaporative condensers to the local authority in whose area the equipment is situated. The information is held on a register that is available for public inspection. The main purpose of this requirement is to assist enforcing authorities in preventing outbreaks of legionella.

13.23.6 Air-conditioning systems: general maintenance

Air-conditioning systems may be subject to a regular planned maintenance regime under the *Provision and Use of Work Equipment Regulations (PUWER) 1998*. The frequency of maintenance inspections depends on the system installed.

13.23.7 Energy performance certificates (EPC) and display energy certificates (DEC)

From 9 January 2013 the following changes applied to energy performance certificate regulations (to comply with the EU Energy Performance of Buildings Directive):

- **England and Wales**

The full EPC front page no longer needs to appear on marketing materials. If there is space the A–G graph should be included, and, as a minimum, the actual

EPC rating number and band must be shown. The EPC must be shown to any person buying or renting a property.

Buildings over 500m² frequently visited by the public must display a valid EPC that is clearly visible. (This only applies to buildings where an EPC has been produced.)

Buildings over 500m² occupied by a public authority and frequently visited by the public must show a DEC that is clearly visible. This DEC is valid for 10 years (unlike those for public buildings over 1,000m² which are valid for one year).

Buildings and monuments officially protected as part of a designated environment or because of their special architectural or historic merit no longer require an EPC, in so far as compliance with certain energy efficiency requirements would unacceptably alter their character or appearance.

All property EPCs carried out in England must be logged and made available on the official National EPC database, which is searchable by postcode.

- **Scotland**

If a building, or part of a building, for sale or let is advertised in a newspaper or a magazine, or in an advertisement transmitted electronically (including via the internet or in written particulars), all those forms of advertising must clearly state the energy performance rating of the property.

A recommendations report has to be made available to prospective purchasers and tenants. That report must include detailed information on the cost-effectiveness of the recommendations for improvement made in the EPC to which it relates.

The EPC must also be displayed somewhere in the property (e.g. by a boiler or meter).

On 26 March 2015, the *Energy Efficiency (Private Rented Sector) (England and Wales) Regulations* became law, covering both domestic and non-domestic buildings, unless they are specifically listed as excluded. The regulations are better known as the minimum energy efficiency standards (MEES).

The MEES is set at an 'E' EPC rating and most landlords will have to bring their properties up the minimum standard.

Regulations

From 1 April 2018 the regulations will be enforced upon the granting of a new lease (as well as lease renewals). Therefore any new lease granted from this date must meet this minimum standard.

From 1 April 2023, the regulations will apply to all privately rented property in scope of the regulations, including where a lease is already in place and a property is

occupied by a tenant. Therefore all privately rented properties must meet the minimum standard by 1 April 2023.

Exceptions

The regulations will exclude from this definition any property that is let on a tenancy which is granted for a term of 6 months or less and any property let on a tenancy for 99 years or more.

All non-domestic property types are in scope of the regulations, except for those specifically excluded from existing Energy Performance Certificate (EPC) obligations, as set out in the EPC regulations, such as listed buildings.

The regulations apply to sublets.

Landlords

Landlords will be given an extension of six months from the date of the grant of the tenancy before they are required to comply with the regulations.

Where a non-compliant property occupied by a tenant is sold, the new landlord will have six months to improve the property, or seek to demonstrate an exemption applies.

For more details and further information see www.legislation.gov.uk/ukdsi/2015/9780111128350/contents

13.23.8 Practical advice on cooling towers and evaporative condensers

- Review and replace: weekly, monthly and quarterly in accordance with Table 1 of Legionnaires' disease. The control of legionella bacteria in water systems: Approved code of practice and guidance.
- Test the microbiological quality using dip slides: weekly in accordance with Table 2 of Legionnaires' disease. The control of legionella bacteria in water systems: Approved code of practice and guidance.
- Test the:
 - central control function
 - conductivity sensor calibration
 - blowdown function
 - uniformity of water distribution
 - condition of sprays/troughs
 - eliminators
 - pack
 - pond
 - immersion heater
 - fans and sound attenuators

monthly to three-monthly, according to the risk as assessed in Table 1 of *Legionnaires' disease. The control of legionella bacteria in water systems: Approved code of practice and guidance*.

- Every six months, clean and disinfect:
 - cooling towers/evaporative condensers
 - make-up tanks and associated systems, including all wetted surfaces, descaling as necessary.

Packing material in the cooling towers should be removed and cleaned where practical.

13.23.9 Recommendations for further detailed advice

- Seek expert advice from appropriate mechanical and electrical contractors or energy consultants.
- Impact assessment on the recast Energy Performance of Buildings Directive: www.gov.uk/government/publications/improving-the-energy-efficiency-of-our-buildings
- The national EPC database: www.epcregister.com
- Scottish legislation: www.legislation.gov.uk/ssi/2012/208/made
- *Legionnaires' disease. The control of legionella bacteria in water systems: Approved code of practice and guidance*: www.hse.gov.uk/pubns/books/l8.htm
- Also see 13.25 Water hygiene management.

13.24 Waste management

13.24.1 Waste regulations

There are a number of (UK/EU) regulations that deal with the management of waste. Which of the regulations apply to each property (if any) will depend on the type of waste and the amount of each category produced. For example:

- waste suitable for recycling
- hazardous waste
- building site waste
- clinical waste and
- waste electrical and electronic equipment (known as WEEE).

Different types of waste need to be handled and disposed of in accordance with different regulations and in many cases need to be finally disposed of using suitably licensed facilities. It is therefore recommended that expert opinion is sought for larger establishments to develop a waste management strategy.

Where you employ cleaning contractors, ensure they are appropriately trained to handle the types of waste you may reasonably foresee being produced from your property(ies), and that they are appropriately insured.

In the UK, if you collate waste for others (i.e. you are responsible for collecting the waste of a number of tenants

into one place) you may be required to register as a waste broker or carrier: refer to the (UK) Environment Agency for details.

In larger premises it may be necessary to compact the waste using a purpose-made waste compactor. Where these are in use, you need strict policies and procedures. These should include placing the equipment behind a locked barrier and restricting unauthorised access. It will be necessary to carry out a specific risk assessment to operate the machinery, and strictly follow manufacturers' recommendations to produce a safe system of work for operators. Specific training on such a system should be implemented before using the machine and there should be regular refresher training.

Wherever waste is collected, ensure that it is not stacked against a property's wall, posing a potential risk of arson/ fire: it should be collated and locked away safely.

Where wheelie bins or other containers are used (e.g. skips) these should be locked and regular checks should be made to ensure that no one has taken refuge inside. Care should be taken because there have been several fatalities where people were trapped inside a bin that was emptied into a compactor waste removal truck and they were subsequently crushed.

Keep all waste collection areas clean and disinfected. Ensure that the waste is not accessible to rodents or ensure that there is appropriate rodent control.

13.24.2 Waste contractors

Ensure that the organisation contracted to remove and dispose of waste is appropriately licensed; this includes organisations employed by local authorities. It remains the producer's responsibility to ensure the waste is treated and disposed of in accordance with the law.

Every waste contractor should be able to provide the owner with a duty of care notice, effectively accepting their legal responsibilities in relation to the waste disposal contract. They should also issue a transfer note providing a legal record that they have picked up consignments of waste and how they will dispose of it. Records of transfer notes must be retained.

Any commercial waste must be separated from residential waste and collected by a licensed contractor (or taken to a waste transfer centre and declared as trade or commercial waste). Waste from refurbishment work must also be separated and will not be accepted in regular collections.

Tenants are expected to adhere to local authority requirements for recycling or waste disposal. Landlords inform tenants about this, particularly for short-term AST lets. So long as this information has been provided it is reasonable for landlords to expect tenants to cover any fines from the local council for non-compliance (e.g. leaving waste bags on the street rather than in bins provided).

Some councils will not collect waste from underneath scaffolds. If works are taking place at a property that prevent regular collections, you may need to make alternative arrangements.

13.24.3 Practical considerations

Review the type of waste you are likely to produce from the property (e.g. clinical waste may include sanitary towels, etc. from toilets).

Ensure that you select an appropriate waste disposal contractor who is licensed to deal with the types of waste you anticipate. Check their licences and ask them to report regularly on any volumes of recycled waste they dispose of for you.

Look for opportunities to recycle waste. Clean, recycled waste may have a cash value: check the requirements/opportunities with your waste disposal contractor.

Be very careful how and where you store waste. Lock any containers to prevent access, and ensure that there is no increased risk of arson/fire.

Ensure that waste collection areas, compactors and bins are cleaned to deter rodents, disease and insects.

Ensure that all staff (or cleaning contractors) who handle waste are appropriately trained: this may include the risks associated with the handling and disposal of sharps. A full risk assessment relating to the management of waste should be carried out.

It may be appropriate to develop a waste management policy to include the local rules for your tenants, which could be included in their tenants' handbook.

13.24.4 Recommendations for further detailed advice

- Government guidance: *Waste and recycling* www.gov.uk/government/policies/waste-and-recycling
- Health and Safety Executive: www.hse.gov.uk/waste/
- Environment Agency: www.gov.uk/government/organisations/environment-agency

13.25 Water hygiene management

13.25.1 Legionella risks

This topic mainly deals with managing the risk from legionella contamination. Legionella bacteria (*legionella pneumophila*) are naturally occurring bacteria that live in water sources and sometimes enter domestic supplies. The temperature of water stored in one location for a long period may encourage bacteria to grow (the hazard band is between 20°C and 45°C). If sediment, rust, sludge or scale is in the system, this feeds the bacteria. The risk of illness comes from airborne bacteria in water droplets that are then inhaled. The result is legionnaires' disease, a form of pneumonia, which can be fatal. Lesser forms of the illness include Pontiac fever. Other general symptoms can occur including, among others, a dry cough, high fever, chills or difficulty breathing.

Legionnaires' disease is a risk for everyone, although more at-risk groups include smokers, diabetics, alcoholics and others with suppressed immune systems.

Other risk factors also exist: the introduction of any harmful bacteria or chemical into a water system used in a residential property is a potential risk to occupants through illness or reduced water quality.

13.25.2 Landlords' duties

Landlords have a duty to ensure there is a constant wholesome supply of water at adequate pressure. This includes hot, cold and drinking water. Pressure must also be sufficient for appliances (i.e. washing machines, showers, etc.). When water comes direct from a mains supply, other than providing a means of heating water (for sinks, baths, showers, etc.), minimal steps are needed to effect good control.

If water is held in storage before it reaches tenants it should not adversely affect the quality of the water. Flats may be served by individual water tanks, or water may be drawn from a common system. In the case of the latter the block manager is responsible for ensuring suitable quality water is delivered to tenants at an appropriate temperature (their responsibility only extends to where the system enters the tenanted demise). AST landlords should take reasonable steps to satisfy themselves that the block manager has a suitable management regime.

As with many health and safety-related regulations, employers have to designate and identify an appointed person. They will be responsible for ensuring there are active operational management systems to control water hygiene.

Any water systems containing water that is likely to exceed 20°C in temperature and which may release a spray or aerosol should be considered a risk for legionella exposure. The appointed person will need to understand the exact and complete layout of the water supply throughout the demise. As water tanks may be in roof voids or on roofs this may not always be straightforward. In some cases, tanks serving multiple flats may be in areas that can only be accessed through a tenanted demise: this will also have implications for ongoing monitoring and maintenance. This may include confirming that the incoming supply is fed from the public mains.

Note that, if the water comes from a private supply (e.g. a borehole or a private piping system leading from the public main that supplies, for instance, an estate that is under the ownership and responsibility of the landlord), the private main will be subject to the full remit of water hygiene management regulations just as the residential property is.

While it is important that hot water is heated to sufficient temperature to prevent bacterial growth, scald risks must also be considered. Hot water should be heated to at least 60°C but delivered between 50°C and 60°C. To avoid scald risks, tenants should have an element of control over temperature. Where water is heated in the flat, providing it is capable of delivering the correct temperature, landlords

will have fulfilled their duty. It would be unreasonable to find landlords at fault if tenants adjusted the hot water heating control. Where accommodation is used for sheltered housing, students or holiday lets, it may be necessary to restrict the delivery temperature, particularly on showers or baths, to as low as 44°C.

13.25.3 Monitoring and risk assessment

The primary controls for water hygiene are temperature and circulation (turnover). Agents/landlords for an AST property will generally be able to ensure these are in place without additional support. However, managers of common water systems will require a water monitoring regime, normally implemented by a water hygiene management company, to regularly confirm water quality. The monitoring regime should be based on the findings of a risk assessment and should follow the requirements of the *Legionnaires' disease. The control of legionella bacteria in water systems: Approved code of practice and guidance*.

Unless a common water system is particularly straightforward, it is advised that a competent third party carries out risk assessments. These should then be reviewed at least every two years to assess the effectiveness of the monitoring regime, or following any significant changes to the water system. Where a higher risk is identified by the risk assessment it may be appropriate to have more regular reviews or an audit.

13.25.4 Cold water tanks

- Tanks should be:
 - made of materials that will not affect the quality of the water
 - covered to prevent access to mice, birds and insects. Lids should be close-fitting and vermin guards may be required and
 - insulated to ensure water remains at a suitable temperature (less than 20°C or, as a minimum, at the incoming temperature (mains water may be above 20°C in summer)).
- Water should appear clear with no obvious film on top as this may indicate insufficient turnover. The amount of stored water may then need to be reduced; generally tanks should not be designed to hold more than one day's supply of water.
- There should be no, or only a small amount of, sediment in the bottom of a tank and no signs of mould or spotting beneath the water line.

Agents should satisfy themselves that tanks are in a suitable condition and unlikely to be disturbed. Tanks in poor condition or containing large quantities of sediment should be cleaned and disinfected or, if severe, replaced. Further checks may then be needed to ensure quality is maintained. Chemicals used for disinfection should be applied by a qualified company and should not adversely affect further use of the system.

Tanks forming part of a common system should be monitored at least every six months. Where there are

concerns about water quality, samples should be taken to confirm the presence of legionella or other harmful bacteria and action taken accordingly based on specialist advice. Water tanks do not need to be routinely disinfected.

Tanks may be in loft spaces or on top of roofs, so it is important to ensure there is safe access and any risk of falls is controlled. There should be little requirement for a tank providing a single flat to be disturbed during day-to-day usage. The potential for disturbance of tanks should be considered before any maintenance activities.

13.25.5 Hot water systems

If hot water is provided via a common system or held in storage, consider the following:

- unless the water is to be directly reheated, hot water should not be stored below 60°C
- it should not be possible for heated water to feed back into a cold water storage system
- maintenance of common heating systems is essential, normally requiring monthly maintenance and temperature monitoring. Sampling is advised where there are concerns about maintaining water temperature and
- calorifiers require an annual blow down to prevent excessive build-up of sediment.

There is no requirement to routinely test the quality of water in closed heating systems where individual exposure through day-to-day use is not a risk. However, the build-up of contaminants such as sediment and rust, may, over time, reduce the effectiveness of the heating system. The temperature to which any water is heated should provide sufficient control of legionella for any storage vessels, maintenance activities or emergencies; for example, leaks.

13.25.6 Taps, showers and other outlets

Outlets that produce water spray are a particular hazard for exposure to legionella. Cleanliness is important as water may sit and then cool in the immediate pipework, and scale that may encourage bacteria growth can build up on the outlet itself – the perfect combination for legionella growth.

- In a tenanted property, cleaning will be the responsibility of the tenant. It is advised, however, that shower heads and taps are checked between tenancies and cleaned/disinfected if they are in poor condition (a household cleaning product can be used).
- Where there are communal showers in a block, they should be cleaned and disinfected as required, but as a minimum, quarterly.
- Any communal outlets that are used infrequently will create a 'dead-leg' (redundant pipework where water may sit undisturbed and fall into the temperature hazard band for legionella) so should be flushed weekly to encourage turnover.
- Hot water temperature delivery may need to be restricted in some circumstances. Installation of

thermostatic mixing valves is another alternative to control delivery temperature.

- It may also be appropriate to provide general guidance to tenants about keeping outlets clean and, if left unused for more than one month, flushed before first use. Some systems may include water softeners or filters to improve water quality. These are likely to require periodic maintenance.

13.25.7 Alterations to water systems

Over time, alterations to water systems can leave dead-legs. If this water contains legionella bacteria, these may proliferate and then feed back into the main system. When making any alterations to water systems or pipework it is important to avoid creating dead-legs, or other problems that will affect water quality.

- Redundant pipework should be cut back as close to any active pipework as possible.
- In blocks, if not already fitted, the installation of non-return valves between the common system and a tenanted demise is advised.
- Any fittings used as part of a water system must comply with the *Water Supply (Water Fitting) Regulations* 1999.

13.25.8 Vacant apartments

Flats left vacant for long periods can pose a particular problem in residential blocks that have common water systems. Not only will overall water turnover be reduced but the whole flat will become a dead-leg, and therefore a potential source of contamination for the entire system. Where this is known to be an issue, a management plan should be prepared to minimise the risk.

- Where flats are untenanted, agents should agree with the landlord that they will flush the outlets monthly.
- Block managers should consider making arrangements with tenants who regularly leave their flats vacant (i.e. non-domicile) to carry out flushing monthly.
- Where problems persist, agreements should be made with the occupier about the necessity to install non-return valves or isolation valves.

If a vacant flat is the source of a contamination problem, but access cannot be obtained to flush that system, then the whole common water system will have to be disinfected. Water quality will need to be monitored during the vacant period to make sure the problem does not recur.

13.25.9 Recommendations for further detailed advice

The preceding sub-sections focus on the controls necessary for typical residential systems with little complex plant. Further specialist advice should be sought for any water system incorporating one of the following:

- water systems incorporating a cooling tower
- water systems incorporating an evaporative condenser

- hot and cold water systems
- spa pools (also known as whirlpool baths, hot tubs and spa baths)
- humidifiers and water misting systems
- high-pressure water cleaning machines.

Specialist advice is recommended where repeated problems with water quality occur as a chemical dosing system may be required (but note that additional chemical risks may then be introduced).

It is recommended that any company appointed to carry out water hygiene monitoring, management or risk assessment is approved by, and a member of:

- the Legionella Control Association
www.legionellacontrol.org.uk and/or
- the Water Management Society, www.wmsoc.org.uk

See also: *Legionnaires' disease. The control of legionella bacteria in water systems: Approved code of practice and guidance*: www.hse.gov.uk/pubns/books/l8.htm

13.26 Safety and use of solid/multi fuel burners and wood pellets

13.26.1 General safety considerations

The calorific value (heat produced) by burning mineral fuels, such as anthracite coal, is about four times that of wood burning. Softwood tends to light and burn faster than hardwood (because of its resin content). A typical three-bedroom house burning hardwood only will take some 10–12m³ of wood per annum. Wood pellets are a common source of fuel; however, storage of these needs care because they produce carbon monoxide while decomposing (see 13.26.3 Carbon monoxide).

Chipboard, plywood and MDF should not be burned as they have chemical binders and adhesives that could produce emissions that adversely affect the inner surface of the chimney. Tanalised timber contains arsenic and therefore should not be burned either.

13.26.2 Storage of materials

It is very inefficient to burn unseasoned wood as much of the heat will be required to drive off excess moisture in steam – about three times as much unseasoned wood is needed to gain an equivalent amount of heat from properly seasoned wood, and serious damage can be associated with condensation of steam in the chimney.

Storage should be dry and well ventilated (on two sides at least). Where a confined space is used take care to ensure safe access/egress. Green hardwood needs about three years (green softwood about two years) to season and thus long-term storage should be considered if required.

13.26.3 Carbon monoxide

Carbon monoxide (CO) poisoning from wood pellet storage areas has caused fatalities. Pellets no more than six weeks old will produce more CO than older pellets. More CO is produced where storage temperatures are raised. Pellets made from pine produce more CO because they have more unsaturated fatty acids. CO levels will also rise with the amount of oxygen, the more pellet surface area is exposed and the amount of mechanical abrasion that has affected the pellets.

Users of pellets should refer to the health and safety information in the materials Safety Data sheet that should be available from the supplier. Where bulk storage is required, warning notices, (such as 'Danger – risk of carbon monoxide poisoning') should be placed at appropriate places such as entrances. It is therefore highly recommended that carbon monoxide detectors are installed. This is mandatory in the UK when installing new solid fuel burning appliances.

13.26.4 Chimney sweeping and burner maintenance

All chimneys should be swept at least annually, although typically those with wood burning stoves should be cleaned six-monthly. A sound, unrestricted (clean) chimney is essential to the safe operation of a burner. If using solid fuel the ash pan should be emptied daily (being careful to ensure there are no hot embers in the residue). Boiler flues should be cleaned weekly and any ventilation requirement for the burner should be checked very regularly to ensure the vents are not blocked or obstructed (thus ensuring effective combustion of the fuel). The throat plate should be removed and cleaned monthly. It is best practice to carry out smoke evacuation checks on chimneys and flues after chimney sweeping to ensure that they are left in a safe working order.

The responsibility for the maintenance of solid fuel (fire) appliances and chimneys (flues) to expel dangerous gases is the landlord's, in the same way a gas system would be. This includes ensuring that the:

- fire appliance (stove) is fit for purpose and well maintained
- flue is clear and unobstructed to carry poisonous gases away
- property has an adequate ventilation system appropriate to the stove
- appropriate smoke and carbon monoxide alarms are fitted.

However, tenants do have some responsibility, for instance to:

- help look after a fire appliance/stove if they are using it
- use a solid fuel heating appliance in line with the manufacturer's instructions (provided by the landlord)
- use only appropriate fuels for the fire/stove/appliance
- inform the landlord as and when defects arise

- ensure smoke/carbon monoxide alarms are tested regularly and, where necessary, batteries replaced
- ensure the landlord or letting agent has the chimney swept and stove serviced at least yearly, for their own safety.

13.26.5 Effective burning

Burning in a stove/burner is controlled by the primary and secondary air supply: refer to manufacturer's recommendations.

Visible smoke from the chimney is evidence that wood is being burned ineffectively. Ineffective burning will create unburnt hydrocarbons and thick smoke and tarry deposits in the too-cool chimney.

13.26.6 General health and safety advice

Use of solid fuel means that fire will be present, therefore all common precautions in relation to fire safety should be considered, such as:

- Do not leave the doors of burners open.
- Do not leave open fires alight at night or when unattended.
- Do not cover any burner because of the risk of:
 - whatever is covering the burner catching alight and
 - ventilation being blocked.
- Ensure that children and animals do not get too close in case they get burned.
- Ensure that carbon monoxide and fire detection systems are installed appropriately.
- Do not stack extra fuel to replenish the fire beside it.
- Ensure the equipment and chimney are kept clean and swept.
- Be careful when moving the ash pan: the ash may be very hot, take care where you store or dispose of the ash.

13.26.7 Recommendations for further detailed advice

- Solid Fuel Association: www.solidfuel.co.uk
- Health and Safety Executive: www.hse.gov.uk
- The Guild of Master Chimney Sweeps: www.guildofmasterchimneysweeps.co.uk

13.27 Work at height/falls from height

13.27.1 Regulation and risks

'Work at height' effectively covers any activity where there is a risk of falling, from short duration tasks on ladders to complex roof work. Since the introduction of UK regulations in 2005 there have been many misconceptions about work at height, particularly that ladders are banned or that work can only be done using expensive equipment

or scaffolds. Working at height can create significant risks and should not be taken lightly, however, following a simple framework it can be carried out sensibly and safely. This sub-section looks at work that poses a fall risk and other fall risks for residential tenants.

Within a let property, working at height tasks are likely to be very limited and it is reasonable for landlords or lettings agents to rely on contractors to manage these risks, particularly for basic general maintenance and repair or decoration work. If work is required over staircases it is good practice to ensure that contractors take sensible precautions to prevent falls using specialist ladders or platforms.

If access to a loft is required (e.g. to water tanks or running cabling) then, unless the area is properly boarded, additional precautions will be needed. Contractors should be informed whether or not lofts are boarded. For some work furniture may need to be moved to allow contractors adequate space.

Equally, landlords are unlikely to need to be concerned about day-to-day maintenance tasks that can be expected of tenants, such as changing light bulbs or replacing batteries in smoke detectors. A domestic-grade ladder provided by a landlord or tenant would be sufficient for the task, unless ceilings are particularly high or fittings are over an open stairway, in which case it may need to be carried out by a contractor. If it is not considered appropriate for tenants to complete these tasks then agents should not allow their staff to do so either, unless they have been provided with the right equipment and training on its safe use.

Staircases should not be considered a hazard if they are in good condition with even treads. If handrails are provided, they should be stable and maintained. If treads are uneven, the risk of falls may increase and these should be made obvious to occupants. Lighting should be sufficient to be able to see the edges of steps clearly. On common stairs or escape stairs the edges may need to be highlighted.

The risk of children falling needs to be managed, although landlords do not need to make significant alterations to existing fixtures in all cases. Existing features do need to be in good condition and if new fixtures are put in during a refurbishment, then Building Regulations may apply. Balustrades with gaps of more than 100mm or low-level glazing that is not approved safety glass are specific considerations and, alterations are likely to be required to obtain a licence for an HMO.

Tenants need to be able to open windows for ventilation, so if restrictors are fitted it should be possible for adults to override them. Putting locks on windows is not unreasonable and tenants can manage the risk to their children, should they choose to leave them unlocked. Any specific risks to children that have not been protected against should be drawn to the tenants' attention and reasonable requests for alterations acted upon.

Understandably, fall risks are greater when works are required to the exterior of a building or when access is

required to the roof. This may include work such as window cleaning, satellite installations and roof or gutter repairs. In blocks there may also be equipment on roofs that needs to be accessed for inspection or maintenance, such as water tanks or lift motor rooms. Anyone responsible for arranging these works must take reasonable steps to ensure that fall risks are minimised and there is safe access to areas at height.

Some work may require use of specialist access equipment and there will be reliance on contractors to assess risks and determine the appropriate work method. This does not, however, exclude landlords or agents from taking steps to ensure that risks are being managed. For complex tasks where access is not straightforward, seek specialist advice.

Controlling the risk of falls from height should be managed by following a number of basic principles, referred to as a hierarchy of control:

- In the first instance, avoid work posing a fall risk. This could be achieved by changing the way the work is carried out or using equipment that allows work to be carried out from the ground (such as water-fed poles for window cleaning).
- Where work at height cannot be avoided, the risk of falls should be prevented. This includes using work platforms with edge protection or specialist equipment that will prevent falls.
- If the risk of a fall cannot be prevented then it, or its consequence, should be minimised. Generally, this will require specialist equipment.
- Unless work is of short duration and minimal risk, avoid the use of ladders.

You should also be aware that:

- The risk of falls also includes falling objects, such as work tools or building materials.
- Any equipment used for work at height must be inspected and maintained. Some equipment requires regular inspection by law (usually every six months).
- Items such as scaffolds or mobile towers require regular visual inspection and additional inspections if exposed to poor weather conditions.

Sometimes a tenant's demise will include use of a roof space, such as a terrace or an external balcony. It is important that there is safe, clear access to these spaces and that the risk of falls is minimised. It is not appropriate for roof terraces to have unprotected edges. Typically, railings should be 1.1m high or, if lower, of sufficient depth to prevent falls. Original features at older premises may, however, not meet these standards. Furniture provided by landlords should not be positioned to allow railings or barriers to become redundant, particularly accounting for the risk to children when standing on furniture.

13.27.2 Practical advice for the implementation of reasonable health and safety management

Before allowing any contractors to carry out work at height, ensure that they can demonstrate an understanding of fall risks and how these will be controlled; that is, provision of risk assessments and method statements. Where specialist equipment is required contractors should be able to demonstrate they are competent to use it (evidence of staff training). This normally includes general work at height or specific training for use of equipment and certificates of competency for set-up of scaffolds or towers or for rope work. Membership of professional organisations also provides reassurance, as they have codes of conduct that members must follow. Some organisations have been listed in 13.27.3 Recommendations for further detailed advice.

Risks to tenants, contractors and third parties all need to be taken into account. If work may affect other tenants or neighbouring properties then they need to be informed and any access restrictions during works (or, conversely, restrictions on work method or duration) need to be agreed.

Unless a property is owned by a single landlord, other parties may need to be consulted about rights of access. In a block each individual property will normally have a right of access onto a roof for maintenance or installation of services, which will include a right to run cables (some works may require specific permissions). In such cases the landlord or agent is likely to need to request access from the block manager and contractors must adhere to their rules. You must ensure that anything you install on a roof or the side of a building is fixed securely.

It may be possible, and preferable, to work from a mobile platform (e.g. gutter cleaning), or, for long duration work, from a scaffold: these may remove a fall risk completely.

If the platform or scaffold will cause obstructions to pavements or roads, you need a licence from the local authority. If, when using specialist equipment, there is still a risk of falls, then contractors need to consider how people will be rescued: a written rescue plan should be prepared.

Unlike commercial properties, which are often designed to accommodate equipment, roofs of residential properties are not always designed with regular access in mind: pitched roofs require specialist equipment to prevent falls and may be fragile; inverse pitch or 'butterfly' roofs may only have narrow gullies that could be slippery, lead flashings could be easily damaged and tiles may not take the weight of a fall. Skylights may be unprotected, and flat roofs may be narrow with no edge protection. If access onto a roof is available from within a building, unless intended for regular use by residents (such as a shared roof terrace or garden), block managers should ensure the access point is kept locked. The exception would, however, be an older block where the route is also a means of escape to or from an adjacent property.

In some properties the only access onto a roof may be through a loft hatch or skylight, sometimes within a demised area. This should be securely locked to prevent general access. To reach a hatch will normally require a ladder, which should not be generally accessible (locked off, or able to be contracted and kept within the hatch itself – but extendable from ground level, potentially using a pole). Hatches must also be reasonably easy to open, particularly if accessed on a staircase landing where there is a risk of falling over a balustrade. It should be possible to keep one hand on an access ladder while opening a hatch. Hatches should stay securely in place so that they do not shut while you are climbing or when you are on the roof, trapping someone outside. Ideally, any ladder should extend 1m above a work platform; that is, through the hatch. If this cannot be done, additional handrails may need to be installed.

The risk of someone knocking a ladder when opening a flat entrance or cross corridor door needs to be taken into account. The risk of others then accessing a roof without authorisation should also be considered.

If it is possible to provide clear, protected walkways then these need to be clearly evident and well maintained. Handrails need to be at an appropriate height and stable. Walkways need to be slip resistant (as far as possible) and clear of debris or algae. Lighting should also be considered. If access is over an unprotected flat roof, it may be possible to allow this providing that work does not require operatives to travel within 1.5–2m of the roof edge. In other circumstances, or for different roof types, specialist equipment may be needed to prevent falls. This could be provided by a contractor temporarily or reliant on permanent, maintained fall arrest lines or eye bolts for rope access. Avoid placing equipment such as fan coil units or running cables at the edges of flat roofs where possible as this increases the risk of falls during maintenance.

Building listings or planning restrictions may limit the installation of permanent barriers, forcing you to consider alternative measures.

Work on roofs also needs to take account of fragile surfaces, such as skylights, that should be protected. Slate tiles are not suitable for working on, so crawl boards or specialist ladders should be used.

Landlords need to consider whether window exteriors can be cleaned safely from the inside. If not, it is unlikely that this can be left to tenants. Window cleaning has traditionally been carried out using ladders and many competent cleaners can still do so safely. However, there are now many alternative methods of cleaning that help to eliminate or manage fall risks. Water-fed poles are a common solution and are effective up to a certain height. Above this, specialist access equipment may be needed.

Window cleaners should not be permitted to stand on external window ledges unless eye bolts are provided that they can attach to. It is also inappropriate for ladders to be positioned over light wells. A reach and wash system using water-fed poles is normally more appropriate.

Any work at height is likely to be affected by poor weather conditions and it may be necessary to impose restrictions on access at these times, even where there are dedicated walkways as they could become slippery. Weather is also likely to cause metal and wood to deteriorate if it is not properly protected, so regular inspection and maintenance is necessary.

13.27.3 Recommendations for further detailed advice

There is a huge range of organisations and specialist consultancies that can provide assistance and guidance about control risks of work at height. The HSE also offers a significant amount of free guidance information. Many contractors are registered with professional bodies, which will provide reassurance about their competency. These include:

- The Industrial Rope Access Trade Association (IRATA): www.irata.org
- The National Federation of Roofing Contractors (NFRC): www.nfrc.co.uk
- The National Access and Scaffolding Confederation (NASC): www.nasc.org.uk
- The Prefabricates Access Suppliers' and Manufacturers' Association (PASMA): www.pasma.co.uk

Appendix A: Glossary

Agent	'A person who has received the power to act on behalf of another, binding that other person as if he or she were themselves making the decisions.'
Assured tenancy and assured short term (AST) tenancy	As defined by the <i>Housing Act 1988</i> [as amended].
Block manager	'An agent specialising in the management of communal areas of long-leasehold flats [...] the managing agent will be engaged by the freeholder, superior landlord or the residents' management company.' [RICS UK Residential property standards, RICS, 2011].
Build to rent	Purpose-built superior quality block of flats built for (and initially restricted to) the private rented sector.
Common areas	Usually everything other than those areas demised to tenants, as well as the entrance/reception area(s)/common stairwells, lifts and lobbies. May include the roof, plant rooms and any external areas such as gardens or car parks on private land.
DSE	Display screen equipment [effectively PCs and laptops, as defined in the <i>Health and Safety (Display Screen Equipment) Regulations 1992</i>].
Duty holder	This has many meanings in health and safety law and can mean any, or all, of: the landlord, tenant, contractor, managing agent or others with specific legal duties under health, safety and environmental law and will be specific to the circumstances.
Estate agent	Any person who, in the course of a business [including a business in which he/she is employed], is instructed to dispose of or purchase a freehold or leasehold interest in land [there is a full definition of 'estate agency work' in the <i>Estate Agents Act 1979</i>]. 'Estate agency' is the preferred term for guidance relating to the UK.
Estate/block management	The management of common areas and services where there is a variable service charge in respect of each dwelling.
Freeholder	The owner of the freehold of a property containing leasehold interests originally for more than 21 years.
FTT/LVT	In July 2013 changes to the structure of the tribunal system in England and Wales introduced First-Tier Tribunals (FTTs), which broadly replace the functions of the Leasehold Valuation Tribunals (LVTs).
HHSRS	The Housing Health and Safety Rating System was brought into effect by the <i>Housing Act 2004</i> . It is the method used for evaluating a dwelling's fitness by reference to a cumulative assessment of all hazards present in a dwelling, ranking both dwellings and housing conditions according to the seriousness of the health threat posed. When environmental health practitioners (EHPs) inspect a dwelling they look for any risk of harm to an actual or potential occupier of a dwelling that results from any deficiency that can give rise to a hazard. They judge the severity of the risk by thinking about the likelihood of an occurrence that could cause harm over the next 12 months, and the range of harms that could result. EHPs make these judgments by reference to people who, mostly based on age, would be most vulnerable to the hazard, even if that vulnerable group of people is not actually living in the property at the time. If there are risks to the health or safety of occupants that EHPs think should be dealt with they have various powers at their disposal to ensure that owners and landlords take corrective measures. If the officer finds a serious [or category 1] hazard, the local authority is required to take one of the courses of action outlined in the statutory enforcement guidance. Category 2 hazards are those that are judged to be less serious, but authorities can still take action.
HMO	A house in multiple occupation, as defined in section 254 of the <i>Housing Act 2004</i> , which provides for mandatory, additional and licensed HMOs.
HSE	Health and Safety Executive.
Landlord	The landlord of a tenant who holds a tenancy of a dwelling for less than 21 years.
Leaseholders	A person who holds a lease of a dwelling that was originally for more than 21 years.

Let-only service	Where an agent is instructed to introduce a tenant to a landlord for a fee but has no ongoing responsibility for the property.
Letting agent	A company or individual employed to let residential property.
Lettings property manager	The manager of tenanted property [see also definition of 'tenant'].
Licensees/licensors	Non-tenants to whom a duty of care for health and safety may be owed.
Managing agent	'An agent specialising in the management of communal areas of long-leasehold flats [...] the managing agent will be engaged by the freeholder, superior landlord or the residents' management company.' [RICS UK Residential property standards, RICS, 2011].
Mandatory licensing	Under the <i>Housing Act 2004</i> persons managing or controlling certain prescribed HMOs must have a licence to continue to rent out these properties. Prescribed HMOs are those buildings consisting of three storeys or more that are occupied by five or more tenants in two or more households. Converted blocks of flats are not subject to mandatory licensing. Additional licensing Local councils have discretion to introduce additional licensing of other types of HMOs, which are not subject to mandatory licensing, including poorly converted self-contained flats. This may be in a defined geographical area or across the whole of a council's area. These schemes are aimed at dealing with situations that cannot be improved by any other means. The council has to consult local landlords before introducing additional licensing and they have to publicise it when it comes into force. Selective licensing Sections 79, 80 and 81 of the <i>Housing Act 2004</i> provide for the introduction of a scheme of selective licensing of private landlords in a local housing authority's area. Selective licensing is intended to address the impact of poor quality private landlords and anti-social tenants. It has primarily been developed to tackle problems in areas of low housing demand, although the Act also allows for selective licensing in some other circumstances. Many of the provisions relating to selective licensing are similar to those relating to the mandatory and discretionary licensing of HMOs, regimes that were also introduced by the 2004 Act. In an area subject to selective licensing, all private landlords must obtain a licence and, if they fail to do so, or fail to achieve acceptable management standards, the authority can take enforcement action; for example, issuing a fine of up to £20,000 or, in some cases, assuming management control of the property.
Occupier	A person, or organisation, that occupies a building. This may include an owner-occupier, tenant and/or a resident and could be any other person of an organisation that occupies, under a lease or contract arrangement, or who is commonly in occupation, or residing at the premises without a lease or contract (i.e. the family of a residential tenant), but is not a visitor to the building.
Owner-occupier	The owner of a freehold dwelling who is in occupation.
Registered provider	Local authorities and other social landlords who are registered providers of subsidised housing.
Rent Act 1977	Statutory tenancies/periodic tenancies where landlords are restricted under the <i>Rent Act 1977</i> in their ability to recover vacant possession. Certain statutory terms and conditions apply to these types of tenancies.
Rent collection	Where the agent for a property that is already let undertakes to collect the rent on behalf of the landlord. The agent may or may not have let the property. The responsibilities are defined in the terms of business between the agent and landlord.
Responsible person	As defined in the <i>Regulatory Reform (Fire Safety) Order 2005</i> , section 3: "responsible person" means— [a] in relation to a workplace, the employer, if the workplace is to any extent under his control; [b] in relation to any premises not falling within paragraph a (i) the person who has control of the premises (as occupier or otherwise) in connection with the carrying on by him of a trade, business or other undertaking (for profit or not); or (ii) the owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking.'
RIDDOR	Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013.

RMC	Residential management company.
RTM	Right to manage company [usually a tenant board].
Selective licensing	Sections 79, 80 and 81 of the <i>Housing Act 2004</i> give local authorities the power to introduce licensing of landlords and/or agents in their area.
Superior landlord/ head lessor	The owner of the long lease who, in turn, has granted subleases of longer than 21 years and is in effective control of the building.
Tenancy of 7–21 years	Tenancies where repairing responsibilities are redefined by section 11 of the <i>Landlord and Tenant Act 1985</i> .
Tenant	Holds a tenancy of less than 21 years. Within this category different repairing liabilities apply where the original agreement was seven years or more.

Appendix B: Sources of further information

- Association of Residential Letting Agents (ARLA): www.arla.co.uk
- Association of Residential Managing Agents (ARMA): www.arma.org.uk
- Association of Retirement Housing Managers (ARHM): www.arhm.org.uk
- Energy Industries Council (EIC): www.the-eic.com
- HSE Leadership and worker involvement toolkit: www.hse.gov.uk/Construction/lwit/
- Institute of Residential Property Management (IRPM): www.irpm.org.uk
- Local Government Association *Regulatory services and Licensing*: www.local.gov.uk/regulatory-services-and-licensing
- National Association of Estate Agents (NAEA): www.naea.co.uk
- National Landlords Association (NLA): www.landlords.org.uk
- Private rented sector code: www.rics.org/uk/knowledge/professional-guidance/codes-of-practice/private-rented-sector-code-1st-edition/
- Residential Landlords Association (RLA): www.rla.org.uk
- *RICS UK Residential property standards* (the Blue Book), (5th edition)
- *Service charge residential management code*, RICS code of practice, (2nd edition)
- *Surveying safely*, RICS guidance note, (1st edition)



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