
Argyll and Bute Community Planning Partnership

CPP Management Committee
21 January 2009

Economic Development and The Fire (Scotland) Act 2005

1. SUMMARY

- 1.1 This paper highlights key factors within The Fire (Scotland) Act 2005 that have implications for the business community of Argyll and Bute.
- 1.2 Partners are requested to acknowledge the significant financial benefit of the tourism and care home/residential home business sectors to Argyll and Bute and to recognise the risks to businesses and communities consequent on implementation of the Act.
- 1.3 Partners are requested to acknowledge that the possibly significant financial implications to SME's of compliance with the legislation could result in closures with subsequent job losses and negative impact on the economy of Argyll and Bute.
- 1.4 Partners are requested to acknowledge the social effect on communities should a Care or a Residential Home be forced to close, particularly for Island and remote rural communities
- 1.5 Partners are requested to acknowledge that the priorities for economic development funding support of the Scottish Government do not recognise the risks to fragile economies of the implications of the Act.
- 1.6 Partners are requested to support the Recommendations

2. RECOMMENDATIONS

- 2.1 It is recommended that Members, in noting the contents of this paper, use all influence at their disposal to encourage the Scottish Government and our Enterprise partners to support existing businesses in the Tourism and Care/Residential Home business sectors at risk of closure, or financial hardship that would impede business growth, as a result of implementation of The Fire (Scotland) Act 2005.

3. STRATEGIC OVERVIEW

- 3.1 Part 3 of the Fire (Scotland) Act 2005 as amended (the Act) and the Fire Safety (Scotland) Regulations 2006 (the Regulations) came into force on the 1st October 2006. The responsibility for the enforcement of Chapter 1 duties under the Act is placed upon the enforcing authority as defined within Section 61 of the Act.

- 3.2 The Act and the Regulations apply to relevant premises as defined within the Act. Strathclyde Fire & Rescue exercise the powers and duties on behalf of the Board of Strathclyde Fire & Rescue as the Enforcing Authority.
- 3.3 The Scottish Government's 'Fire and Rescue Framework for Scotland' underpins the expectations in relation to statutory enforcement and 'Strategic Enforcement Guidance for Fire and Rescue Authorities and Joint Fire and Rescue Boards' documents.

These expectations require Strathclyde Fire & Rescue to:

- Ensure that a regime of programmed audit is targeted to address risk, with the premises which pose the greatest risk to people from fire, receiving the highest priority;
- Fulfil our enforcement role in line with the provisions of the legislation and guidance issued by Scottish Ministers;
- Engage in partnership working with relevant stakeholders.
- Be committed to the firm but fair enforcement of Part 3 of the Act by the underlying principles of:
 - 1 Proportionality in applying the law in securing compliance;
 - 2 Consistency of approach
 - 3 Targeting of enforcement action
 - 4 Transparency about how we operate; and,
 - 5 Accountability for our actions.

4 DUTIES IMPOSED BY THE LEGISLATION

- 4.1 The legal duty, which is imposed by the legislation, seeks to achieve safety within the relevant premises in the event of fire can be summarised as follows:
- Carrying out a fire safety risk assessment of the relevant premises;
 - Identifying the fire safety measures necessary as a result of the fire safety risk assessment outcome;
 - Implementing these fire safety measures using risk reduction principles;
 - Putting in place fire safety arrangements for the ongoing control and review of the fire safety measures.
 - Complying additionally with the specific requirements of the fire safety regulations.

5 SAFETY OF OTHER PEOPLE

- 5.1 The legislation requires that proper consideration be given to the safety of other people, not merely employees, in case of fire in the relevant premises, which clearly requires the “fire risk assessment” to include due consideration and adequate fire safety arrangements for all ‘relevant persons’.
- 5.2 “Relevant persons” defined in Section 79 of the Act are persons who are, or may be lawfully, in the premises and persons in, or who may be in the immediate vicinity of, the premises whose safety would be at risk in the event of a fire in the premises (including Firefighters).

6 RESPONSIBLE PERSONS / DUTY HOLDERS

- 6.1 The responsibility for complying with the specific duties under Chapter 1 of the Act and the supporting Regulations rests with every employer, in respect of every (part of every) relevant premises; and every person who has, to any extent, control of a relevant premises - including anyone who has an obligation in relation to the maintenance, repair, or safety of any relevant premises.
- 6.2 This legislation applies to all ‘relevant premises’ used in connection with the carrying on of a trade, business or other undertaking (whether for profit or not) – other than domestic premises.

7 REQUIREMENT TO RISK ASSESS

- 7.1 The requirement to undertake a risk assessment of relevant premises is placed upon persons prescribed under sections 53 and 54 of the Act within the Regulations. It is essential that any risk assessment that is undertaken in respect of a ‘relevant premises’ is specific to fire safety and to the premises concerned. It is not the assessment that determines compliance with the legislation, but the *adequacy and appropriateness* of the actual fire precautions provided by the duty holder within the relevant premises when measured against the regulatory requirements.

8 MEASURING COMPLIANCE WITHIN ARGYLL AND BUTE

- 8.1 In order to measure the level of compliance within relevant premises, a standard auditing process is used. The results of each audit are then compared to benchmark standards and a compliance level is attributed to every relevant premises audited.
- 8.2 Compliance levels range from level 1 compliant through to level 5 when enforcement action, prohibition, or prosecution is recommended.
- 8.3 Within Argyll and Bute there are 9500 relevant premises within the community safety database. In order to manage resources effectively, a regime of programmed audit is targeted to address risk, with the premises that pose the greatest risk to people from fire receiving the highest priority. In the main, the premises that pose the greatest risk to people from fire are premises that provide sleeping accommodation i.e. Hotels, B&B’s, and Residential Care homes.

9 COMPLIANCE LEVELS

- 9.1 During 2007- 2008, **109** premises were audited across Argyll and Bute. **14%** premises were attributed a compliance level 1. **36%** premises were attributed with a compliance level 3, 4, or 5.
- 9.2 When an audit shows a premises with a compliance level 3, 4 or 5, evidence shows the issues relating to non compliance generally fall within the following categories:
- Lack of suitable and sufficient risk assessment and measures implemented to reduce the risk from fire;
 - Lack of an appropriate automatic fire detection system;
 - Lack of compartmentation to limit the growth and spread of fire.

10 AUTOMATIC FIRE DETECTION

- 10.1 It is essential to give the earliest possible warning of fire to people in buildings particularly when they are asleep or are not alert or fit enough to respond or react to a developing fire situation.
- 10.2 Experience has shown that in the *majority* of cases in premises that provide sleeping accommodation, the automatic fire detection system (if installed) does *not* provide adequate coverage for the type and use of the building. Generally, the automatic detection system (if installed) will cover only the common areas such as corridors, when there is a requirement for all compartments, this may include cupboards, to be provided with automatic detection.

11 COMPARTMENTATION

- 11.1 The ability of a building's design to contain a fire once started is critical to the protection of the property, the lives of the occupants and also to the surrounding people and buildings. It is the one fire mitigation tactic most clearly covered by legislation and also the one with which insurance companies are most concerned. **Fire Compartmentation** provides the opportunity of achieving both of the fire safety objectives: property protection and life safety

12 BUILDING CONSTRUCTION – CARE HOMES

- 12.1 There has only been one purpose-built facility in Argyll and Bute in recent years. The LA provision has seen upgrading and the fitting of sprinkler systems
- 12.2 Currently, there is one new facility due to come on stream in Dunoon but this is the first for elderly in about 8 years.
- 12.3 There has been a recent construction for children but the tradition is to use older properties - In Rothesay, all are older properties and in the Cowal area, all are older properties apart from the new development due to open in Dunoon.
- 12.4 Helensburgh, Oban and Lochgilphead- no new properties for some time.

13 FINANCIAL CONSIDERATIONS

The cost for upgrading the fire safety measures for businesses can be substantial. These are essential business operating costs that ought to be factored into the business planning process. Simple?

Case study 1

An existing medium sized hotel, 12 bedrooms, comprising ground and first floor levels. New owners recently bought business. Following a fire safety audit it was discovered that Automatic Fire Detection system did not cover all areas. System required to be extended to cover bedrooms. Owner obtained estimates for work required through local contractor. Estimate received **approximately £20 000**.

Case study 2

A three storey residential care building housing 24 residents. Following a fire safety audit it was discovered that the lift shaft that served all floors was not compartmented to restrict the spread of fire between floors thus putting the residents at risk in the event of fire. Legislation requires the lift and its shaft to be upgraded to an appropriate fire-resisting standard. **Estimated cost £ 170 000**

- 13.1 The harsh reality is, as in the case studies shown, no such financial planning has taken place. The outcome being that small, medium, and large enterprises within Argyll and Bute, when faced with a formal notice relating to non compliance and the measures required to achieve compliance, are faced with the decision on whether to try and obtain credit for the works to be carried out or close the business with the obvious impact on employees, the business owner, and the economy within the area involved.

14 FINANCIAL CONTRIBUTION TO THE ECONOMY OF ARGYLL AND BUTE

- 14.1 Tourism Sector - Visitor Accommodation – Hotels; Rented/Self Catering; B & B/Guesthouse

The research summary at Annex A shows that approx. **8000 jobs** are directly attributable to tourism accommodation and that income in this sector alone is worth approx **£241.7M p.a.**

- 14.1 Residential/Care Home Sector

The research summary at Annex B shows that there are approx **750** care beds in Argyll and Bute at an average weekly charge of £490 pp. (Note: there are wide fluctuations depending on the intensity of care, the location and the type of client) This indicates a potential turnover of approx **£19m+ p.a.**

15 SOCIAL CONTRIBUTION TO THE ECONOMY OF ARGYLL AND BUTE

- 15.1 Loss of a local hostelry to a remote or rural area can have significant social effect since these businesses sometimes provide the only locus for leisure and community activities.
- 15.2 Loss of a local Residential Care Home can have devastating effects on residents, loved ones and relations, particularly when the only alternative is to move residents many miles away.
- 15.3 Closures in Oban recently resulted in people having to relocate to Dunoon and Campbeltown. Furthermore, the islands of Mull, Islay and Tiree only have one care home each. Closures there would necessitate loved ones and relations having to travel excessive miles by plane, boat and car.
- 15.4 There are two care centres in Rothesay offering 24 hr care . Closure of any of these will cause major issues as the ferry trip is 45 minutes then a car journey to the nearest service .
- 15.5 Helensburgh has a number of services and the possibility of moving more easily into West Dunbartonshire although this would not be welcomed by Argyll people. Equally, Dunoon residents could, in theory, go over to Inverclyde but again this means using ferries.

16 IMPLICATIONS

- 16.1 **Risks** - Failure to provide assistance to businesses risks the loss of jobs and income in fragile areas of Argyll and Bute with consequent negative impact on the overall social and financial economy of the area.
- 16.2 **Policy** – Current Government policy makes no provision for financial assistance to businesses at risk of closure as a consequence of compliance with the Act
- 16.3 **Legal** – Strathclyde Fire and Rescue must implement the Act. This is not discretionary.
- 16.4 **Equal Opportunities** – Some of the most vulnerable sectors of our communities, including elderly, physically disabled and those with learning difficulties will be disproportionately affected by the consequent reduction in Care/Residential Home places should homes close through non-compliance.

17 CONCLUSIONS

- 17.1 The challenge to businesses to comply with the requirements of the Act is putting severe financial strain on some of them, with the significant risk that they could decide to go out of business rather than comply with the requirements. The subsequent loss of jobs and damage to both the social and financial economies of Argyll and Bute, particularly in the current global financial climate, must be recognised. A provision of financial support to businesses to assist with compliance, subject to qualifying criteria, if set aside by the Scottish Government for allocation via the Enterprise partners would be of immense assistance.

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For further information contact:

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Background Papers;

- The Fire (Scotland) Act 2005 – see
http://www.opsi.gov.uk/legislation/scotland/acts2005/en/aspn_20050005_en_1
- Annex A – Tourism Research – Argyll and Bute
- Annex B – Care Homes in Argyll and Bute (info supplied by the Care Commission)