



MEMORANDUM OF UNDERSTANDING

BETWEEN

**Social Care and Social Work Improvement Scotland
("The Care Inspectorate")**

AND

**Scottish Fire and Rescue Service
("SFRS")**

14th June 2019

MEMORANDUM OF UNDERSTANDING

Between

SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND (known as the Care Inspectorate), constituted in terms of the Public Services Reform (Scotland) Act 2010 (hereinafter referred to as "*the 2010 Act*") and having its principal office at Compass House, 11 Riverside Drive, Dundee, DD1 4NY

(Hereinafter referred to as "the Care Inspectorate")

and

Scottish Fire and Rescue Service, a body corporate established by the Fire (Scotland) Act 2005, as amended by the Police and Fire Reform (Scotland) Act 2012 and having its Headquarters at Westburn Drive, Cambuslang, G72 7NA

(Hereinafter referred to as "SFRS")

PURPOSE

To outline the partnership working arrangements between the Care Inspectorate and the SFRS. In particular, management arrangements, communication and how information will be shared in support of their respective regulatory responsibilities.

SCOPE

The Care Inspectorate and SFRS, each have statutory duties imposed upon them and powers available to them.

In particular, the Care Inspectorate by virtue of Section 44(1)(b) of *the 2010 Act* has the general duty of furthering improvement in the quality of social care and social work services in Scotland. SFRS by virtue of Section 61 of the Fire (Scotland) Act 2005 (hereinafter referred to as "*the 2005 Act*") has a duty to enforce the Chapter 1 Fire Safety Duties narrated in the 2005 Act and the Fire Safety (Scotland) Regulations 2006 throughout Scotland.

This MOU applies to premises providing a *care service* and is to support *dutyholders* in their obligations to ensure the safety of persons in care premises in event of fire and to challenge any *dutyholders* who are not fulfilling their obligations.

Other care premises, including non-residential care premises which are regulated in respect of care quality and provision by the Care Inspectorate and fall within the scope of *the 2005 Act*, will be monitored to ensure effective arrangements are provided and may receive further consideration in any review necessary of the MOU to achieve best practice collaboration between SFRS and the Care Inspectorate.

The Fire and Rescue Framework for Scotland 2016 states that SFRS enforces fire safety legislation in the majority of the non-domestic sector, including carrying out fire safety audits of premises, providing advice and carrying out enforcement action when necessary. The Framework also states that fire safety enforcement activities should be informed by risk and

thus targeted at those premises where the risk to life is greatest. This MoU will also apply on direct request by either the Care Inspectorate or SFRS where safety concerns have been identified in relation to a care service.

Regard shall also be had to the relevant specific Scottish Government publication entitled "Practical Fire Safety Guidance for Care Homes" as amended from time to time and the Regulatory Reform (Scotland) Act 2014.

In the event of any conflict arising between the provisions of Circulars, Guidance and the Legislation, then the Legislation shall take precedence.

The Care Inspectorate has no locus or expertise in respect of fire safety and regulation.

Neither the Care Inspectorate nor SFRS has any expertise in respect of electrical installations and their certification all of which it has been agreed shall be referred to the Health and Safety Executive (HSE) for their attention as appropriate. SFRS, as part of its fire safety audit in residential care services, will review measures to reduce the risk of fire. This includes checks of records of the testing of electrical installations and other electrical appliances. Where any issues are identified, these shall be referred to the HSE. Responsibility for the design of such systems and their maintenance nevertheless lies with the dutyholder in respect of the premises.

DEFINITIONS

Care service – Those premises listed under section 78(5)(b) – (h) of the Fire (Scotland) Act 2005 and in accordance with Schedule 12 of the Public Services Reform (Scotland) Act 2010. This includes but is not limited to an overnight residential care service, which is, or may be, regulated by the Care Inspectorate under *the 2010 Act* such as care homes, secure accommodation for young people and school care accommodation where overnight accommodation is provided. The 2005 Act does not cover fire safety enforcement of single private dwellings.

The 2010 Act - The Public Services Reform (Scotland) Act 2010

The 2005 Act - Fire (Scotland) Act 2005

Fire risk assessment – A suitable and sufficient assessment of fire hazards and risks to the safety of persons in respect of harm caused by fire within the premises which is carried out by a suitably competent and experienced person in accordance with the legislation.

Dutyholder – Any person or organisation with compliance obligations by virtue of Chapter 1 of Part 3 of *the 2005 Act*.

Fire safety audit – A formal audit of the fire safety arrangements of the premises to determine compliance under Section 53 and/or 54 of the 2005 Act conducted by a specialist officer from SFRS's Prevention and Protection Department.

Familiarisation visit – An intelligence gathering visit by operational firefighters to assist in the formulation of emergency operational plans in accordance with Section 9(2)(d) of *the 2005 Act*.

Competent Person – A person with sufficient skills, knowledge and experience to carry out the fire risk assessment. Care Inspectorate registration packs for proposed new services will include the contact details for organisations which have composed lists of approved or certificated competent persons for consideration which details will be provided by SFRS.

Liaison Officer – Those individual staff members for each party who are identified and described in Appendix 1.

POINTS OF SHARED UNDERSTANDING

The Care Inspectorate and SFRS agree that they shall collaborate in the exercise of their respective functions on points of shared understanding to ensure so far as is reasonably practicable the highest fire safety standards in relevant care service premises as follows:-

1. SFRS and Care Inspectorate will each nominate an appropriate designated individual to be the Liaison Officer in relation to issues arising from this MoU and in relation to the sharing of information.
2. SFRS and Care Inspectorate will each provide to the other such information as may be necessary to fulfil their respective duties. Such exchange of information must take place securely when using telephone, e-mail, post or meetings and will be carried out in accordance with Appendix 2.
3. The Care Inspectorate and SFRS will use their discretion to determine the best secure method of sharing the information as documented in Point 2 above and shall seek advice, training and guidance when necessary from their respective Data Protection/Freedom of Information Officers prior to the sharing of the information to ensure compliance with current UK data protection law, including the relevant provisions of the EU General Data Protection Regulations, Data Protection Act 2018 as well as the Human Rights Act 1998 and the Freedom of Information (Scotland) Act 2002.
4. SFRS and the Care Inspectorate will give effect to this MoU in a manner which is compliant with current UK data protection law, including the EU General Data Protection Regulations, Data Protection Act 2018 as well as the Human Rights Act 1998 and the Freedom of Information (Scotland) Act 2002. Nothing herein shall be regarded as authorising or requiring either party to act at any time otherwise than in accordance with these said Acts.
5. SFRS and the Care Inspectorate will each promulgate appropriate educational information of mutual interest relating to the other's functions in the course of any conferences, public consultations and/or discussions in which they may participate. The nature and extent of the information to be promulgated in the course of these activities will be decided by the Liaison Officer nominated under paragraph 1 above, in consultation with line managers. For the avoidance of doubt and without prejudice to the generality of this Clause, the Care Inspectorate will specifically promulgate whenever appropriate contact details for organisations which have composed lists of approved or certificated competent persons for consideration of those under a duty to carry out risk assessments. Access to such detail may also be sought from the SFRS Website, www.firescotland.gov.uk/your-safety/for-businesses
6. SFRS and the Care Inspectorate will seek opportunities to work jointly and collaboratively to improve outcomes for people who use social services (as defined at s46 of the 2010 Act, including (without prejudice to the generality of the foregoing) seeking opportunities to work together to promote raised public awareness of possible risks of harm to older people, supporting older people to remain at home, safely and independently, including through the use of assistive technology, the provision of advice, information and support to older people who are no longer to live in their own home and the recognition of the contribution of unpaid carers and the need to provide them with support to continue in their caring role.

7. SFRS and the Care Inspectorate will each refer media enquiries which appear to relate to the functions of the other to their Liaison Officer with a view to ensuring awareness of the issue and the position being taken in media reports.
8. The Care Inspectorate intends to ensure that it has received from applicants for registration of a *care service*, written confirmation that the applicant has notified SFRS of the proposed registration of a *care service* and has conducted an adequate *fire risk assessment* of the premises in accordance with sections 53 & 54 of *the 2005 Act*. This process will also be followed in circumstances where an applicant has applied for a variation of conditions of registration of a care service which includes change of usage of rooms or alterations to buildings. Specific fire safety information and guidance can be obtained from the Scottish Government website at <http://www.gov.scot/Topics/Justice/policies/police-fire-rescue/fire/FireLaw>
9. SFRS will confirm to the Care Inspectorate that notification has been received, within five working days of its receipt. SFRS will consider whether any action on their part is appropriate given the category of potential risk involved and shall advise the Care Inspectorate of any action taken. Where further action is required this will be carried out in accordance with the relevant service procedures.
10. In the event that the notification relates to a proposed care home service or secure unit, SFRS will carry out a review of fire safety measures within 28 days of receipt of that notification and will provide the applicant and the Care Inspectorate with copies of the recorded results of that review. Where the notification relates to a new relevant care service then SFRS will aim to undertake a fire safety audit of the premises within 7 working days of the premises becoming operational and notify the Care Inspectorate of any findings either via email or by formal letter.
11. The *fire risk assessment* must be carried out in accordance with Part 3 of the Fire (Scotland) Act by a competent person who has relevant knowledge, experience and understanding of the fire risks inherent in the specific type of care premises being assessed.
12. The Care Inspectorate and SFRS will notify each other through the Liaison Officer of any serious and relevant concerns which may come to their attention during their regulatory activities. This applies to any registered care service visited. It is acknowledged by both parties that their employees will not have the relevant expertise and may not necessarily recognise specific fire safety/quality of care issues within care service premises.
13. If concerns are brought to the attention of SFRS they will ensure that these concerns are dealt with appropriately as soon as is reasonably practicable and if they consider it appropriate, take any necessary action. SFRS will inform the Care Inspectorate of any action taken. Nothing in this clause shall affect or detract from the powers and duties of SFRS's Enforcement Officers to enforce the Part 3, Chapter 1 fire safety duties as set out in *the 2005 Act*.
14. *Dutyholders* and care staff should be made aware that on the occasions when operational fire crews may visit a *care service* that this can be to gather information about the premises to help formulate emergency plans under section 9(2)(d) of *the 2005 Act*. These *familiarisation visits* should not be confused with the formal *fire*

safety audit of the fire safety measures within the care service. The *fire safety audit* is quite different and will be carried out by specialist appointed fire safety officers to ascertain the adequacy of the *fire risk assessment*, the fire safety measures and level of managerial compliance within the building.

15. SFRS will notify the Care Inspectorate of the serving of any Alterations, Enforcement or Prohibition Notice, notices of deficiencies or areas for improvement letters issued on any *care service* which is, or which they believe to be, registered or required to register, with the Care Inspectorate.
16. Both parties agree that SFRS has the responsibility for referring any offences under *the 2005 Act* and the Care Inspectorate has the responsibility for referring any offences under *the 2010 Act*, to the Procurator Fiscal.
17. Any dispute between the parties arising out of any matter addressed in this MoU will be referred in the first instance to the line managers of the Liaison Officers identified in terms of paragraph 1, for discussion with a view to resolution.
18. Should such discussions fail to resolve the dispute, the matter will be referred to the Chief Officer of SFRS and the Chief Executive of the Care Inspectorate, who will endeavour to resolve the dispute.
19. The terms of this MoU shall not be varied or amended unless such variations or amendments are agreed in writing by the Director of Prevention and Protection for SFRS and the Chief Executive of the Care Inspectorate.
20. Representatives of SFRS and the Care Inspectorate's Chief Inspectors (or nominated substitutes) will meet at least once per year, usually in April, to discuss and apprise each other of relevant past and prospective developments and areas of mutual strategic interest.
21. This MoU is intended to set out in general terms, matters agreed with a view to facilitating collaboration between the Care Inspectorate and SFRS and is not intended to constitute an agreement enforceable by either party against the other.
22. Either party may withdraw from this MoU at any time upon giving written notice sent by recorded delivery post to the appropriate Chief Executive or the Director of Prevention and Protection at their respective Headquarters.
23. The MoU shall be reviewed at least every two years to ensure that it remains relevant.

Signature  ... Date 14/6/2019

Chief Executive of the Care Inspectorate

Signature  Date 14/6/19

Director of Prevention and Protection

GENERAL CONTACT INFORMATION

THE CARE INSPECTORATE

Responsible for: Legal Services

*Head of Legal Services
4th Floor, 1 Smithills Street, Paisley, PA1 1EB
Tel: 0141 843 6840*

Responsible for: Development and Implementation of Local Protocol

*Executive Director of Scrutiny & Assurance / Executive Director of Strategy &
Improvement Compass House, 11 Riverside Drive, Dundee, DD1 4NY Tel: 01382 207100*

SCOTTISH FIRE AND RESCUE SERVICE

Head of Fire Safety Enforcement

*Prevention and Protection
Scottish Fire and Rescue Service
Westburn Drive
Cambuslang
G72 7NA
Tel: 0141 646 4501
Email: SFRS.EnforcementCentre@firescotland.gov.uk*

EXCHANGE OF INFORMATION WITH THE SFRS

	Care Inspectorate	Scottish Fire and Rescue Services	Legal Context
General Context	The Care Inspectorate will share such information as is relevant and lawful with SFRS to ensure the safety of care service users	SFRS will share such information with The Care Inspectorate as is relevant and lawful, to ensure the safety of the care service users	EU General Data Protection Regulations, Data Protection Act 2018; Human Rights Act 1998, Freedom of Information (Scotland) Act 2002; Fire (Scotland) Act 2005; Fire Safety (Scotland) Regulations 2006.

Applications for Registration or Variation of a relevant care service

Information to be shared	Where there is an application for registration of a relevant care service premises, or an application for variation which includes change of usage of rooms or alterations to buildings has been made, an adequate <i>fire risk assessment</i> checklist will be provided as part of the registration pack. This checklist will be completed by the applicant and forwarded to the local SFRS premises or area headquarters, contact details for which can be found on the SFRS website or by handing in to their local station for forwarding. Applicants will confirm in writing to the Care Inspectorate that this has been done.	SFRS will acknowledge receipt of the checklist to The Care Inspectorate. In the case of premises providing a new relevant care service, they will audit the premises within 7 working days of the premises becoming operational and report on their findings to the applicant and provide a copy to The Care Inspectorate. As part of this audit, the Fire Safety Enforcement Officer or Auditing Officer will require to comment on the care service's <i>fire risk assessment</i> . If necessary a follow-up visit will be undertaken to ensure all report recommendations have been appropriately addressed. At this point SFRS will issue a letter to the applicant and provide a copy to the Care Inspectorate	
What will trigger the action Timescale	A request for registration or variation application. N/A	Receipt of checklist	
How will this info be transferred	By email/post	Receipt of registration acknowledged within five working days. Premises providing a new care home service will receive a review of their fire safety measures within 28 days (initial report) By email/post	

Staff with overall responsibility	Service Manager Adults / Children as appropriate	Head of Enforcement Prevention and Protection Directorate of SFRS
Contact staff	Service Manager Adults / Children as appropriate	Head of Enforcement Prevention and Protection Directorate of SFRS
Staff with overall responsibility for registration	Service Manager Adults / Children as appropriate	Head of Enforcement Prevention and Protection Directorate of SFRS

Fire safety audits and specific fire safety concerns

Information to be shared	Where the Care Inspectorate has concerns regarding fire safety issues, these will be addressed whenever possible through local contacts in offices detailed below. For serious issues telephone contact will be made with SFRS either locally or through the designated liaison officer. Follow up with letter if necessary. Inspectors have been given guidance on matters which would constitute significant or serious deficiencies in fire safety.	SFRS will undertake fire safety audits in all relevant care service premises. The regularity of audits will be determined by an assessment undertaken by SFRS. SFRS will advise the Care Inspectorate of all such audits and their outcomes. SFRS will respond with advice to all informal approaches.
What will trigger the action	Care Inspectorate concerns	On request
Timescale	Serious issues will be actioned as soon as possible usually within one day Less serious fire safety issues, within five working days	Serious issues will be actioned as soon as possible, usually within one day or in remote areas such as islands, as soon as is practically possible.
How will this info be transferred	Informally by telephone. Formally by email or letter	Informally by telephone to the Care Inspectorate Contact Centre . Formally by email or letter
Staff with overall responsibility	Team Managers/ Contact Centre staff	Head of Enforcement, Prevention and Protection Directorate of SFRS
Contact staff	Inspectors / Contact Centre staff	Head of Enforcement, Prevention and Protection Directorate of SFRS

Media Relations

Information to be shared	The Care Inspectorate and SFRS may wish to co-ordinate their media handling of topical events. In such cases, they will share any information which is relevant and lawful	
What will trigger the transfer	On request	
Timescale	Agree on case by case basis	
How will this info be transferred	As agreed	
Staff with overall responsibility	Strategic Communications Manager	
Contact staff	Strategic Communications Manager	
	Head of Enforcement Prevention and Protection Directorate of SFRS	
	Head of Enforcement Prevention and Protection Directorate of SFRS	

General Information Exchange

Information to be shared	The Care Inspectorate will update SFRS of any information which, in the opinion of the Care Inspectorate, may be of interest to the SFRS. This will include any relevant legislation, policies, research, conferences and courses.	SFRS will update the Care Inspectorate of any information, which in the opinion of SFRS may be of interest to the Care Inspectorate. This will include any relevant legislation, policies, research, conferences and courses.	
Registered services	The Care Inspectorate will advise SFRS of all current registered services as a one off exercise and will update any new registrations or cancellations on a monthly basis.	SFRS will utilise this information to inform their audit process.	
What will trigger the transfer	As agreed	As agreed	
Timescale	As agreed	As agreed	
How will this info be transferred	As agreed	As agreed	
Staff with overall responsibility	Executive Director of Strategy & Improvement	Director of Prevention and Protection	

Local Contact Details

Local Areas	Scottish Fire and Rescue Service			Care Inspectorate	
	Telephone	Email	Telephone	Email	
Aberdeen City	01224 618216	N.ABERFSE@firescotland.gov.uk			
Aberdeenshire & Moray	01467 622137	N.ABMFireSafetyEnquiries@firescotland.gov.uk			
Highland	01463 229194	N.HLNDP and PLegislationSupport@firescotland.gov.uk			
Western Isles, Orkney & Shetland	01224 728600	N.HLNDP and PLegislationSupport@firescotland.gov.uk			
Perth, Kinross, Angus & Dundee	01382 322222	N.PKADFSEO@firescotland.gov.uk			
City of Edinburgh	0131 550 4951	E.EdinFSE@firescotland.gov.uk			
Falkirk & West Lothian	01324 629121	E.FWL.FSE@firescotland.gov.uk			
Fife	01592 261601	E.FIFESE@firescotland.gov.uk			
Midlothian, East Lothian & Scottish Borders	0131 6601672	E.MELBGroupManagerB@firescotland.gov.uk			
Stirling & Clackmannanshire	01259 724112	E.SCLegislativeFS@firescotland.gov.uk			
City of Glasgow	0141 3023333	W.GLACommunitySafetyAdmin@firescotland.gov.uk			
Dumfries & Galloway	01387 734834	W.DGPPreventionandProtection@firescotland.gov.uk			
East & West Dunbartonshire	01389 385999	W.EWDFireSafetyEnforcement@firescotland.gov.uk			
Argyll & Bute	01389 385999	W.EWDABHelensburghFSEnforcement@firescotland.gov.uk			
East Renfrewshire, Renfrewshire & Inverclyde	01505 356620	W.ERRICSEnforcement@firescotland.gov.uk			
North Lanarkshire	01698 402720	W.NLCommunitySafety@firescotland.gov.uk			
East, North and South Ayrshire	01294 607000	ENSAFireSafetyEnforcement@firescotland.gov.uk			
South Lanarkshire	01555 667000	W.SLCSLegislation@firescotland.gov.uk			