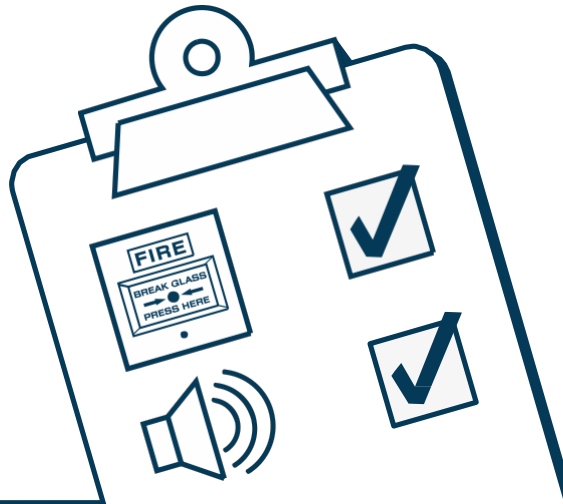


## Guidance Note



**Fire Industry Association**

Leading Excellence in Fire Since 1916



## **Guidance on the Issue of Cladding and External Wall Construction in Fire Risk Assessments for Multi- Occupied Residential Premises**

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## Authorship

This Guidance Note is a revision of a first edition of the Note which was prepared by a Special Interest Group (SIG), comprising representatives of FIA member companies, other invited experts in the practice of fire risk assessment in housing premises and an observer from the National Fire Chiefs Council. Members of that SIG represented companies that carry out, in total, over 40,000 fire risk assessments for multi-occupied residential premises (blocks of flats and maisonettes) per annum.

The first edition, and this revision, was published with the approval of the FIA Board. The first edition was published after circulation to the then Ministry of Housing, Communities & Local Government, the Home Office and the National Fire Chiefs Council, but opinions and guidance set out herein are those of the FIA and are not purported to represent those of consultees.

## 1. Scope

- 1.1. This guidance applies only to England and Wales. It relates to fire risk assessments carried out for multi-occupied residential premises under the Regulatory Reform (Fire Safety) Order 2005 (“the Fire Safety Order”). Common parts of blocks of flats and similar premises (including external wall construction and cladding) are outside the scope of the equivalent legislation in Scotland and Northern Ireland.
- 1.2. Although the guidance has not been drafted to apply to other types of premises, such as hospitals, hotels, etc, the principles set out in this Guidance Note will also apply in such cases where it is assessed that the external cladding or wall construction presents a fire hazard and thus introduces a risk to life from fire.
- 1.3. This Guidance Note is intended to provide advice. It is important to note that:
  - the contents represent the interpretation of the FIA on the matters addressed.
  - it is the duty holder’s responsibility to ensure compliance with their legal obligations, including those imposed under the Regulatory Reform (Fire Safety) Order 2005.

## 2. Background History

### 2.1. The Expert Panel Consolidated Advice Note

2.1.1 Following the tragic fire at Grenfell Tower in 2017, the relevant Government department, the then Department for Communities & Local Government (DCLG)<sup>1</sup>, formed an Expert Panel to advise Government on fire safety issues associated with multi-occupied residential buildings, namely blocks of flats and maisonettes (principally high-rise blocks of greater than 18m in height).

2.1.2 In January 2020, the Expert Panel published a “Consolidated Advice Note (CAN)”, which drew attention to the then Fire Safety Bill, which the CAN stated would “clarify” that building owners and managers of multi-occupied residential premises of any height must fully consider, and mitigate, the risks of any external wall systems and fire doors in discharging their duties under the Fire Safety Order. The CAN strongly advised building owners to consider the risks of any external wall system (and fire doors) in their fire risk assessments, irrespective of the height of the building, ahead of the planned “clarification” when the Fire Safety Bill became law.

2.1.3 By way of summary, the CAN advised that the risk of external fire spread should be considered as part of the fire risk assessment for all multi-occupied residential buildings, irrespective of height, taking into account height, materials, vulnerability of residents, location of escape routes, and the complexity of the building.

### 2.2 PAS 9980<sup>2</sup>

2.2.1 The CAN was withdrawn on the 10<sup>th</sup> of January, following publication of PAS 9980 by the British Standards Institution in January 2022. PAS 9980 provides guidance on the risk of fire spread via external wall construction. It sets out a methodology to conduct and record fire risk appraisals of external walls. PAS 9980 is for use in situations where external wall constructions of existing blocks of flats have not been shown to resist fire spread adequately or where required to inform the fire risk assessment for the block. When it is obvious to the fire risk assessor that the walls do not pose an unacceptable risk of fire spread (such as buildings of traditional brick and masonry construction), there may be no need for a PAS 9980 appraisal.

3 PAS 9980 does not imply that a fire risk appraisal of external wall construction and cladding (“an FRAEW”) will be required for all high-rise (or low-rise) blocks of flats. In many cases, it will be manifestly obvious to a competent fire risk assessor that the risk to life from fire spread over external walls is not such as to warrant an FRAEW by a specialist; in these cases, the fire risk assessor will normally address compliance of external wall construction with the Fire Safety Order as part of the fire risk assessment.

4 Examples of this are buildings in which the external wall construction can readily be confirmed as being of traditional masonry construction (i.e. external walls which comprise either two leaves of masonry or a solid masonry leaf), or in cases in which it can, otherwise, readily be determined by a typical fire risk assessor (e.g. from the age of the building if it predates the mid-1960s, from an operation and maintenance manual, or an existing report by a competent person, based on a relevant BS 8414 test) no FRAEW is necessary. However, although the age of a building can be a

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<sup>1</sup> Subsequently the Ministry of Housing Communities and Local Government and now the Department for Levelling Up, Housing and Communities (DLUHC)

<sup>2</sup> PAS 9980: 2022 Fire risk appraisal of external wall construction and cladding of existing blocks of flats – Code of practice

factor, care is needed in case combustible materials have been added to the external walls over time.

- 5 It is, therefore, expected that fire risk assessors will be judicious in their recommendations for an FRAEW by a specialist within the action plan of and FRA. Unnecessary recommendations by fire risk assessors for FRAEWs would make significant demand on the scarce resources available for FRAEWs, thereby diverting attention from buildings in which the public might be at serious risk and that actually do warrant an FRAEW.

### 2.3. The Fire Safety Act 2021

- 2.3.1 The Fire Safety Act 2021 amends the Fire Safety Order such that, where a building contains two or more sets of domestic premises, the Fire Safety Order applies to external walls (and their attachments, such as balconies), the building structure and all doors between the domestic premises and common parts.
- 2.3.2 Explanatory notes issued by the Home Office resonate with the position in the now withdrawn CAN that the amendment to the Fire Safety Order has been made for the purpose of “clarification”.

## 3. The Issues

### 3.1. The Purported Clarification

- 3.1.1. The position of the FIA is that, within a block of flats, the flat entrance doors always fell within the scope of the Fire Safety Order and, hence, fire risk assessments. This was made abundantly clear within the LGA guide on fire safety in purpose-built blocks of flats. To the extent that this may not have been universally understood, the FIA support the proposed clarification of this matter within the Fire Safety Act.
- 3.1.2. With regard to the reference to building structure, it has been made clear by the Government that this is not referring to the structural elements of the building, nor is it expected that fire risk assessors will need to examine the fire protection of these structural elements; it can be assumed that the building was correctly constructed to minimise the risk of collapse in the event of fire.
- 3.1.3. On this basis, it remains the case that, normally, intrusive fire risk assessments are not necessary. The intention is that the fire risk assessor should carry out a visual examination of the layout of the building, the means of escape and compartmentation (to the extent that compartmentation is accessible for visual examination).
- 3.1.4. However, the FIA strongly disagree that the scope of the Fire Safety Order was ever intended to, or was interpreted such as to, include the external walls of a residential block of flats; in the opinion of the FIA, it would have been perverse to regard the external walls of a building as “*parts of domestic premises used in common by the occupants of more than one dwelling*”. Indeed, “Guidance Note No1: Enforcement”, issued by the then Communities and Local Government to help achieve uniformity in approach for enforcing authorities (which is under revision), notes, in reference to residential premises that “*residential premises, e.g. blocks of flats and HMOs are covered by the Order to the extent that they comprise common parts and systems (e.g. stairs, corridors, shared kitchens, bathrooms and lounges, etc.) which are used by the occupants of more than one dwelling*”. This makes no mention of external walls. It is likely that it would have done so if inclusion of external walls was intended to be included by legislators at the time.

- 3.1.5. The original purpose of including the common parts of blocks of flats (such as corridors, stairways, plant rooms, etc) within the Fire Safety Order was a view that these areas could be regarded as workplaces, to which the European Workplace Directive applied<sup>3</sup> (a view not shared by regulators in Scotland and Northern Ireland). In the view of the FIA, it would also be perverse to regard external walls and cladding as a “workplace”.
- 3.1.6. The experience of FIA members is that regulators, enforcing authorities and fire risk assessors never, at any time since the Fire Safety Order came into force in 2006, regarded the external walls of a block of flats as falling within the scope of the Fire Safety Order. Accordingly, it was never considered that external walls and cladding should be assessed in the carrying out of a fire risk assessment under the Fire Safety Order. While, in a fire risk assessment, some general comment might have been made in relation to, for example, cladding, in the opinion of the FIA, this could only have been additional advice outside the scope of the fire risk assessment and it would have been reasonable to assume that external wall construction was properly addressed at the time of construction, or alteration, of the building, under building regulations and that the materials used and the method of construction did not present a fire hazard.
- 3.1.7. Accordingly, it is the view of the FIA that it is wholly inappropriate to now describe what is, in fact, an extension of scope of the Fire Safety Order as “clarification” of the scope of the Order, implying that, as in the case of flat entrance doors, external wall construction was always included within the scope of the Fire Safety Order. While, in the experience of the FIA, virtually every competent fire risk assessor has always understood that flat entrance doors fall within the scope of the Fire Safety Order, the FIA are not aware of any fire risk assessors (or enforcing authorities) who considered that external wall construction fell within the scope of the Fire Safety Order and fire risk assessments carried out thereunder.
- 3.1.8. This is not simply a matter of semantics. The concept of “clarification” of the Fire Safety Order, such as to “clarify” that external wall construction falls within the scope of the Fire Safety Order, is to render most (arguably all) fire risk assessments (and enforcing authority audits) carried out after October 2006 inadequate in scope.
- 3.1.9. It should also be noted that the now withdrawn CAN refers to the LGA guidance on fire safety in purpose-built blocks of flats. There is no suggestion in that guidance that, in a “Type 1 fire risk assessment” (which is described in the LGA guidance as the “basic fire risk assessment required for the purpose of satisfying the FSO”), the fire risk assessor need consider external wall construction or cladding. Section 72 of the LGA guidance does alert the reader to the hazards of combustible cladding materials, but notes that assistance from specialists may be required.
- 3.1.10. Similarly, it is acknowledged in PAS 9980 that, in the past, the external wall construction of blocks of flats was not routinely included in the fire risk assessments (FRAs) required under the Regulatory Reform (Fire Safety) Order 2005 (the “Fire Safety Order”).
- 3.1.11. Similarly, PAS 79-2<sup>4</sup> does not imply that the fire risk assessment required for compliance with the Fire Safety Order needs to consider external wall construction or cladding. On the contrary, PAS 79-2 includes a copy of a Competence Standard for fire risk assessors<sup>5</sup>, which was originally produced by the Fire Risk Assessment Competency Council (a group of around 35

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<sup>3</sup> European Union. *Workplace Directive (89/654/EEC)*. 1989

<sup>4</sup> PAS 79-2:2020 *Fire risk assessment –Part 2: Housing – Code of practice*

<sup>5</sup> In November 2020, the Competence Standard was replaced by a new code of practice, published by the Fire Sector Federation, which does, of course, reflect the amendments to the Fire Safety Order.

stakeholders in the fire safety profession, including all professional bodies within the fire safety profession, various certification bodies, the Association of Building Engineers, the then Chief Fire Officers' Association, the Office of the Chief Fire and Rescue Adviser and the then Department for Communities and Local Government) in 2011.

- 3.1.12. That Competence Standard describes the competence required of a fire risk assessor in relation to all aspects of fire safety, including passive fire protection. In relation to the latter subject area, the Competence Standard requires only that, in relation to the building envelope, the fire risk assessor understand the significance of fire-resisting external walls in protecting escape routes at boundaries, the significance of any immediately visible damage and the importance of remedying any immediately visible damage in sandwich panels.
- 3.1.13. In the opinion of the FIA, it is inconceivable that, if the scope of the Fire Safety Order always included external wall construction and cladding, this was not recognised by the committees responsible for producing authoritative guidance, such as the LGA guidance and PAS 79-2 (or by any member of the profession when these documents were circulated as drafts for public comment). It is equally inconceivable that Government guidance on application of the Fire Safety Order to premises in which people sleep<sup>6</sup> (including blocks of flats) made no mention whatsoever of external wall construction, while the only references to cladding relate to the hazards of sandwich panels.

## 3.2. The Problem for Fire Risk Assessors

- 3.2.1. The FIA acknowledge the serious issues that have come to light following the Grenfell Tower fire in relation to the hazards of combustible wall construction and cladding. It is not disputed that these issues need to be addressed, particularly in high-rise residential buildings, but, to some extent, also in lower residential buildings. It is also recognised that fire risk assessors have a role to play in this matter going forward.
- 3.2.2. However, the skillset required to carry out a fire risk assessment of the external walls is very different from that required to carry out the fire risk assessments that have, previously, been undertaken for compliance with the Fire Safety Order; there are very few within the fire risk assessment community who would possess those skills. It is completely unrealistic to expect a typical fire risk assessor to investigate the fire performance of external wall construction and cladding. It is, therefore, the case that, in order to satisfy the amended Fire Safety Order, it may be necessary for the responsible person to commission a "one off" fire risk appraisal of external wall systems. This appraisal would need to be repeated if the external wall construction is altered without evidence of suitable verification of compliance with the Building Regulations, or there is reason to believe that the existing fire protection measures incorporated within the wall construction might no longer be effective. This appraisal can then be used to inform every subsequent fire risk assessment carried out under Article 9 of the Fire Safety Order.
- 3.2.3. The FIA are extremely concerned that, if a legislative obligation to incorporate assessment of external wall construction is imposed on fire risk assessors, and that it is not acknowledged that this external wall assessment will not uncommonly require the services of a specialist, who should be appointed separately from the fire risk assessor, companies (including sole traders) engaged in fire risk assessment will decline to carry out fire risk assessments, at least for blocks of flats. The effect will then, undoubtedly, be substantially to contract the already inadequate availability of competent fire risk assessors at a time when they are

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<sup>6</sup> *Fire safety risk assessment. Sleeping accommodation. HM Government. Department for Communities and Local Government Publications. 2006*

most required, particularly in relation to fire risk assessments for multi-occupied residential buildings.

3.2.4. In this connection:

- The background, education, training and experience of typical (indeed most) fire risk assessors would not provide competence to advise on external wall construction and cladding. Furthermore, for avoidance of doubt, this assertion relates to the vast majority of fire risk assessors working for third party certificated fire risk assessment companies, or individually certificated or registered by certification bodies and professional bodies.
- PAS 9980 was not written for typical fire risk assessors to implement.
- It is acknowledged by both professional bodies and Government that advice on external wall construction and cladding should be given only by a competent specialist, such as a chartered engineer who has specific experience in external wall construction. Few fire risk assessors meet those criteria.
- Commonly, it will be the case that simple, visual inspection of cladding will not enable identification of the cladding product or its constituent materials. For example, some high-pressure laminate (HPL) panels can give the appearance of metal panels. Virtually by intent, it can be very difficult, particularly when viewing high level areas from ground level, to distinguish between brick slip and bricks; similarly, reconstituted stone panels and true stonework. In visual inspection of rendered walls, it is often impossible to determine the substrate that has been rendered.
- Other than, possibly, in the case of traditional masonry walls, it is always impossible, from visual inspection, to determine the cross section of the wall build up, comprising insulation, cavity barriers, fixings, cladding framework, etc. This can only be determined from intrusive inspection and, in many cases, laboratory tests of materials.
- Experience has shown that original specification drawings, and even as-fitted drawings, are not necessarily accurate and do not necessarily reflect the wall build up, and particularly materials, that were actually installed. Nor will drawings assist with a determination of whether, for example, poor workmanship (e.g. incorrectly installed cavity barriers), or substituted components, undermines the fire performance of the specified design.
- Even if an intrusive inspection is carried out, in practice, it can only be carried out on a sampling basis. Therefore, conceptually, it is only ever possible to be certain of non-compliance of wall construction, as appropriate construction in the area of the sample does not confirm compliance across the entire wall construction.
- Even if a typical fire risk assessor is provided with accurate information on wall construction, in the case of complex wall construction, advice on compliance with the Building Regulations, and the risk associated with aspects of non-compliance, would be beyond the competence expected of them.
- In further connection with the above point, Section 72 of the Local Government guidance on fire safety in purpose-built blocks of flats, acknowledges that assistance from specialists may be required to determine if the external walls are satisfactory and whether there is adequate provision of cavity barriers.

- 3.2.5. If many fire risk assessors declined to carry out fire risk assessment for multi-residential premises, this would create great difficulties for the public, while potentially exposing the public to the risk from the void in competent service providers being filled by those prepared to work beyond their level of competence.
- 3.2.6. In addition, the professional indemnity insurance market is unlikely to be favorable towards an expansion of scope of fire risk assessments to include external wall construction and cladding, exacerbating the difficulties that already exist for fire risk assessors to obtain professional indemnity insurance at affordable rates, so further driving fire risk assessors to leave the field or, at least, to refuse to undertake fire risk assessments for multi-occupied residential buildings. Indeed, the FIA are aware that many professional indemnity insurance policies actually exclude advice on external wall construction and cladding.
- 3.2.7. In the meantime, in the light of the amendments to the Fire Safety Order, one purpose of this Guidance Note is to advise fire risk assessors as to how they should address the issues raised in this Guidance Note, while still providing the much needed, but somewhat scarcely available, fire risk assessment services required to ensure the safety of the public in multi-occupied residential buildings (particularly high-rise buildings of this type).

## 4. Advice of FIA to Fire Risk Assessors

- 4.1. The FIA are anxious to ensure that the public have available to them an adequate number of competent fire risk assessors, who can make a substantial contribution to safety of residents of blocks of flats and maisonettes.
- 4.2. It is also acknowledged that it is reasonable to expect a fire risk assessor to report, within a fire risk assessment, on the nature of external wall surfaces, to the extent practicable from visual observation, supported by information available from the Responsible Person, with appropriate descriptive text. The objective is to provide a simple description of the external walls and, in particular, to identify the presence of any cladding.
- 4.3. It is further acknowledged that, if it is manifestly obvious that the nature of external wall construction is such that it would not reasonably be expected to present a hazard to life as a result of the potential for rapid fire spread over the wall, the fire risk assessor should exercise judgment and not simply make a generic recommendation that a fire risk appraisal be carried out by a specialist. However, care should be taken that such exercise of judgment does not fall within an exclusion in the relevant professional indemnity insurance policy.
- 4.4. It would be equally expected that the fire risk assessment might, contain phraseology along the lines of the following example (which is not intended to be prescriptive) *“From visual observation, the exposed surface of external walls gives the appearance of [e.g. masonry/metal cladding/timber cladding/HPL/render applied over insulation/render applied over a masonry substrate/render applied over an unknown substrate].”* However, care should be taken in this respect not to base any recommendation on assumptions that cannot be fully verified, as it must be understood a visual inspection will frequently not enable definitive identification of the wall construction.
- 4.5. In many buildings, there may be a complex combination of different materials, which might need to be described. It is also acknowledged that it may be relevant to record the storey levels over which the surfaces described have been determined. For example, in the case of a high-rise building, determination of external wall surfaces on the uppermost floors may be difficult from visual observation at ground level, so the description might be caveated by wording such as *“On the lower floors,...”*.



- 4.6. If it is known to the fire risk assessor that the form of construction identified is likely to present a fire hazard, this should be made clear in the fire risk assessment. However, it is important for the Responsible Person (and any enforcing authorities examining the fire risk assessment) to be aware that, in many cases, little if any definitive information can be provided in this respect; as already discussed in this Guidance Note, the fire hazard will depend on many factors that will commonly be unknown to the fire risk assessor, such as any insulation present, any cavities present, the presence, and adequate installation of, any cavity barriers.
- 4.7. **In the light of the circumstances outlined above, the FIA strongly recommend to fire risk assessors that, unless they feel confident to give definitive advice on the nature and fire hazard of external wall construction, and have the appropriate qualifications, skills, knowledge and experience, they exclude assessment of the fire hazard of external wall construction and cladding from the scope of the fire risk assessments that they carry out under the Fire Safety Order, in which case it will be necessary for the action plan of the fire risk assessment to recommend an appraisal of the external wall construction by specialists. It is important that this is made clear to the Responsible Person in the tender process and documents, the contract and the fire risk assessment. However, fire risk assessors should note that this exclusion is unlikely to be necessary in the case of traditional masonry construction or where the extent of cladding is minimal (e.g. is limited to a roof level plantroom or a small decorative area).**
- 4.8. **To the extent that fire risk assessors feel able, nevertheless, to give guidance on the fire hazard of external wall construction and cladding, the FIA strongly recommend that the fire risk assessors ensure that this advice is within the scope of their professional indemnity insurance cover and that their practice of giving advice on this subject is not a material fact that they have failed to disclose to the insurers, potentially rendering their insurance cover invalid for such work.**
- 4.9. Where external wall construction is other than that manifestly low fire hazard and the fire risk assessor does not feel competent to advise on the risk to life, the FIA recommend that consideration is given to inclusion of the following wording in the relevant fire risk assessment for a multi-occupied residential building:
- “Assessment of the fire risks of external walls and any cladding are excluded from the scope of this current fire risk assessment, as this is outside our expertise.<sup>6</sup> Accordingly, it is strongly recommended that you obtain advice from qualified and competent specialists on the nature of, and fire risks associated with, the external wall construction, including any cladding, of this building.*
- <sup>6</sup> *This exclusion is consistent with advice provided by The Fire Industry Association and is discussed in their guidance note to fire risk assessors on this matter (<https://www.fia.uk.com/news/guidance-on-the-issue-of-cladding-and-external-wall-construction-in-fire-risk-assessments-for-multi-occupied-residential-premises.html>).*  
*This assessment by specialists should be carried out in accordance with PAS 9980.”*
- 4.10. **As in the case of any exclusion of scope of work carried out under a contract, before entering into a contract to carry out a fire risk assessment, any exclusion of assessment of external wall construction and cladding should be made clear to the person for whom the fire risk assessment is being carried out as part of any quotation or tender for carrying out a fire risk assessment.**