

MEETING: 16 JULY 2018

**SUBJECT: THE REGULATORY REFORM (FIRE SAFETY) (CUSTODIAL
PREMISES) SUBORDINATE PROVISIONS ORDER 2018**

**JOINT REPORT OF THE CHIEF FIRE OFFICER/CHIEF EXECUTIVE (THE CLERK
TO THE AUTHORITY) AND THE PERSONNEL ADVISOR TO THE AUTHORITY**

1 INTRODUCTION

- 1.1 The Crown Premises Fire Inspection Group (CPFIG), Ministry of Justice (MOJ) and the Home Office have reviewed who is the correct enforcing authority for the purpose of the Regulatory Reform (Fire Safety) Order 2005 (FSO) in custodial premises.
- 1.2 These include those listed in the Government's 2007 guidance to enforcing authorities (i.e. civilian prisons, young offender institutions, immigration detention, holding or removal centres, court custody suites, and customs and excise (now Border Force) detention areas) but also in secure training centres and approved premises.
- 1.3 This review has led to the creation of The Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018 ("the 2018 order"), which amends the FSO.
- 1.4 This report provides members with an overview of the changes brought into force by the 2018 order and highlights the impact on the Authorities statutory responsibilities.

2 BACKGROUND

- 2.1 The issue of ownership, and therefore enforcement responsibilities, for the purposes of the FSO turns on a fine point of property law, and will vary according to the type of contract that is in place with providers of contracted out services on a case by case basis. MOJ and the Home Office reviewed all of their contracts for the provision of custodial premises and identified that a number of specific premises are no longer 'owned' or 'occupied' by the Crown for the purposes of the Fire Safety Order. Within Tyne and Wear two premises, Ozanam House and St Christopher's House (both in the Newcastle district), were noted as the Authority being the enforcing authority.
- 2.2 As a temporary measure on 17th April 2017, the Chief Fire Officer on behalf of the Authority, used designated powers and appointed CPFIG inspectors to carry out, on behalf of the Authority, any inspections needed in these specific premises. This arrangement provided a continuity of approach and maintained a central Government overview of fire safety standards across the whole of the

custodial estate, irrespective of ownership, while the correct authority took ensuring enforcement decisions. It also ensured that the costs associated with the requirements for fire safety inspectors in custodial premises, including the development and maintenance of specialist expertise, security training and secure IT systems, were minimised.

- 2.3 By implementing robust and transparent interim arrangements for maintaining oversight of fire safety arrangements in the contracted out custodial premises it ensured that:
- a) these premises continued to be audited as part of a risk based inspection programme and that, in the event of a fire, reactive inspections would be undertaken;
 - b) should any breaches have been identified, the correct enforcing authority would take appropriate remedial action; and
 - c) the skills, training and experience available in the current team of inspectors and necessary for effective regulation of this specialised environment continued to be utilised.

3 MODIFICATION OF THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005

- 3.1 The Regulatory Reform (Fire Safety) (Custodial Premises) Subordinate Provisions Order 2018 came into force on Friday 30th March 2018. This Order modifies article 25 of the Regulatory Reform (Fire Safety) Order 2005 (S.I.2005/1541) to provide that certain types of custodial premises now fall within sub-paragraph (e) of article 25(1) irrespective of whether they are owned or occupied by the Crown. The effect is that a fire inspector, or any person authorised by the Secretary of State for the purposes of the Order, is the enforcing authority in relation to those premises in accordance with article 25(1)(e).
- 3.2 This ends the arrangement under which CPFIF inspectors were appointed as inspectors of Tyne & Wear Fire & Rescue Authority to inspect custodial premises. The two identified premises reverts to the enforcing control of CPFIF.

4 RISK MANAGEMENT

- 4.1 There are no identified risks associated with the removal of these premises from TWFRAs enforcing powers as per the amendment to the FSO

5 FINANCIAL IMPLICATIONS

- 5.1 There are no financial implications in respect of this report.

6 EQUALITY AND FAIRNESS IMPLICATIONS

- 6.1 There are no equality and fairness implications in respect of this report.

7 HEALTH AND SAFETY IMPLICATIONS

7.1 There are no health and safety implications in respect of this report.

8 RECOMMENDATIONS

8.1 The Authority is recommended to:

- a) Note the contents of this report
- b) Receive further reports as appropriate.

BACKGROUND PAPERS

The under mentioned Background Papers refer to the subject matter of the above report: N/A

Appendix 1 – Authorisation of CFIG Inspectors



10th April 2017

Regulatory Reform (Fire Safety) Order 2005

Issued to: Peter Holland
Jeremy Yates
Justin Ashburn
Neil Avery
Mark Baker
Richard Hill
Steve Lewis
Mark Meanwell
Paul Wood

In exercise of the power under article 26(1) of the Regulatory Reform (Fire Safety) Order 2005, the persons named above are appointed by the Tyne and Wear Fire and Rescue Authority as inspectors in relation to the following private prison premises:

Ozanam House
79 Dunholme Road
Newcastle upon Tyne
Tyne and Wear
NE4 6XD
(CFRMIS PREMISES I.D: 00002414)

St Christopher's House
222 Westmorland Road
Newcastle upon Tyne
Tyne and Wear
NE4 6QX
(CFRMIS PREMISES I.D: 00000373)

In relation to such premises, the persons listed above have all of the powers and duties of an inspector under the Regulatory Reform (Fire Safety) Order 2005.

Signed

A handwritten signature in black ink, appearing to be 'P. Wood', written over a horizontal line.

Chief Fire Officer/Chief Executive

