

Bedfordshire Fire & Rescue Service

Summary of our Fire Safety Enforcement Policy and Procedures

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1. Policy Statement.

This statement sets out the service that businesses and others being regulated by the Bedfordshire Fire and Rescue Authority (the Service) can expect from its regulatory and enforcement function and its appointed inspectors. It goes some way to satisfying the Regulators' Code by committing the Service and appointed Regulators to the principles of good enforcement with the assistance of effective procedures and clear guidance. The primary function of the regulatory part of the Service is to achieve safety in case of fire in premises to which The Regulatory Reform (Fire Safety) Order 2005 (FSO) applies.

The Services Enforcement Policy has been prepared taking into account the principles of best practice recommended by Government for regulatory bodies. Listed below is the primary guidance and Legislation used:

- The Regulators Code.
- Enforcement Management Model (EMM) issued by the HSE.
- The Regulatory Enforcement and Sanctions Act 2008.
- The Legislative and Regulatory Reform Act 2006.
- The Legislative and Regulatory Reform (Regulatory Functions) Order 2007.
- The Environment and Safety Information Act 1988.
- The Regulatory Reform (Fire Safety) Order 2005.
- The Licensing Act 2003.

2. Principles of Enforcement.

Fire safety regulation is founded on the principle that people should be kept safe in case of fire. Bedfordshire FRS regulates to help secure this safety and through regulation, the service aims to provide a consistently high quality service to those we regulate. Our regulatory activity generally extends to premises in which there is a trade, business or other undertaking.

Non-compliance with fire safety law will mean that in our view, people are at risk in case of fire. Where we identify people at risk, we will respond proportionately to that risk; taking account of the likelihood and severity of the risk in line with our [Core Values](#)

The Service believes in firm but fair enforcement of fire safety standards. This is achieved by:

- **proportionally** applying the law to secure safety.
- being **consistent** in our approach to regulation.
- **targeting** our resources and enforcement action on the highest risk.
- being **transparent** about how we operate and regulate.
- being **accountable** for our actions.

The Service will have regard to the Regulators Code when developing the policies and procedures that guide our regulatory activities. We will encourage and promote fire safety while minimising the associated costs of providing safety from fire.

The Service believe that by fostering good relationships with our business community and by working with them, we can improve public safety, business resilience, and can remove any unnecessary burdens of complying with fire safety law.

The Service will endeavour to engage with the business community, to seek their views about our policies and practices.

In the most serious cases of danger in case of fire, we will take immediate and decisive action to secure safety, for example by serving a Prohibition Notice that can stop people from using the premises.

3. The way we approach regulation.

In accordance with the Regulators Code, the Service takes enforcement action (and imposes sanctions and penalties) to:

- a) change the behaviour of the offender.
- b) change societal attitudes to the risks from fire.
- c) eliminate financial gain or benefit from putting people at risk in case of fire.
- d) exercise a proportionate response to the nature of the offence and the harm caused.
- e) restore safety to premises where fire safety risks were found.
- f) encourage fire safety to be secured in future.
- g) impose an appropriate sanction for the particular offender, which can include punishment through the courts (and the public stigma that should be associated with a criminal conviction).

4. Audit and Inspection of Premises.

The Service operates a Risk Based Inspection programme (RBIP). This system utilises data and guidance from the Home Office and the National Fire Chief's Council (NFCC) together with local intelligence and knowledge and incorporates local risk priorities identified from trends in location, types of fire and assessment of vulnerability of groups in local areas within the service area. From time to time, and particularly if any significant changes are proposed, the Service will consult regulated entities on its methodology through consultation on its [Community Risk Management Plan](#)

Audits, inspection and compliance checks will be undertaken by Fire Safety Regulators on the basis of the Service's RBIP under which priority is given to individual premises and generic premises types or uses that have been assessed as being of relatively higher risk. The greatest audit and inspection effort will be allocated to premises where a compliance breach would pose a serious risk to the safety of relevant persons and the Service has reason to believe that there is a high likelihood of noncompliance with the law.

The Service's overall enforcement programme takes account of the need to sample small numbers of premises in relatively lower risk categories in order to continually test the methodology used.

A Fire Safety Compliance Check provides one way of assessing compliance with the FSO and help to sign post Fire Safety Regulators to premises types that may warrant a more in-depth audit.

In addition to Audits and any subsequent follow-up under the RBIP, other reasons for an inspection may include:

- Statutory consultations: in response to regulatory requests from other enforcing authorities.
- Requests for advice: by statute, fire and rescue authorities must make provision in their area for the giving of advice on request about how to prevent fires and restrict their spread in buildings and other property.
- Following a fire: where it is considered appropriate to follow up issues identified through the initial investigation conducted by the attending fire crews. As the Fire Safety Order includes a requirement to reduce the risk of fire occurring, post fire inspections are undertaken to establish whether there have been breaches of the Fire Safety Order and whether any such breaches placed life at risk. Such breaches could form grounds for prosecution.
- Following a complaint: where a substantive complaint is made about a premises, or its management and it is felt necessary to investigate the complaint further.
- Following intelligence or to target an issue: arising from aspects of a type of premises or its management, identified locally or nationally as requiring the attention of the fire and rescue service. This may mean inspecting premises outside of the existing fixed term inspection programme.
- Sampling: selecting premises that have previously been evaluated as providing a lower risk to occupants to re-examine the assessment, or where the risk increases for a particular period of time in the year e.g., retail premises prior to Christmas.
- Promoting fire safety: by statute, fire and rescue authorities must make provision for the promotion of fire safety in its area, to the extent that it considers reasonable to do so. The promotion of fire safety will be balanced

against the other legislative requirements of the Authority and will be commensurate with the resources made available through its Community Risk Management Plan.

- Partnership work: involving the inspection of premises on behalf of or alongside partner agencies where the work accords with the requirements of the Authority Partnership working arrangements.
- The Service will respond to allegations of fire risk in any premises for which they are the enforcing authority regardless of the relative risk level of the premises.

5. Partnership Working.

The Service has entered into a number of agreements with other enforcing authorities to provide clarification about which authority takes the lead for particular premises types where the enforcement regimes overlap. To minimise audit and inspection burdens for regulated entities, the Service will continue to seek to develop, engage in, and foster partnerships working with other enforcers and other stakeholder groups.

When serious fire safety concerns are raised about a property and a Prohibition Notice is issued resulting in people having to leave their homes, the Service will work closely with the Local Authority Housing teams to ensure alternative accommodation and support is provided. This process limits the negative impact on people in the community.

6. Enforcement Options.

Avoiding fires is better than protecting people when fire occurs. Where fire is likely and / or the consequences of fire pose a hazard to people, it may become necessary for the service to take action (against the responsible person / duty holder) to reduce the risk. The Service adheres to the [HSE -Enforcement Management Model](#) when formal action is required to be taken.

Officers utilise this process when determining enforcement action. Such judgement is made in accordance with Better Regulation principles which are in accordance with the Regulators Code.

The service has a wide range of enforcement action available to use that includes:

- a) Educate and inform.
- b) Informal action (Notification of Deficiencies).
- c) Agreed Action Plans.
- d) Statutory Notice (including Enforcement, Alterations and Prohibition).
- e) Referral to other agencies.
- f) Simple Caution and Prosecution through the Criminal Justice System

a) Educate and inform.

In certain circumstances, after evaluating the safety at premises, no action may be required. This will be the case when the safety of people in case of fire has been adequately secured and the person or persons responsible for fire safety will be informed of this. The Service will also provide fire safety education and advice during the visit

b) Notification of Deficiencies.

If the likelihood of fire is high and the consequences in case of fire are low, advice may be given on how the likelihood can be reduced. Advice may also be given where the consequences of fire might cause harm to people but can be simply avoided. Advice can also be given to point out good practice or to signpost business continuity advice or other business protections, for example protection from flooding.

Informal action will take the form of a letter (a notification of deficiencies), pointing out that people are at risk in case of fire, where in the building they are located and what has led to them being put at risk. The letter will also detail what should be done to provide safety and how to prevent the same danger from recurring. Informal action may also be taken if those responsible have displayed clear intentions to undertake corrective action. Failure to respond to informal action can result in escalation to formal enforcement action.

c) Agreed Action Plans.

Where a Fire Risk Assessment or fire safety audit identifies a need for improvements to a premises, the responsible person will often benefit from advice prior to implementing the necessary works. Fire Safety Regulators may provide advice to assist the responsible person in planning and prioritising remedial action thereby ensuring best value and maximum benefit is achieved. This may be achieved by formulating an Action Plan.

The aim of an Action Plan is to focus attention on where a risk is identified, what preventive and protective measures are necessary to either reduce the risk to an acceptable level or eliminate the risk altogether, and the time scale over which remedial action should be taken. Where an Action Plan has been compiled and agreed, the responsible person will be made aware that failure to meet the objectives of the plan in full may result in formal enforcement action being taken over any matters outstanding at the end of the agreed period of time for completion.

d) Statutory Enforcement, Prohibition / Restriction and Alterations Notices.

Formal action will take the form of serving a Notice (Alterations, Enforcement, and/or Prohibition Notices). Formal action will be taken when the consequences of fire are such that people are likely to be harmed, suffer serious injury or death. It can require specific action to be taken or certain activities to cease.

Notices specify the problem and will either require a remedy as determined by officers or (if the legislation allows) may allow for other action with an equivalent remedial effect. In most cases there is a right of appeal against a Notice. Where there is a right of appeal, advice on the appeal mechanism will be set out in writing to the person on whom the notice is served.

Where a Notice requires changes to a premises in which another enforcing body has a statutory interest, the Service will, so far as is reasonably practicable, consult with such bodies as can reasonably be identified before serving the notice. Any such consultation will not release the person on whom the notice is served from their statutory obligation to consult relevant bodies in respect of works they will undertake as a result of a notice. Any failure by the Service to consult with any particular body or person will not invalidate any notice served under the Regulatory Reform (Fire Safety) Order 2005.

The following notices are available for use:

- **Alterations Notices (Article 29)**

Where a reasonable known change to premises or to the use of premises could result in a significant increase in the risks to people on the premises, we may serve an Alterations Notice, which requires the responsible person/duty holder to notify us, before making that known change.

- **Enforcement Notices (Article 30)**

Enforcement Notices require improvements in safety and will point out that people are at risk in case of fire; where in the building they are located; what has led to them being put at risk, as well as what should be done to provide safety and how to prevent the same danger from recurring.

Enforcement Notices include a reasonable period of time for safety to be put in place. Failure to respond to a formal Notice can result in escalation to an investigation for prosecution.

- **Restriction / Prohibition Notices (Article 31)**

Where immediate action is considered necessary to keep people safe from fire, (such action will be considered where conditions are found that constitute a serious risk to life or injury to persons in the event of fire), a Prohibition Notice, which can prohibit or restrict the use of premises, can be served. An explanation of why such action is required will be given at the time and confirmed in writing. Whereas a Prohibition Notice requires action to remove imminent and immediate risks in case of fire, an Enforcement Notice might also be served to deal with less imminent risks in case of fire.

e) Referral to other Agencies.

Where other Health and Safety enforcing authorities have a regulatory interest in a particular premises, details will be forwarded to the appropriate agency, for example if apparently dangerous conditions or practices (not related to fire) are noted in a workplace.

f) Simple Caution and Prosecution.

There are a number of offences that can be committed under fire safety law. Among the foremost of these are failure to comply with a formal notice and failing to provide safety in case of fire to such extent that one or more people are put at risk of death or serious injury in case of fire.

The Service can deal with offenders through prosecution and Simple Cautions. These legal actions are important ways to bring to account those responsible for alleged legal offences. Where appropriate, we will use one of these measures. The Service will use discretion in deciding whether to bring a prosecution.

The decision to prosecute is a serious step. Fair and effective prosecution forms a legitimate element of the Service's strategy to reduce the risk of death and injury in the workplace by enforcing fire safety law. Any prosecution has serious implications for all involved – including the person prosecuted, casualties, witnesses, and Service's personnel.

The Service will apply the guidance set out in our General Investigation and Prosecution Procedures Policy and associated Guidance Notes.

These procedures take into account the consequences of the contravention relevant to (a) harm to persons; (b) potential harm to persons; and (c) impact on the ability of the Fire and Rescue Service to enforce, And the strategic factors (Public interest and Interest of Justice).

All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the statutory powers of the officer and all other relevant legislation, including but not limited to the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, and the Regulation of Investigatory Powers Act 2000, and in accordance with any formal procedures and codes of practice made under this legislation so far as they relate to the regulatory activity of the Service.

7. Helping those we regulate.

The Service will help those responsible for delivering safety in case of fire (responsible persons and duty holders) to understand what is expected of them and what they should expect from the Service. Legal requirements will be clearly distinguished from best practice or non-statutory fire safety advice. We will publish guidance in a clear, accessible, concise, format using media appropriate to the target audience, in plain language.

8. Enforcement Management Model (EMM).

The Service will use discretion in deciding when to investigate. The [HSE - Enforcement Management Model](#) provides a logical system that helps Regulators to make enforcement decisions on when and what enforcement action may be appropriate. Judgement is made in accordance with Better Regulation principles which are in accordance with the Regulators Code.

9 Principles of Enforcement Action.

In assessing necessary and proportionate enforcement action, consideration will be given to (amongst other things):

- the safety history at the premises,
- the history of operational attendances and false alarms at the premises,
- safety referrals to the premises from other authorities / interested parties,
- any Primary Authority relationship that might be in place with the business,
- the adequacy of fire safety arrangements at the premises,
- the attitude of the responsible person / duty holder to providing safety,

- statutory guidance,
- codes of practice, and
- legal advice.

In every case, when we require action to remedy unsafe conditions, we will explain the nature of the unsafe conditions to those responsible and will confirm the same in writing.

Because, subject to any letter or notice we give, work must be done to improve or secure the safety of people in case of fire; we will agree reasonable timescales within which the work must be completed that are agreed with those responsible.

The Service will offer duty holders information and advice both verbally and / or in writing. This will include an explanation of why any specified work is necessary and a time period within which the specified work should be completed. Educating, informing and advising responsible persons and duty holders about their duties under fire safety legislation will form a fundamental element of our enforcement regime. The Service will fulfil its obligation under section 6(2) of the Fire and Rescue Services Act 2004 to give on request, advice on fire safety free of charge.

Fire Safety law gives power to warranted inspectors to take samples of dangerous materials or extracts of recorded safety information and documents. When we take materials or documents we will provide an appropriate receipt.

In the most serious of cases we will gather information and conduct an investigation to prepare for a prosecution. The decision to prosecute a case will be taken by those with authority to do so in accordance with our Scheme of Delegations.

All our members of staff that make enforcement decisions will be required to follow the [Regulators Code](#)

When the Service takes enforcement action, we will discuss what is required to achieve safety for relevant persons with the responsible person / duty holder (taking into account the circumstances of the case, if they have been explained to us).

The Service will clearly explain any advice, required actions or decisions taken at the time of our visit and will be willing to discuss such matters on any future occasion to ensure those responsible have clarity of what must be done.

Our letters and notices will provide details in writing of what must be done and how to appeal against any of our regulatory decisions. Our letters and notices will also explain what will happen next, especially if you do not undertake the work. Our website has details of how to complain about our conduct, [contact us](#)

We encourage those responsible for providing safety in case of fire to contact us, especially if there are any questions or comments about our regulatory activity. We will also maintain regular communication (where required) until safety has been provided.

10 Failure to Comply with Requirements.

Rights of, and routes to appeal, will be clearly set out in writing and issued with our letters.

We can withdraw Alterations, Enforcement and Prohibition Notices at any time, but they will generally be deemed to be in force until such time as the notice is complied with, withdrawn or cancelled by the court.

A failure to comply with an Alterations, Enforcement or Prohibition Notice constitutes an offence and may result in prosecution.

11 Publicity

The Service will consider publicising the serving of a Prohibition Notice or any conviction, which could serve to draw attention to the need to comply with fire safety requirements or deter anyone tempted to disregard their duties under fire safety law.

12 Public Register

The Service will enter details of certain notices (called “relevant notices”) into a register to which the public have access. (In accordance with the Environment and Safety Information Act 1988). The register can be accessed via the services website ([Public Register](#)).

13 Other Duties of The Service

In addition to the Fire Safety Order (FSO), the Service is also responsible for fire safety related matters within other relevant legislation e.g., sections within the Health and Safety at Work Etc. Act 1974. Wherever possible the service will endeavour to utilise the FSO, when this is not appropriate, they will inform the relevant enforcing authority of any issues identified.

14 Equality and Diversity

All enforcement decisions will be fair, independent and objective. When formal enforcement action is necessary, each case will be considered on its merits. Enforcement outcomes will not be influenced by any of the protected characteristics of the people involved. Such decisions will not be affected by improper or undue pressure from any source.

Although the protected characteristics of those involved do not influence the enforcement outcome, it is acknowledged that our enforcement activity may have a positive impact in relation to improving fire safety standards in certain premises. An example of this would be elderly residents living in a residential care premises who may require mobility assistance to evacuate. As part of the audit process, the specific needs of these occupants would be taken into account and where appropriate, additional control measures identified and implemented.

15 Data Protection

The Service will comply with the principles of the Data Protection Act 1998 governing the use of personal data received or obtained and will respect the rights and freedoms of those individuals when processing their details.

Details are available on request [contact us](#)

16 Freedom of Information

Under the Freedom of Information Act 2000, individuals are given 'a general right of access to information held by public authorities in the course of carrying out their functions subject to certain conditions and exemptions'. Under Section 19 of that Act, public authorities are required to produce a publication scheme setting out details of the information routinely published or made available, how the information is made available (in hard copy and on-line), and whether it is available free of charge or on payment.

Details of The Service's publication scheme can be accessed via [Requests for information- Publication Scheme](#).

17 Other Legislation

All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the statutory powers of the officer and all other relevant legislation, including but not limited to the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, and the Regulation of Investigatory Powers Act 2000, and in accordance with any formal procedures and codes of practice made under this legislation so far as they relate to the regulatory activity of the Service.