

Enforcement Procedures	
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Policy Document Name	Enforcement Procedures
Introduction	The effectiveness of legislation in protecting those who may be harmed by fire depends crucially on the compliance of those regulated. Care must be exercised to ensure that the business community, and others, meet their legal obligations without unnecessary expense, whilst taking firm action, against those who show contempt for the law or act irresponsibly.
Owner	Gary Underhill, Community Fire Protection Headquarters
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Version Control/Amend Schedule	V6 – adapted to a new corporate format
Cross References	<ul style="list-style-type: none"> • Enforcement Concordat as published by the Better Regulation Unit of the Cabinet Office. • Enforcement Management Model (EMM) issued by the Health and Safety Commission. • Regulatory Reform (Fire Safety) Order 2005 (the Order). <p>CFRS-#1213-Dignity at Work Policy and Procedure</p> <p>CFRS-#253-Enforcement Policy Statement</p> <p>CFRS-#259-Fire Safety Order Prosecutions</p> <p>CFRS-#256-Action Plan Policy</p> <ul style="list-style-type: none"> • Regulators Code issued by the office for Communities and Local Government • HELA/Local Authority Circular 22/10 • Fire and Rescue Services Act 2004 • The Hampton Review: Reducing administrative burdens-effective inspection and enforcement.

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1 INTRODUCTION

- 1.1 This procedure details the process for preparing and serving Enforcement Notices.
- 1.2 The effectiveness of legislation in protecting those who may be harmed by fire depends crucially on the compliance of those regulated. It is recognised that most businesses wish to comply with the law. Care therefore, will be exercised to ensure that the business community, and others, meet their legal obligations without unnecessary expense, whilst taking firm action including prosecution, against those who show contempt for the law or act irresponsibly.
- 1.3 This policy document works towards the following Corporate Objective:

Protect life, property and other interests

2 The Responsible Person

2.1 The Responsible Person Definition

- 2.1a The process of enforcement can only be taken forward by dealing with the responsible person and in this respect “responsible person” [as defined in The Regulatory Reform (Fire Safety) Order 2005] means –

(i) in relation to a workplace, the employer, if the workplace is to any extent under his/her control;

(ii) in relation to any premises not falling within paragraph (i)

(a) the person having control of premises (as occupier or otherwise) in connection with the carrying on by him/her of a trade, business or other undertaking (for profit or not); or

(b) the owner, where the person in control of the premises does not have control in connection with the carrying on by that person of a trade, business or other undertaking.

- 2.1b. In the case of premises in multiple occupation, the employer is under an obligation to comply with the Order, in so far as his/her control extends. Where a person other than an employer exercises control (such as the common parts of multi-occupied premises) legal responsibility rests on such persons. The officer must use their powers under the Order to ascertain control, and therefore an obligation to comply with the Order.

2.2 Identifying the Responsible Person

- 2.2.1 In most circumstances an informal and discursive approach with the responsible person may prove to be the most appropriate way to determine the responsible person. Section A of the Fire Safety Audit form should be comprehensively completed and the responsible person question adequately addressed. Where there is a lack of transparency and the informal approach is not successful further investigation may be required. This may involve the examination of documents, such as leases and contracts and/or other regulatory bodies and agencies may be approached to assist in this investigation e.g. licensing.

2.2.2 In more difficult cases it may be necessary to search land registry records or conduct a company's house search in order to establish the details of the owner and/or responsible persons. Where necessary, this will be arranged by CFP SHQ.

3. ENFORCEMENT ACTIVITY

3.1 Enforcement Notices

(i) On completion of the fire safety audit of the premises, the officer will calculate and confirm the enforcement expectation in accordance with the EMM.

(ii) Where the enforcement expectation is prosecution, the matter will be referred to CFP SHQ for a decision and the responsible person advised of this action. Officers will refer to the Prosecution and Caution Policy document for further guidance.

(iii) Where the enforcement expectation is the issue of a formal enforcement notice, the officer will inform the responsible person of this fact and that one will be served in due course. The fire safety deficiencies may be identified and explained to the responsible person as a prelude to the serving of the notice.

(iv) On return to the fire safety office the officer will produce the enforcement notice and serve it on the responsible person with immediate effect. The notice will require that person to remedy the failures identified in the schedule to the notice within the specified time period. (Not less than 28 days). The appropriate template which is accessed via CFRMIS letters must be used for the completion of the notice having regard to the standard phrases and sample notices also located on CFRMIS.

Note: Enforcement Notices should not contain multiple completion dates

(v) The notice shall, for the most part, be served on the responsible person, however where such action cannot be taken, it will be necessary to look to other persons who have "to any extent control of the workplace". In the case of corporate employers, it is the body corporate that is the responsible person (the employer), and a local manager takes the status of an employee through whom the employer exerts overall control. Therefore the notice will generally be served on the company secretary at their registered offices, with a copy sent to the manager of the premises concerned.

(vi) Prior to the issue of the enforcement notice, which would require *alterations* to a building, consultation will take place with any other relevant authority with an interest in the premises concerned, or who's consent to the alteration may be required e.g. Conservation Officers, Environmental Health, HSE, CPIG, Licensing etc as detailed by Article 30(5).

A failure on the part of the enforcing authority to consult, as directed, does not make the enforcement notice void.

[There is no definition of the word *alteration* within the order, but this relates to material changes and other changes as detailed by article 29(4) (a) to (d)]

(vii) The Authority may withdraw the enforcement notice at any time before the end of the period specified in the notice (providing the Notice is not subject to an appeal).

(viii) The Authority may grant an extension, or further extension, of time specified for the steps to be taken if an appeal against the notice is not pending. A maximum of two extensions can be granted however, the second extension must be agreed by the office manager and qualification for the granting must be detailed on CFRMIS. When making the decision to grant an extension, inspecting officers must have regard to the progress of work to remedy the failures.

Where a responsible person has failed to make any progress against the schedule of works serious consideration must be given to granting any extension. It may be deemed suitable to caution the responsible person for failure to comply with an enforcement notice. Additionally, consideration must be given to whether an action plan has previously been agreed and superseded by the enforcement notice.

(ix) On satisfactory completion of all items contained within the notice the responsible person must be informed in writing using the Service standard letter.

(x) Where there has been a failure to comply with the notice, or progress is unsatisfactory, then the responsible person must be informed in writing using the service standard letter, that the matter is being referred for the consideration of legal action.

(xi) Where fire safety deficiencies are found and are dealt with during the course of the inspection they must be documented and recorded on file.

3.3c. The relevant parts of CFRMIS must be updated in accordance with CFRMIS guidance documents.

Paragraph Figure/ Table/ Note	Addition (A) or Deletion (D)	Date	Amended Text
All	A + D	10/01/2011	Full revision of Version 1 containing numerous amendments to create Version 2.
3.1 (iii)	A + D	17/07/2012	Where the enforcement expectation is prosecution, the matter will be referred to senior fire safety management for a decision and the responsible person advised of this action. Inspectors will refer to the Prosecution and Caution SIS policy document for further guidance. Where the enforcement expectation is prosecution, the matter will be referred to CFP SHQ for a decision and the responsible person advised of this action. Officers will refer to the Prosecution and Caution Policy document for further guidance.
Document	A+D	17/07/2012	inspector' officer inserted
3.1 (iv)	A+D	17/07/2012	The appropriate template must be used for the completion of the notice having regard to the standard phrases and sample notices. The appropriate template which is accessed via CFRMIS letters must be used for the completion of the notice having regard to the standard phrases and sample notices also located on CFRMIS.
3.1 (vi)	A	03/05/2013	or who's consent to the alteration may be required e.g. Conservation Officers A failure on the part of the enforcing authority to consult, as directed, does not make the enforcement notice void. [There is no definition of the word <i>alteration</i> within the order, but this relates to material changes and other changes as detailed by article 29(4) (a) to (d)]

Paragraph Figure/ Table/ Note	<u>Addition</u> (A) or <u>Deletion</u> (D)	Date	Amended Text
		16/09/11	Review no amendments made
3.1(vi)	Addition	03/06/13	with any other relevant authority with an interest in the premises concerned, or who's consent to the alteration may be required e.g. Conservation Officers, Environmental Health, HSE, CPIG, Licensing etc as detailed by Article 30(5).
ALL	Addition	04/06/13	Adapted to a new corporate format
		26/3/2014	Regulators Compliance Code replaced with Regulators Code