



Home Office

Enforcement and sanctions for non-compliance

The Regulatory Reform (Fire Safety) Order 2005 (as amended)
and the Fire Safety (England) Regulations 2022



This guidance is issued by the Secretary of State in accordance with
Article 50 of the Regulatory Reform (Fire Safety) Order 2005



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September 2023

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1. About this Guide

- 1.1 The Guide is intended for the Responsible Person and other persons on whom the fire safety legislation imposes duties (e.g. fire safety equipment and systems). This includes those with any contractual or tenancy obligations for maintenance, safety, and repair of the premises, including anything in or on the premises.
- 1.2 The purpose of this short Guide is to:
- explain how the Regulatory Reform (Fire Safety) Order 2005 (as amended) (the FSO) and the Fire Safety (England) Regulations 2022 (the Regulations) are enforced; and
 - advise you of the sanctions that are available to Enforcing Authorities (EAs) if you fail to comply with this legislation
- 1.3 The Regulatory Reform (Fire Safety) Order 2005 applies to premises within England and Wales. The Fire Safety (England) Regulations 2022 apply to relevant premises within England only. Within this Guide, the Fire Safety Order and/or the Regulations are referred to as simply 'the fire safety legislation'.
- 1.4 The Guide is not intended to provide a detailed interpretation of the fire safety legislation and should not be regarded as statutory guidance under article 26 of the FSO. For the exact requirements imposed by the fire safety legislation, legal terminology and its definitions, reference should be made to the legislation itself or to supporting guidance available on the government website. The Guide largely avoids the use of legal terminology but provides guidance on how enforcement and sanctions work in practice.

2. What the law requires

- 2.1 If you are not sure whether you or your organisation are Responsible Persons under the fire safety legislation, or you are not sure how to comply with the legislation, please refer to 'A Short Guide for Persons with Duties under Fire Safety Legislation' which can be found [here](#).
- 2.2 It is the responsibility of the Responsible Person, other dutyholders, and those they appoint to assist them, to comply with the fire safety legislation. While EAs can give general advice to help you prevent fires and promote fire safety on your premises, they cannot carry out the fire risk assessment.

3. How is the Legislation Enforced?

- 3.1 EAs are responsible for 'policing' Responsible Person compliance with the fire safety legislation. For the vast majority of premises, the EA is the local fire and rescue authority. However, for some premises the EA may be another body; for example, in the case of a construction site that does not form part of an occupied building, the EA is the Health and Safety Executive. If a site is occupied for the purpose of the armed forces, the EA is the Defence Fire Safety Regulator, while buildings occupied or owned by the government fall under the Crown Premises Fire Safety Inspectorate.
- 3.2 EAs enforce the fire safety legislation by carrying out audits of premises. These involve the cooperation of the Responsible Person or appropriate representative(s) of the Responsible Persons for the examination of fire safety records (e.g. records of testing and maintenance of fire protection equipment) and inspection of part, or all, of the premises.
- 3.3 All EAs are expected to enforce the fire safety legislation in accordance with the principles of the 'Regulators' Code', produced by the Office for Product Safety and Standards when developing policies, enforcement management models, and operational procedures that guide their regulatory activities. This requires, for example, that enforcement is transparent and proportionate to risk, minimises the cost of compliance, and is delivered for the purpose of promoting and encouraging compliance.
- 3.4 If an EA determines that a Responsible Person has failed to comply with the fire safety legislation, it has a range of options available to enforce the fire safety legislation, including verbal advice, non-statutory and statutory notices. Failure to comply with statutory duties under the FSO or the Regulations, causing risk of death or serious injury to arise, and/or with any statutory notice(s) issued by an EA can lead to prosecution and criminal sanctions. The sanctions are discussed in the next sections.

- 3.5 The power to determine the appropriate enforcement action in relation to breaches of the fire safety legislation is exercised by the EA.
- 3.6 EAs will consider the appropriate enforcement action for each Responsible Person, as well as the risk caused by breaches. EAs should take into account factors such as:
- previous breaches by that Responsible Person
 - evidence of best endeavours to comply on the part of that Responsible Person
 - whether breaches are inadvertent or an intentional attempt to save money
 - the general state of fire precautions in the building
 - the co-operation of that Responsible Person

4. Powers of Inspecting Officers

- 4.1 Inspectors have powers which assist them in carrying out their duties. These include being able to enter a premises at any reasonable time to establish if fire safety legislation applies and, if so, make inquiries to determine who the Responsible Person is and how they are complying with their duties under the law. They can also ask for any assistance to help with carrying out their duties, require records to be produced and may take items away for testing if it is necessary.
- 4.2 You can ask inspectors to provide identification of who they are and what powers they have. They must show you evidence of their authorisation if you ask them, which is normally in the form of written authorisation such as an identity card signed by the head of the EA and text outlining their legal powers.
- 4.3 Inspectors' powers are extended to certain domestic premises where they consider that conditions exist that may require prohibition. In this context, domestic premises include those contained within houses in multiple occupation (HMO), blocks of flats and buildings which may contain a mix of both commercial and domestic premises.

5. Non-statutory verbal advice

- 5.1 If the EA finds only a small number of minor breaches of the fire safety legislation, the inspecting officer might choose simply to give verbal advice. The Responsible Person should comply with this advice and take appropriate action.
- 5.2 For example, this approach might be adopted if it is clear that the Responsible Person is making best endeavours to comply with the fire safety legislation, but has missed a few minor, low-risk actions.

6. Non-statutory notices

- 6.1 If there are more significant breaches but, nevertheless, these are unlikely to place occupants of the building at serious risk, an EA may issue a non-statutory notice. Such notices may be referred to as a 'Letter of Fire Safety Matters' or a 'Notification of Fire Safety Deficiencies'.
- 6.2 A non-statutory notice will commonly incorporate a schedule, on which each Article of the Fire Safety Order (or each Regulation of the Fire Safety (England) Regulations) breached by the Responsible Person is listed, along with a description of the breach and a short description of an appropriate remedial action.
- 6.3 Provided that the solution achieves compliance with the fire safety legislation, it is for the Responsible Person to determine the remedial action that they wish to take. The suggested remedial action in the schedule might be only one means of achieving compliance and does not preclude other means.
- 6.4 There is no offence of failing to comply with a non-statutory letter under the Fire Safety Order. However, other action may be taken in relation to the breaches themselves (e.g. if they are not addressed, an Enforcement Notice may subsequently be issued – see below). Non-compliance with a non-statutory notice can however be used as evidence in any subsequent prosecution and/or as an aggravating factor in sentencing.
- 6.5 The issuing of a non-statutory notice, as opposed to other enforcement actions described below, is consistent with the intent of the Regulators' Code that enforcement should be proportionate to the risk arising from non-compliance and to encourage compliance with the fire safety legislation.
- 6.6 The non-statutory notice is likely to specify a recommended timescale for completion of remedial action. It is the prerogative of the EA as to whether they choose to carry out a follow-up inspection on expiry of the timescale.

- 6.7 An EA may choose to agree an Action Plan with the Responsible Person, particularly if the breaches are numerous or are of a more serious nature. In this case, the Responsible Person may be asked to sign a non-statutory, non-enforceable prioritised plan, for rectification of breaches. A timescale is attached to these actions, after which a follow-up audit will be carried out by the EA.
- 6.8 In the event that appropriate action is not taken by a Responsible Person in response to a non-statutory notice, the EA may subsequently wish to issue a statutory notice (see below), imposing an enforceable legal requirement for remedial action to be taken.

7. Statutory notices

- 7.1 There are three types of statutory notice that can be issued by EAs: enforcement, prohibition, and alterations. Each type of notice serves a different purpose, and more than one notice can be served in respect of the same premises. In each case, the notice will explain why it has been served.
- 7.2 If you receive a notice, it is extremely important that you study it carefully and ensure that it comes to the attention of the appropriate people within your company/organisation. This is because:
- if you wish to appeal to the court against the notice, or anything in the notice (see below), the appeal must be lodged with the court within 21 days of service of the notice (during which you may need to take legal advice or consult a fire safety expert); and
 - failure to comply with a notice is a specific offence, separate from any other offences that might arise from breaches of the FSO
- 7.3 EAs are required by law to maintain a public register providing information on all statutory notices. Many EAs use a national register which allows the required information to be made available via a web portal. Some EAs maintain their own register and should be contacted directly for more information.

Enforcement notices

- 7.4 An enforcement notice can be served where the EA is of the opinion that the Responsible Person has failed to comply with any requirement(s) of the FSO or any Regulations made under it.
- 7.5 As in the case of a non-statutory notice, an enforcement notice specifies each Article or Regulation that has been breached, explains the nature of the breach, and may suggest the appropriate remedial measure(s), albeit not precluding other means of rectifying the breach(es). The notice can also provide the Responsible Person with a choice between different ways of rectifying a breach.
- 7.6 Where the Responsible Person is a corporate body (such as a limited liability company), as a matter of practicality the notice will be sent to an officer of the company, such as the company secretary. This does not imply that the company secretary is the Responsible Person; they are merely the person who receives the notice on behalf of the Responsible Person.
- 7.7 Where there are multiple Responsible Persons under the fire safety legislation, the EA may issue a separate enforcement notice to each Responsible Person. For example, in an office building, Responsible Persons might comprise the owner of the building, managing agents and each commercial tenant.

- 7.8 The enforcement notice specifies the timescale within which remedial action must be taken by the Responsible Person(s); this period must be at least 28 days. Prior to expiry of the timescale, the Responsible Person can apply to the EA for an extension of time, but this is granted at the sole prerogative of the EA.
- 7.9 If an EA is of the opinion that any breach of the FSO or any Regulations made under it found at your premises might apply to other premises of your company in England or Wales, the EA may also issue an enforcement notice in relation to these other premises. For example, if it is found that a fast-food chain is failing to provide fire training for staff at one outlet because there is no policy to provide fire training within the company, the EA may issue notices requiring that staff be trained at all their premises in England and Wales.
- ### Prohibition notice
- 7.10 A prohibition notice is the most stringent measure that can be taken by an EA. The notice prohibits or restricts the use of the premises for which it is issued.
- 7.11 Prohibition notices are issued in cases where there is an urgent need to prohibit or restrict the use of premises to ensure the safety of people, who would otherwise be exposed to serious risk.
- 7.12 The notice specifies the matters which, in the opinion of the EA, give rise to serious risk. The prohibition or restriction applies until the specified matters have been remedied.
- 7.13 Where practicable, EAs will normally include directions as to the measures which would need to be taken by the Responsible Person to eliminate the serious risk. EAs endeavour to ensure that such directions are understandable and capable of being acted upon.
- 7.14 A prohibition notice normally takes immediate effect. However, in circumstances where the risk is not deemed imminent by the EA, the prohibition or restriction imposed may, at the EA's discretion, not take effect until a later time specified in the notice. For example, if, outside normal business hours, a shopping centre is found to have some serious failure that would affect the adequacy of the means of escape for the number of people likely to be present during the opening hours of the shops, the prohibition notice might prohibit the shopping centre from opening on the following morning.
- 7.15 Once served, a prohibition notice remains in force until the measures have been taken to ensure that there is no longer serious risk to people from fire, unless the EA withdraws or amends the notice to reflect changes in circumstances and risk, or the courts cancel or modify the notice.

- 7.16 Equally, the prohibition notice could remain in place indefinitely. For example, the dangerous circumstances might no longer exist, but the premises could be prohibited from use thereafter if, at any time, the same dangerous circumstances arise again. Furthermore, some premises may never be safe for particular uses and, if that use is found, a restriction may be put in place and remain in force (e.g. sleeping accommodation within inappropriate premises or locations where there is insufficient protection afforded to those who are asleep).
- 7.17 A prohibition notice cannot be issued in respect of a single private dwelling house. However, a prohibition notice can be issued to prohibit or restrict the use of flats within a block of flats (e.g. if the common parts become inadequate as a means of escape from the block) and private dwellings within a house in multiple occupation, as these fall within the scope of the FSO for this purpose and any regulations which fall under it.
- 7.18 Similarly, where domestic premises are located above commercial premises, and use of the commercial premises places residents of the domestic premises at risk of death or serious injury in the event of fire within the commercial premises, a prohibition notice can be issued to prevent use of the commercial premises and/or the domestic premises.

- 7.19 For example, this can arise when the only means of escape from the domestic premises are through the commercial premises. This has been known to occur when, for example, the only means of escape from staff sleeping accommodation above a restaurant or fast-food outlet are through the commercial premises.

Alterations notices

- 7.20 An alterations notice can be issued if premises are considered to be high risk, or if they could become so if alterations are made to the premises or their use. EAs use them either to oversee existing serious risks or to maintain oversight of a potential serious risk.
- 7.21 The effect of an alterations notice is that the Responsible Person must notify the EA of their proposed action in relation to the existing or potential serious risks at their premises. The types of changes to which this applies are wide ranging. The EA will ensure that, through an explanation given in the notice, Responsible Persons can reasonably identify the risks and the specific actions that the EA considers it necessary to be notified about.

- 7.22 Alterations notices are not applied generically to any particular type of premises or form of fire strategy but are specific to the premises in question and its use. An alterations notice is appropriate when including anything in or on the premises. For example, the safety of people is dependent on certain fire safety measures which have not been put in place, with the result that people are at serious risk of fire; or where although there is no such risk currently, changes (including changes in fixtures, services, fittings, dangerous substances or use of the premises) could result in a serious safety risk.
- 7.23 This is particularly the case if, for example, the anticipated standard of management is such that these changes could be made without appreciation of their effect on fire safety and/or the changes would not be subject to control under other legislation, such as building regulations.
- 7.24 An alterations notice may also contain additional requirements. For example, this could include a requirement that, before making changes, the Responsible Person sends a copy of the fire risk assessment to the EA, together with a summary of changes which will be made to fire precautions. Any such additional requirements are made at the discretion of the EA.
- 7.25 The Responsible Person is not precluded from making the intended changes after the EA has been informed. However, the Responsible Person will normally wish to ensure that the proposed changes are acceptable to the EA before carrying out alterations in case they might subsequently prove to be inadequate.

8. Appeals against statutory notices

- 8.1 A person who has been served with an enforcement notice, a prohibition notice, or an alterations notice may, within 21 days from the day on which the notice is served, lodge an appeal to the magistrates' court.
- 8.2 When subject to an appeal, the notice is suspended until the appeal is finally resolved by the court or withdrawn. The only exception to this is a prohibition notice. Prohibition notices are not suspended unless the court directs otherwise.
- 8.3 The court can either cancel or affirm any statutory notice and, if it affirms the notice, can do so either in its original form or with such modification as the court thinks fit.
- 8.4 A Responsible Person, or any other person aggrieved, may make a further appeal to a higher court against the decision of the magistrates (as can the EA).

9. Prosecution

- 9.1 If an EA considers that a breach of any requirement(s) of the FSO, or the Regulations it, in respect of fire precautions in their premises is so serious that people would be exposed to the risk of death or serious injury in the event of fire, the EA may bring prosecution against the Responsible Person. The maximum penalty for either of these offences is an unlimited fine in the magistrates' court or, at the Crown Court, an unlimited fine and/or a term of imprisonment not exceeding two years.
- 9.2 Failure to comply with any requirement imposed by a statutory notice (an alterations notice, an enforcement notice, or a prohibition notice) is an offence. The maximum penalty for any of these offences is an unlimited fine in the magistrates' court or, at the Crown Court, an unlimited fine and/or a term of imprisonment not exceeding two years.
- 9.3 A number of other offences exist, such as knowingly falsifying records, knowingly or recklessly giving false information to an inspector of an EA, or intentionally obstructing an inspector, failing without reasonable excuse to provide information when requested, for which lesser penalties can be imposed.

10. Who can be prosecuted?

10.1 As previously discussed in this guide, many offences under the fire safety legislation can be committed by companies, as opposed to individual people.

10.2 However, it should be noted that there are circumstances in which individual people in an organisation or a professional context can be prosecuted under the fire safety legislation. This includes rental management and right-to-manage companies. This can occur under the following circumstances:

- the Responsible Person is a sole trader and places themselves and/or others, such as employees or the public, at serious risk, or fails to comply with a notice
- an offence has been committed by a company, but it can be proved that the offence was the result of neglect or consent by an officer of the company (including what should have reasonably been known by a person in that position), against whom prosecution proceedings can also be taken
- a manager of the company had responsibility (e.g. under their employment contract) for fire precautions, which were found to be so inadequate that people were placed at risk of death or serious injury in case of fire, or failed to carry out their responsibility to comply with a statutory notice
- an employee has failed to take reasonable care for their safety, and/or the safety of other people, from fire, or has failed to co-operate with their employer (e.g. in ensuring fire safety, reporting serious and imminent fire hazards or reporting shortcomings in the fire precautions, which they should have recognised from their training) – in this case, an offence is only committed if the failure on the part of the employee places people at risk of death or serious injury in the event of fire, and penalties do not include imprisonment

Defences

- 10.3 If anyone (a company or a person) is charged with an offence under the fire safety legislation, it is a defence to prove that they took all reasonable precautions and exercised all due diligence to avoid committing the offence.
- 10.4 However, this defence is not available if a Responsible Person is prosecuted and assigns blame to an employee or a competent person that they have appointed to assist with implementing fire-fighting or preventive and protective measures or serious and imminent danger procedures. The defence is also not available if the Responsible Person is charged with a failure to comply with their duty to take such general fire precautions as will ensure, as far is reasonably practical, the safety of any of their employees. Nor is it a defence if the Responsible Person is charged with a failure to eliminate or reduce a danger from dangerous substances.