

Gloucestershire Fire & Rescue Service

Subject: ENFORCEMENT POLICY STATEMENT

1 INTRODUCTION

- 1.1 This statement sets out the general policy and principles which Gloucestershire Fire & Rescue Service (GFRS) expects to follow. It provides guidance for inspectors, businesses and members of the public and is intended to clearly set out the aims, standards and values that will be applied.
- 1.2 We aim to provide a consistently high quality service to the commercial/business community in relation to our local community safety targets and technical/legislative fire safety matters in accordance with the Enforcement Concordat as published by the Better Regulation Unit of the Cabinet Office. (Details of our Technical Fire Safety procedures are available on request and on our website [www.glosfire.gov.uk])

2 PRINCIPLES

- 2.1 GFRS (the Service) carries out fire safety enforcement work on behalf of the Gloucestershire County Council who is the Fire Authority for Gloucestershire (the Authority).
- 2.2 The Service believes in firm but fair enforcement of the Regulatory Reform (Fire Safety) Order 2005 (the Order). As a result, as is general to the Health and Safety Commission's Enforcement Policy Statement, we aim to achieve this by the principles of proportionality in applying the law and securing compliance; consistency of approach; targeting of enforcement action; transparency about how we operate and what the regulated may expect; and accountability for our actions.

3 PROPORTIONALITY

The Service will endeavour to minimise the cost of compliance for business by ensuring that any action taken, or advice offered, is proportionate to the risk. As far as the law allows, we will take account of the circumstances of the case and attitude of the people involved when considering action. We will take particular care to work with small businesses and organisations so that, where practicable, they can meet their legal obligations without unnecessary expense.

4 CONSISTENCY

Consistency of approach does not mean uniformity, it means taking a similar approach in similar circumstances to achieve similar goals. The service will therefore carry out its duties in a fair, equitable and consistent manner. Inspectors are expected to exercise their professional judgement to deal effectively with specific matters but, where possible, we will adhere to standards and guidance referred to below to promote consistency. We will liaise with other authorities and enforcement bodies to achieve co-ordination and locate best practice.

5 STANDARDS

The Service will carry out its enforcement and advisory functions in an equitable, practical and consistent manner. We will adopt and adhere to policy and guidance issued by The Office of the Deputy Prime Minister (ODPM), the Chief Fire Officers' Association (CFOA), and National and European accepted standards where published. National and local targets for the quality of delivery of service will be identified and incorporated into our procedures.

6 OPENNESS

The Service will provide information and advice in plain language on the rules that it applies and will disseminate this as widely as possible. The Service will be open about how it sets about its work, including any charges that it sets, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties within the legal framework governing the Service

7 HELPFULNESS

The Service is of the opinion that prevention is better than cure and that its role therefore actively involves working with business, especially small and medium sized businesses, to advise and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide contact points and telephone numbers for further communications dealings with them and will encourage business to seek advice/information. We will also strive to co-ordinate our services effectively to minimise unnecessary overlaps and time delays.

8 FAIRNESS

The Service will treat all people fairly; we will respect their privacy, dignity and pay particular attention to those with special needs.

9 TRANSPARENCY

We will help those responsible (the responsible person) for complying with the Order to understand what is expected of them and what they should expect from the Service. We will distinguish between statutory requirements and advice or guidance about what is desirable but not compulsory to meet the legislation.

10 ACCOUNTABILITY

The Service is accountable to the public for its actions. This means we must have policies and standards against which we can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints.

11 COMPLAINTS

The Service has in place a complaint procedure. Further information is available on request. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time scales involved. We aim to resolve issues quickly and effectively and to learn from the outcomes.

12 TARGETING

Our policy on inspections will be to focus primarily on those whose premises/workplaces and activities giving rise to the most serious risk to life. We will maintain a strategy that will identify and assess the risks within premises/workplaces and the community and allocate resources to carry out inspections accordingly. Where enforcement action is necessary we will identify the person responsible for creating the risk. This may be the owner, occupier, employer, manager or other responsible person. We will seek compliance and may take action against those regarded as primarily in breach.

13 ENFORCEMENT PROCEDURES

- 13.1 The Service will seek compliance with the law by offering the responsible person 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 for completion. Legal requirements will be clearly distinguished from best practice or non-statutory fire safety advice. We may deal with this by informal means either verbally or a letter of non-compliance or where appropriate we may serve, alterations, enforcement and prohibition notices, **issue formal cautions**, and may prosecute. Before formal enforcement action is taken (unless immediate action is required to reduce the risk to life or to prevent evidence from being destroyed), inspectors will provide the person responsible with an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference.
- 13.2 Where immediate action is considered necessary, an explanation of why such action is required will be given at the time and confirmed in writing in most cases within 5 working days and in all cases within 10 working days.
- 13.3 Where in our opinion particular premises could, as a result of any future change of circumstances to the premises or to the use of the premises, result in a significant increase in risk to people using the premises, we may serve on the responsible person an **Alterations Notice** requiring the responsible person, before making any changes, to notify us of the proposed changes.
- 13.4 Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing and issued with the documentation.
- 13.5 All staff that take enforcement decisions will be required to follow the principles and guidance in the 'Enforcement Management Model' (EMM) issued by the Health and Safety Commission'.
- 13.6 The Service may, where it is considered necessary to focus attention on what preventive and protective measures are necessary to achieve compliance with the Order, issue additional guidance to the responsible person **in the form of an action plan**.

14 DEALING WITH CONTRAVENTIONS

- 14.1 Where less serious deficiencies are discovered during a visit to premises/workplace, an informal notification identifying those matters considered to be failures to comply and the steps considered necessary to remedy the failures, will be given.

- 14.2 Premises with more serious deficiencies will, in most instances, initially be dealt with as in 14.1 above. Where the situation remains unresolved after 28 days, the issue of an **Enforcement Notice** may follow. If however the risk in the case of fire is such, that enforcement cannot be delayed, immediate enforcement action will be taken.
- 14.3 Where dangerous conditions are found and the Service are of the opinion that the use of the premises/workplace involves or will involve a risk to persons in case of fire so serious that the use of the premises ought to be prohibited or restricted and that risk cannot be remedied immediately. The Service will issue a **Prohibition Notice** prohibiting or restricting the use of the premises.
- 14.4 The failure to comply with an alterations, prohibition or enforcement notice constitutes an offence and may result in prosecution of the person responsible.
- 14.5 **Alterations, Enforcement and Prohibition Notices** might be withdrawn at any time but should be deemed to be in force until such time as it is withdrawn or cancelled by the court.
- 14.6 Where fire-fighters' switches for high voltage luminous tube signs are installed or are proposed to be installed in or on premises to which the Order applies. The Authority may, if the position, colour and marking does not comply with the current regulations of the Institution of Electrical Engineers, serve a notice on the responsible person any such reasonable requirements as the Authority may impose to secure that the cut-off switch is readily recognisable by and accessible to fire-fighters.

15 FORMAL CAUTIONS AND PROSECUTION

- 15.1 Formal cautions and prosecution are important ways to bring those responsible for alleged breaches of the law to account. Where appropriate, we may use one of these measures in addition to issuing an enforcement or prohibition notice.
- 15.2 A formal caution is a statement by the Service that is accepted in writing by the responsible person, that the responsible person has committed an offence for which there is a realistic prospect of conviction. A formal caution will only be used where a prosecution could be properly brought. It will be kept on file for 3 years and if the responsible person is convicted for a further offence in that period, it will be introduced to the court.
- 15.3 A prosecution may be taken following full consideration of the many factors arising for the alleged breaches of the law. These will include:-
- The seriousness of the offence (the severity and scale of potential and actual risk and the seriousness of any breach of law)
 - The previous history [including the safety performance of the party (the responsible person) concerned]
 - The willingness of the party to correct the situation and prevent a recurrence of the problem
 - An acceptable explanation for the occurrence (the breach in law)

- The likelihood of the accused being able to establish a satisfactory defence
- The probable public benefit of a successful prosecution

16 PUBLIC REGISTER

In accordance with the “Environment and Safety Information Act 1988” the Service is obliged to enter details of certain notices called “relevant notices” into a register which the public have access to. Further details are available on request.

17 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.

18 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 the 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.

19 EDUCATION AND INFORMATION

Educating, informing and advising responsible persons 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 Order to give on request, advice on fire safety free of charge.

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