

Procedure

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Enforcement of the Regulatory Reform (Fire Safety) Order 2005							
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Links to other documents for consideration/review

Links to Legislation

[The Regulatory Reform \(Fire Safety\) Order 2005](#)

Links to Regional/ National Guidance

Summary of Guidance

This procedural document provides guidance to Fire Safety Inspectors (FSI) concerning the enforcement of the Regulatory Reform (Fire Safety) Order 2005 (RRFSO).

Guidance

FP PROC 001

1. Introduction

This document (FP PROC 001) outlines how Oxfordshire Fire and Rescue Service (OFRS) enforce the Regulatory Reform (Fire Safety) Order 2005 (RRFSO) and how audits are conducted. The headings under which these are considered are;

- How OFRS enforce the RRFSO – *Audit hierarchy, what enforcement action is available to Fire and Rescue Services (FRS)*
- What additional responsibilities do FRS's have under the Fire and Rescues Services Act 2004 (FRSA)
- How to conduct an audit – *Letter to confirm appointment, audit preparation, CFOA audit procedures guidance*
- Confirmed enforcement activity – *What we do next in terms of notices, letters and follow up inspections*

Other linked documents in this series cover aspects such as;

- A general explanation of the RRFSO *including references to national enforcement guidance (FP PROC 001P)*
- Investigation of offences under the RRFSO, *including national guidance on interview procedures, prosecution and caution procedures, taking of articles and substances, investigation and evidence gathering, interagency protocol and witness statements together with details of Case Conference system. (FP PROC 001G)*
- Prohibition Notices, *considerations relating to their issue together with the associated procedures (FP PROC 001D)*

- The risk based RI programme (**FP PROC 001C**)
- "Reply to Request for comment on Fire Risk Assessment Process" (**FP PROC 001A**)
- Alleged Fire Risks including Recording of Responses" (**FP PROC 001B**)
- Registers provided with respect to Environment and Safety Information Act 1988 (**FP PROC 001E**)
- FP Registers and Progress Forms Guidance to FSI's and AAA's (**FP PROC 001H**)
- Access and Facilities for the FRS (**FP PROC 001J**)
- Determination of Responsible Person Article 27 RRFSO (**FP PROC 001K**)
- Boats Application of the Fire Safety Order (**FP PROC 001L**)
- Statutory requirement for notifications under the RRFSO (**FP PROC 001N**)
- Primary Authority Scheme (PAS) & Fire Authority Partnership Scheme (FAPS) (**FP PROC 001" O"**)
- Operational Risk Information – Fire Risk Audits (**FP PROC 002**)
- Audits - Guidance (**FP PROC 006**)
- Job Sheets (**FP PROC 026A**)
- Determination of disputes (**FP PROC 035**)

2.How OFRS Enforces the RRFSO

The Regulatory Reform (Fire Safety) Order 2005 (RRFSO) places a general duty upon the Responsible Person to ensure, so far as is reasonably practicable, the safety of employees, a general duty, in relation to non-employees to take such fire precautions as may reasonably be required in the circumstances to ensure that premises are safe and a duty to carry out a risk assessment.

The RRFSO is enforced by Fire and Rescue Authorities, except for a small number of premises such as mines and military establishments etc. which are covered by the Health and Safety Executive, the Defence Fire Service and others.

Oxfordshire Fire and Rescue Service will enforce the RRFSO on behalf of Oxfordshire Fire and Rescue Authority by means of auditing premises on the following occasions:

- i. Following a fire – (See **FP PROC 006A "Audits Post Fire"**)
- ii. Following a complaint relating to the fire safety of any premises (See **FP PROC 001B "Alleged Fire Risks"**)
- iii. Following an unwanted fire signal from "Problem Premises¹"

¹ Problem Premises are defined in Standing Policy Document: Unwanted Fire Signals FP POL 001:

- Two or more unwanted fire signals in any period of 4 weeks, or
- Three or more unwanted fire signals in any period of 26 weeks, or
- The cause of any unwanted fire signal has not been remedied within 7 days

- iv. Upon information received from other enforcing authorities
- v. Upon request
- vi. As part of the risk based re-inspection programme (see below)

Due to the “across the board” nature of the premises involved in i to v inclusive above, it is anticipated that sufficient low risk category premises will be audited to provide a sufficient sample of such premises to enable an analyses to be carried out in relation to RRFSO compliance.

In addition, we will carry out Smarter Inspection Scheme, Care Homes Joint Inspection Scheme and OCC non School Premises Joint Inspection Scheme inspections on behalf of our partner enforcers and they will carry out inspections on our behalf (See FP PROC’s 04.09, 01, 12 and 006C)

Auditing of premises will be carried out by utilising the “Revised Fire Safety Audit and information gathering Form” see Section D below

Enforcement action will take the form of:

- Informal Action – This takes the form of written advice (Standard Letter). Failure to comply with this advice will lead to Formal Action being taken.
- Formal Action – This takes the form of either an Enforcement Notice (Standard Letter), which requires certain works to be carried out within a given time or a Prohibition Notice (Standard Letter), which prevents the premises, or parts of the premises, from being used until certain works have been carried out. Both of these are legally enforceable.

Prosecution – This occurs where failure to comply with the requirements of the Order places one or more relevant persons at risk of death or serious injury in case of fire, or the requirements of formal action (Enforcement or Prohibition Notice) have not been carried out.

3. What additional responsibilities do FRS's have under the Fire and Rescues Services Act 2004 (FRSA)

Section 45(1)(a) of the Fire and Rescue Services Act 2004 (FRSA) empowers an authorised officer of a Fire and Rescue Service to enter premises for the purposes of obtaining information needed for the discharge of a fire and rescue authority's functions under section 7 (*Firefighting*), 8 (*RTC*) or 9 (*Emergencies*).

Therefore, when carrying out an audit under the RRFSA, operational risk information will also be gathered utilising the system detailed in **FP PROC 002 Operational Risk Information – Fire Risk Audits**.

4. The Reporting of Concerns to Other Enforcing Authority's

Whenever a Fire Safety Inspector (FSI's) has concerns about the safety of persons, in relation to non-fire safety matters, these concerns must be reported to the appropriate agency.

i. General Health and Safety

Concerns under this heading include, apparently poor electrical installations, unguarded machinery, unsafe walking surfaces, food contamination etc. Such concerns should be reported to the Health and Safety at Work etc. Act enforcers, which generally speaking are the local District Council for shop type premises and the Health and Safety Executive for factories

ii. Unsatisfactory Storage of Fireworks / Explosives

The enforcers here are the Trading Standards department of OCC

iii. Criminal Activities including Illegal Immigrants and Modern Slavery

Here the Police should be contacted either via the 999 or if not urgent, the 101 systems

Further information on how to spot the signs of modern slavery can be found at <https://modernslavery.co.uk/spot-the-signs.html>

For fuller details on the matter of information exchanges with other organisations & agencies, including contact details, please see Notification of Potential Hazards and Exchange of Information FP PROC 004D.

5. How to Conduct an Audit

a) Auditing Principles

The start of the majority of fire safety audits commences with the short audit. The purpose of the short audit is to provide an initial assessment, by a competent fire safety inspector, to determine if the premises appear to comply with the requirements of the Regulatory Reform (Fire Safety) Order 2005 (RRFSO).

Where the premises appear to comply, no further formal action is required. Where there is any doubt, a full audit will be undertaken. There may be situations, particularly in connection with complex buildings, such as hospitals or where dangerous substances are involved, that it may be appropriate to move directly to a full audit.

The process of a full audit is designed to allow the inspector to determine if the fire safety management that is subject to scrutiny is truly being implemented. It is the management system that is subject to audit. For example, an audit of staff training procedures will look at the sequence of events detailed in writing, being performed in reality. If the procedure states that *"all staff will receive comprehensive fire safety training on a quarterly basis"*, then FSI's should check to ensure that there is evidence to support this.

FSI's should begin by confirming whether or not a management system is in place and then each element of the system will be audited to confirm, or otherwise, the efficacy of the system in ensuring safety of relevant persons. Only where the audit of the physical elements indicates a failure of the management systems, should a more comprehensive 'inspection'² be undertaken.

b) The Audit Process

i) Short Audit

Detailed guidance on how to complete a short fire safety audit can be found in the CFOA document Short Audit form Guidance³. Copies of the blank short audit form can be found in shared drive forms and letters⁴

For administrative purposes a short audit should be returned on the job sheet item (3) "Fire Safety Other" with the description "Short Audit".

In the case where the short audit results in the issuing of informal action such as advice, this should be returned on the job sheet item (3) "Fire Safety Other" with the description "Short Audit – Informal action".

² 'Inspection' refers to a more detailed visible examination of physical elements to ensure the safety of relevant persons.

³ Full details on how to carry out a short audit can be found at <S:\Protection\Forms and letters\Audit form\Short Audit Form\Short Audits Guidance.pdf>

⁴ Blank copies of the short audit form can be found at <S:\Protection\Forms and letters\Audit form\Short Audit Form>

In the case where a short audit results in the carrying out of a full audit this should be returned on the job sheet item (3) "Fire Safety Other" with the description "Short Audit resulting in full audit".

The actual full audit will be returned as per normal under item 1 "full fire safety audit"

The following details generally relate to programmed fire safety audits but should also be read in conjunction with the relevant FP PROC's for those premises requiring an urgent audit. (Section "B")

A full Fire Safety Audit (FSA) takes the form of an audit of the fire safety management, the premises and assessing the overall compliance with the Fire Safety Order. The following steps outline the general approach to arranging and conducting an audit. Further detail is provided later within this section.

i) Contact with the premises occupier to determine;

- Responsible person
- Acceptance of legislative obligations
- Convenient date for audit

When it is determined that the audit will go ahead, the premises concerned should be contacted either by phone or e-mail and an appointment made to carry out the audit, generally giving five weeks for the Responsible Person to make the necessary arrangements.

Care should be taken to ensure that the person you intend to meet on site is the Responsible Person (RP) (i.e. the employer, person having control, owner etc. see articles 3 and 5 (3) (4) of the RRFSO) or someone empowered to act on their behalf such as a manager. For further details see **FP PROC 001K Determination of Responsible Person –**".

ii) Formal communication in writing confirming agreed audit date

For audits that are not deemed as being required to be undertaken urgently the appointment should be confirmed by use of RRFSO standard letters. This can either be attached to an email (preferred option) or sent as hard copy by post.

iii) Inspection of premises fire safety file

Prior to the audit, FSI's should ensure they consult the premises file to ensure they are familiar with the premises history.

iv) Attend premises to conduct audit

FSI's should attend premises and ensure adequate time is available to gather information and review risk assessment methodology used by the responsible person.

Further to previous cases of persons impersonating Fire and Rescue Service inspecting officers, when conducting audits, FSI's are to wear No. 2 Rig Informal Undress Uniform with ID badges (with or without fire kit as PPE as necessary) and are to be in possession of their evidence of authority (See Standing Policy Document FP POL 008 "Appointment of Inspectors under the Regulatory Reform (Fire Safety) Order 2005").

v) Examine fire risk assessment, policies and procedures

The audit should commence with an examination of the premises fire risk assessment followed by any policies and procedures that make up the system of fire safety management for the premises. This will normally provide a good indication of how fire safety is being managed by the RP.

vi) Examine premises records, maintenance schedules, training and emergency plans.

Records, maintenance schedules, training and emergency plans should be viewed. Their contents should be discussed with the RP to determine their knowledge of the premises fire safety management system.

vii) Carry out physical audit of premises

Armed with the information already gleaned, the premises should be examined to confirm that what is detailed in the management systems is being implemented in reality. There is no requirement to inspect all of the premises although a FSA should include a physical inspection of those risk critical parts of the building as follows:

- Common parts and fire safety systems of multi-occupied premises
- All Final exits
- Ground floor
- Where relevant at least one upper **and** lower floor
- Protected/external staircases
- External routes
- Access and facilities provided for fire-fighters
- Areas of significant public gathering
- A representative sample of passive elements of fire safety (fire doors, walls etc.)

Additionally, it is also recommended that, where possible, a member of staff is asked about the nature of fire safety training and evacuation procedures to confirm that staff training is effective.

In cases that the physical audit of the premises raises significant concerns, FSI's should consider the need to undertake a more detailed 'inspection' of the premises to ensure the on-going safety of relevant persons and to inform any enforcement action that may be required.

Where serious contraventions are found, full contemporaneous notes are to be taken and at any time during the audit should dangerous conditions be discovered, the procedure detailed in **FP PROC 001D Prohibition Notices** should be put into operation.

viii) Record relevant information

FSI's should provide a general account of positive and negative observations against each relevant article within the audit form and indicate a level of compliance against each applicable article. This provides both an evidence trail in the event of enforcement action and also indicates to subsequent FSI's what the conditions were like at the time of the audit.

Responses validated should be indicated "yes" when a management arrangement is confirmed as being in place – insert validation measure in Notes

Examples

Risk Assessment – i.e. Contractors controlled – validated by work permits issued and contractor knowing fire procedure

Training – i.e. All staff receive Fire Safety training - validated by member of kitchen staff knowing evacuation plan – could also validate Article 15.

With reference the difference between Minor and Major Deficiencies / Risk in relation to the "Compliance level" of the safety critical pages of the Fire Safety Audit form, whilst the determination in any particular circumstance is left to the professional judgement of the Fire Safety Inspector, the following is a broad guide.

Minor Deficiencies

The type of deficiencies which it would be unlikely to place persons at risk in case of fire

Examples could include;

- Inadequate signage (smaller premises)
- Inadequate evidence of servicing of FFE
- Inadequate documentation in connection with the significant findings of the risk assessment

Major Deficiencies

The type of deficiencies which could result in persons being placed at risk in case of fire

Examples could include;

- Lack of passive fire safety protection to the means of escape, such as fire doors and FR construction
- Lack of active fire safety protection such as AFD or emergency lighting
- Lack of critical maintenance

ix) Determine 'Initial Enforcement Expectation' (IEE)

Once the compliance level has been determined for each relevant article a numerical score should be recorded, FSI's should indicate the score based on the premises use and the familiarity of persons with the building as detailed in the table below.

Group A	The majority of sleeping risks where the occupants are unfamiliar with the building.
Group B	Flats where the occupants are familiar with the layout and licensed premises.
Group C	Educational/leisure facilities and shops where the most of the occupants are not familiar with the layout.
Group D	Workplaces where the occupants are familiar with the layout.

All scores should be added together and recorded in the relevant box on the audit form. This total score is then used to determine the overall compliance level and IEE.

x) Consider improvements and enforcement options with RP

FSI's should always seek to discuss improvement and enforcement options with RP's, or their representatives, during or immediately after the audit. FSI's should not be looking to commit themselves where there are technical matters that they wish/need to consider further. However, an agreed position should always be sought via a supportive approach in preference to one that is dogmatic.

xi) Provide additional on-site education and advice

As necessary/appropriate provide goodwill advice to further reduce risk via arson prevention, business continuity, environmental protection etc

xii) Application of 'Responsible Person Factors'

Except where the outcome of the audit is compliance level 1, the responsible person factors should be applied in order to confirm the enforcement activity. These factors form part of the 'Enforcement Management Model' (EMM) process as advised by CFOA.

Application of these factors involves a series of questions, relating in the first instance to the responsible person, which will allow the enforcement decision to be verified or modified.

When applicable always indicate by marking the selected boxes both on the "Initial Expectations" and "initial Enforcement Expectation" forms as well as the "confirmed

enforcement activity after application of EMM principles” form to record the decision-making process and conclusion.

xiii) ‘Strategic Factors’

The strategic factors are to be applied in all circumstances in which the FSI is considering issuing an enforcement notice. These factors ensure vulnerable groups (e.g. children, patients, and the elderly) are considered, and that the broader socio-political impact of enforcement action is taken into account.

There is no ranking of importance implied in the progression through the responsible person or strategic factors and the final determination must be whether or not the proposed action meets the principles and expectations of the Fire and Rescue Authority?

When applicable always indicate by marking the selected boxes to record the decision-making process and conclusion

xiv) Liaise with line manager for management review as necessary

Where the outcome of the application of strategic factors indicates the need for an Enforcement Notice or, where the FSI wishes to move away from the outcome of the EMM process (responsible person factors) then the FSI must liaise with their line manager for a management review to enable the choice of enforcement to be confirmed or modified by the line manager. Details of agreed outcome should be recorded and the line manager should sign.

xv) Calculation of relative risk

Part C of the audit form is used to quantitatively determine the relative risk of the premises using the outcomes of Part A (Fire Risk Audit) and Part B. Part C provides a series of data entry fields that require the FSI to indicate the required choices.

xvi) Confirm outcome of audit in writing to occupier and undertake any enforcement as necessary

Once the enforcement activity has been confirmed by the FSI, following liaison with line manager as necessary, this should be communicated in writing to the RP or RP’s representative together with any instigating the required enforcement action (See Section E within this document).

xvii) Undertake follow ups as necessary

Where it is necessary to undertake any formal or informal enforcement action, or where the premises has minor deficiencies that warrant a follow up visit, the FSI should ensure that follow up visits are programmed and use of any bring forwards systems utilised as necessary.

c) Further Guidance on Completion of the Audit Form

From time to time queries arise from FSI's concerning the completion of the "Fire Safety Audit and Data Gathering Form" which are outside the straightforward guidance contained in the national guidance document.

These aspects are covered in **FP PROC 006 Audit Forms**

6. Informal Enforcement Activity Guidance

a) Introduction

The formal enforcement of the RRFSO is by way of formal notices and / or prosecution, however the Regulator's Compliance Code and the Enforcement Concordat, which are reflected in our policy document **FP POL 012**, indicate that in certain circumstances a less formal i.e. informal enforcement, may be more suitable.

The ability for a FRS to undertake such informal action has been incorporated into the Fire Safety Audit and Data Gathering Form (Audit Form).

b) Levels of Enforcement Action

The use of the Audit Form will indicate a fire safety compliance level and corresponding level of enforcement action, ranging from 'broadly compliant' (Reasonable Standard letter), Improvements Letter, Action Plan or Enforcement Notice (Inc. fast track).

c) Reasonable Standard ('broadly compliant' on Audit Form)

Where the confirmed enforcement activity is 'broadly compliant' the Reasonable Standard letter will be sent.

It is considered that, in the interests of supporting business, the acknowledgement of good fire safety standards in this way serves to ensure that OFRS complies with the Statutory Code of Practice for Regulators in which positive feedback to 'regulated entities' is endorsed. In all cases where verbal advice is given that necessitates action on behalf of the RP, this must be confirmed in writing, if appropriate this can be incorporated into this letter.

d) Improvement Letter

An Improvements letter will be communicated to the RP or their representative via, where possible, electronic means using the appropriate standard letter. Where an Improvements letter are notified to the RP we must state if will intend to carry out a follow up inspection or not.

Generally speaking where the deficiencies warrant action on the part of the RP which, if not carried out would demand the use of formal action to ensure completion, a follow up inspection will always be required. The appropriate standard letter should be used.

e) Action Plans

In keeping with the guidance contained within 'Regulatory Reform (Fire Safety) Order 2005: Guidance Note No 1: Enforcement', the use of Action Plans (AP's) may be preferable to formal enforcement notices. As such, FSI's should always consider the option to use AP's where the risk to relevant persons is not significant and the responsible person is willing to comply. Additionally, the application of the responsible person factors (See (2)(xii)) will guide FSI's in situations where an AP could be appropriate.

The following considerations are to be borne in mind with respect to AP's:

- i)** When, during an audit, it is discovered that a pre-existing AP is in force, providing that the technical standards and timings are considered by the FSI to be suitable (or amended where not) normally such an AP would be automatically accepted and the appropriate standard letter sent
- ii)** When a pre-existing AP is not in use; following discussion of the deficiencies with the Responsible Person (RP) they may be offered the opportunity of producing an AP, in which case the appropriate standard letter should be sent
- iii)** Should the AP not be progressing as indicated then an EN will be issued.
- iv)** Where an AP is accepted a follow up inspection will always be required and details are to be entered, by the Area Administration Assistant (AAA), on to the progress register (for details see **FP PROC 001H (ex 23.09)**).

v) Premises Floor Plan Drawing

Floor plan drawings are a useful tool to illustrate to an RP the exact works that are required and agreed, therefore such drawings are to accompany all Enforcement Notices and action plans concerning structural alterations and / or where the location of specific items is required.

It is anticipated that the provision of this type of visual indication will enable the RP to more easily understand what is required to be provided.

Whilst, ideally, such drawings should be based upon architectural drawings, in most cases a hand drawn plan clearly showing the layout of the building and alterations required would be sufficient. Due consideration should be given to the possibility of any plans subsequently being used in court proceedings such as appeals or prosecution actions where they may be used convey an understanding of a premises layout to a court as part of a wider fire safety investigation. Where considered necessary the support of the H CS Support Literature (Gemma Hefferon) can be sought.

7. Formal Enforcement Activity Guidance

a) Enforcement Notices

This section is primarily designed to provide guidance on the issuing, withdrawing and the subsequent monitoring of Enforcement Notices issued under the Regulatory Reform (Fire Safety) Order 2005 (RRFSO).

Its purpose is to provide broad guidance relating to Enforcement Notices (EN) and to lay down the procedure relating to re-inspections.

i. Discussion, Agreement and Time to Complete

Before issuing an Enforcement Notice (EN) the contents and time to complete the works should be discussed and, where possible, agreed with the Responsible Person (RP). Points to consider are as follows:

- FSI's should always seek to agree the contents of ENs with RPs.
- Where the FSI and the RP cannot agree on the contents and/or time to complete the works, the RP has a right to discuss the matter (termed an informal appeal – see if below) with the Fire Protection & Business Safety Manager (FSM).
- Where the FPM and the RP cannot agree on the technical measures which are necessary to remedy the failure and both parties agree to arbitration, the matter can be determined by the secretary of state (RRFSO article 36) (For further details see **FP PROC 035**).
- If the contents of the EN are discussed with the RP (with a note for file to record the discussions), alternatives considered and agreement with the RP before issue, there is not a requirement for FSI's to provide alternative approaches as per RRFSO article 30 (3).
- Premises Floor Plan Drawing
- To allow time for an appeal, the date when the failure is to be remedied cannot be less than 28 days from the issue of the EN (RRFSO article 30 (2)(c))
- Sufficient time should be allowed for the RP to complete the work and should take into consideration the internal processes of the organisation concerned, the gathering of quotes and gaining permissions such as Planning and Building Regulation approval. FSI's should ensure that RPs and their representatives do not underestimate the time for works to take place or, equally, request timeframes that are too long thereby trivialising the need for a fire safe premises.
- The issue of the Notice should be in accordance with "Recorded Delivery Sending Notices and Other Correspondence" FP PROC 001V, also see Section 8 below.

ii. Enforcement Notice "Fast Track"

In the case where a compliance level of 5 is reached, an "Enforcement Notice, Fast track" must be considered.

This refers to the issuing of an Enforcement Notice as a matter of urgency. Consequently, where it is necessary to consult others before serving the notice (which could delay the issue of a notice by weeks) this can often be undertaken by phone or e-mail to speed up the process significantly and serve the notice as soon as possible. With a compliance level 5 the inspector would normally consider setting relatively short timescales but should also take account of the relevant circumstances, risk, amount and type of work required. In addition, in the case of a compliance level 5, prosecution is to be considered, particular where a Prohibition Notice has also been served.

iii. Consultation Arrangements

In the case where an EN would oblige the RP to make alterations to the premises, FSI's are to consult with the following organisations (RRFSO 30 (5) (b) (c) and (e)).

➤ In the Case of Workplaces

Consultation should take place with the relevant enforcing agency for The Health and Safety at Work Etc. Act 1974. Generally speaking, these agencies are, in the case of factories the Health and Safety Executive (HSE) and in the case of shops, the District Council.

Where structural alterations apply, a copy of the proposed EN should be sent to the relevant agency requesting comment and stating that unless a reply is received within fifteen days (revised from 14 days see FP PROC 54 (ex 33.07) section 6 (a)) it will be taken that no adverse comments are to be offered.

Addresses for Correspondence

The Health and Safety Executive
Priestley House
Priestley Road
Basingstoke
RG24 9NW
Tel: 01256 404000
Fax: 01256 404100

Environmental Health Department - Appropriate District Council

➤ In the Case of a Building to which a Building Act 1984 Initial Notice Applies

Where such Initial Notices exists (Building Work being undertaken), consultation with the Approved Inspector that gave the notice is required. The BCLO will be aware of such premises (Building Regulations and Fire Safety Procedural

Guidance paragraph 2.13) and the BCLO should be approached to determine if the premises concerned has an initial notice or not; where it does apply, the BCLO will have the contact details and consultations will take place in (1) above.

➤ **Any Other Person Whose Consent to the Alteration Would Be Required by or under Any Enactment**

Broadly this covers such premises as Listed Buildings requiring District Council approvals advised by Historic England. Such EN should be sent to local District Council Building Control Departments for consultation, see below.

➤ **Consultation with Local District Council Building Control Departments**

All ENs requiring structural alterations will be sent to the local Building Control Department for consultation.

➤ **Consultation Primary Authority Scheme (PAS) & Fire Authority Partnership Scheme (FAPS)**

Whilst not currently a legal requirement, before any informal or formal action is taken (excluding the issue of a Prohibition Notice) in connection with premises that are part of either of the above partnership schemes, the partnership manager of the Fire and Rescue Service concerned should be consulted. Such consultation should take place via the Premises Risk and Business Support Manager. For full details see **FP PROC 001" O"**.

➤ **Consultation OCC Premises**

In the case of Oxfordshire County Council premises, before any informal or formal action is taken the FSI involved is to inform their line manager and the FP&BS Manager, to enable the appropriate Officials within OCC to be "sighted" of the letter before receipt.

iv. Close Out Actions

In all cases concerning the issue of an Enforcement Notice a positive close out action documented in the premises file is to take place

- In the case of where all the works have been satisfactorily completed before the expiry of the time allowed the FRM/RRFSO/006 "Letter to withdraw Enforcement Notice" is to be sent
- In other cases a note for file indicating the satisfactory completion of works is to be placed on file
- In all cases the FSI is to inform the PAA of the result to ensure that the register is updated
- **In the case of Houses in Multiple Occupation (HMO) before a final inspection is carried out, the Fire Safety Inspector involved will inform the appropriate District / City Councils of the fact and offer**

an invitation to join them on their arranged final inspection, should the Housing Officer so wish.

v. Withdrawal of Enforcement Notices

The Regulatory Reform (Fire Safety) Order 2005 (the Order) and the Environment and Safety Information Act 1988 (the Act) represent objectives which have not sufficiently been reconciled by those drafting the terminology of the two pieces of legislation. The objective of the Order in introducing the term “withdrawn” is apparently to fairly treat the recipients of notices. The thrust of the Act is to protect the public by providing information on a register.

The Order uses the term “withdrawn” in respect to alterations notices (A.29(6)) enforcement notices (A.30(7)(a)) and prohibition notices (A.31(9)). In regard to enforcement notices, they can only be withdrawn if the initial allotted time has not expired and if, following an inspection, the fire and rescue authority is satisfied that the work required in the schedule to the notice has been completed within the initial allotted time period.

The Order clearly rules out the withdrawal of an enforcement notice after the expiry of the time specified in it.

Where all works are satisfactorily completed before the expiry of the notice, the notice is to be withdrawn and the RP written to indicate the satisfactory completion of the works, a copy being placed on file. Where a final inspection has been carried out after the specified period and, the necessary works have been satisfactorily carried out, the RP is to be written to indicating the satisfactory completion of the works, a copy being placed on file.

- **E N’s issued to incorrect persons**

If it becomes apparent that the Enforcement Notice has been served on the incorrect person a letter must be sent to the individual at whom the original notice was misdirected, informing them that the notice has been:

- Withdrawn if the initial allotted time specified in the notice has not expired, or;
- Superseded if the initial allotted time has expired (with a replacement EN - see below).

The premises should then be re-inspected to confirm those matters still in need of rectification and a fresh notice must be served on correct RP. Legal Action File reference numbers must be revised.

- **E N’s containing errors**

If it becomes apparent that an EN contains an error that may invalidate the notice, a fresh notice should be served on the RP together with a letter explaining that, due to an error, the original notice has been:

- Withdrawn if the initial allotted time specified in the notice has not expired, or;
- Superseded if the initial allotted time has expired (with a replacement EN - see below).

The premises should then be re-inspected to confirm those matters still in need of rectification and a fresh notice must be served on correct RP. Legal Action File reference numbers must be revised.

vi. Follow Up Inspections

In all cases where an EN is issued, the issuing FSI is responsible for ensuring follow up inspections are programmed with at least a single inspection half way through the notice period together with an inspection shortly before expiry.

Where it is discovered that no or insufficient progress has been made in completing the works necessary, the Responsible Person is to be left in no doubt about the seriousness of the situation.

They are to be informed that the works are required to be completed within the period specified in the Notice; failure to complete the work on time will result in the consideration of legal action being taken against them.

This must be supported by a specific written communication to this effect, which is placed on file to provide an audit trail, should future legal action be taken.

Unless there are genuine reasons for supporting an extension of the Enforcement Notice, it is considered unlikely that such extension will be given.

Where the material⁵ elements of the works required have not been carried out and the time has expired, the matter will be referred to a legal case conference. However, the Responsible Person can be informed that if they complete the necessary works in the immediate future and inform OFRS of that fact, this will be a factor that will be taken into consideration at the legal case conference.

b) Alterations Notices

i) Introduction

This section is designed to provide guidance on the issuing and the subsequent monitoring of Alterations Notices issued under the Regulatory Reform (Fire Safety) Order 2005 (RRFSO) article 29 of which states;

⁵ Where there are only outstanding items of a minor nature, which in themselves would not warrant the issue of an Enforcement Notice, the notice can be deemed to have been satisfied; the outstanding minor items forming the basis of informal action.

Alterations notices

29(1) - The enforcing authority may serve on the responsible person a notice (in this Order referred to as "an alterations notice") if the authority is of the opinion that the premises—

(a) constitute a serious risk to relevant persons (whether due to the features of the premises, their use, any hazard present, or any other circumstances); or

(b) may constitute such a risk if a change is made to them or the use to which they are put.

ii) Identification of Conditions Requiring the Issue of a Alterations Notice

Whilst the identification of premises requiring an Alterations Notice is down to the professional judgement of the FSI, certain broad categories of premises, such as covered shopping malls and other types of premises that rely upon "engineered solutions" require specific consideration and where considered appropriate, will be issued with an Alterations Notice.

Other types of premises requiring specific consideration are those premises that previously were issued with a Fire Certificate under the Fire Certificate (Special Premises) Regulations 1976 (revoked by the RRFSO).

When a FSI has identified premises that they feel require an Alteration Notice, the circumstance of the case should be discussed with their Business Manager who will make the final decision on the question of issue, in consultation with the FPM.

iii) Re-Inspections

On-going management of premises with alterations notices will be managed via OFRS's risk based re-inspection programme (see **FP PROC 001C**).

c) Appeals

i) Introduction

OFRS respect the rights of Responsible Persons (RP) and others to raise concerns and objections regarding both informal and formal enforcement action or a perceived breach of the Regulators Code directly with the service. To differentiate against a statutory appeal in accordance with Article 35(1) of the RRFSO, appeals that are raised directly with the service will be referred to as 'informal appeals'.

It should be noted that "informal appeals" cover not only the issue of any form of Notice, but also those cases where a person believes that the OFRS has not acted in accordance with the Regulators Code⁶.

⁶ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

ii) Informal Appeals

a) In the Case of Notices

Informal appeals concerning Notices will be accepted at any point during the life of a notice, up to and beyond the expiration date of the notice. However, RPs raising informal appeals beyond the statutory 21 days period clearly lose their ability to appeal via a Magistrates court in the event of a failure to convince the service of their case.

The informal appeals process provides additional support to business by preventing them from having to potentially spend money on legal representation whilst also helping to reduce burdens on Magistrates courts.

Informal appeals will be accepted via any means and should always be addressed to the line manager of the FSI who initially issued the Notice usually a Business Manager.

However, the individual officer who took the decision against which the informal appeal is being made, should not be involved in considering the appeal. Therefore, where the line manager was also involved in the decision in question, the informal appeal should be referred to the FPM or other non-involved Officer.

The consideration of the informal appeal should take the form of a complete review of the situation by a minimum of two fully qualified Fire Safety Inspectors who were not involved in the original decision. Submissions by the RP, either in writing or in person must be fully considered.

The result of the informal appeal should be notified to the RP within 21 days of the informal appeal being made; unless due to the complex nature of the situation further time is required and the Responsible Person has been duly informed.

a) In the Case of a Perceived Breach of the Regulators Code

The case of a perceived breach of the Regulators Code an informal appeal can be made at any time.

Such informal appeals will be accepted via any means and should always be addressed to the FPM not the Business Manager.

However, the individual officer who took the decision against which the informal appeal is being made should not be involved in considering the appeal.

Therefore where the Premises Risk and Protection Manager was also involved in the decision in question, the informal appeal should be referred another non-involved Officer.

The consideration of the informal appeal should take the form of a complete review of the situation by a minimum of two fully qualified Fire Safety Inspectors who are familiar with the Regulators Code and who were not involved in the original decision. Submissions by the person making the informal appeal , either in writing or in person must be fully considered.

The result of the informal appeal should be notified to the person making the informal appeal within 21 days of the informal appeal being made; unless due to the complex nature of the situation further time is required and the person making the informal appeal has been duly informed.

All informal appeals should be fully documented and the outcome notified to the PRPM so that the outcomes can be properly recorded as part of the IRMP returns process.

iii) Formal Appeals

Article 35(1) of the RRFSO states;

35(1) - A person on whom an alterations notice, an enforcement notice, a prohibition notice or a notice given by the fire and rescue authority under article 37 (fire-fighters' switches for luminous tube signs) is served may, within 21 days from the day on which the notice is served, appeal to the court.

This allows a Responsible Person some time, in this case 21 days, to consider the matter and take legal advice should they so wish, prior to committing themselves to an appeal.

Article 35(3) of the RRFSO states;

35(3) - Where an appeal is brought against an alterations notice or an enforcement notice, the bringing of the appeal has the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.

Thus the bringing of an appeal against an Enforcement Notice prevents that Notice from having any effect until the matter is decided by a court (see Article 35 (3) below)

Article 30(2)(c) of the RRFSO states;

30(2) - An enforcement notice must—

(c) require that person to take steps to remedy the failure within such period from the date of service of the notice (not being less than 28 days#) as may be specified in the notice.

Therefore an Enforcement Notice cannot be issued that has a date for completion of less than 28 days from the date of issue. This is to ensure that there is sufficient time for the court to receive the application (21 days) and then inform the relevant parties of the appeal and thus the fact of the Enforcement Notice being suspended (7 days).

The aim of the OFRS is to, if at all possible, avoid the situation where a RP feels that it is necessary for them to appeal. By discussing and agreeing the content of notices with the RP prior to issue it is hoped that potential disagreement over such matters as the time allowed for the completion, the alternative solutions possible and the technical standard required can be resolved. On purely technical

issues, the matter can be referred to the Secretary of State for a determination (for further details see **FP PROC 035**).

8. Operational Risk Information

In all cases where action plans, or formal notices are being considered in connection with sub-standard conditions that could possibly adversely affect Fire and Rescue Service response activities (e.g. sub-standard fire resisting construction), details will be recorded using the system detailed in **PROC FP 004D "Notification of Potential Hazards and Exchange of Information"**.

9. Administration of Informal and Formal Enforcement Action

a) Admin Responsibilities of the Fire Safety Inspectors (FSI) who issue a Formal Notice or Action Plan (via Improvement letter)

- All formal notices / action plans require a unique reference number prior to issue, this enables the on-going management of notices by the service.
 - This number will consist of the premises UPRN and the date. Where more than one notice is issued on the same date to the same premises (1) (2) etc. are to be used.
 - If the UPRN is unavailable (or if the premises do not have one) the address should be substituted for the file number
- To complete and maintain the entries concerning premises that they are responsible for in the OFRS Enforcement Notices, Action Plans and Prohibition Notices etc. spreadsheet in the relevant folders on the shared drive <S:\Protection\Registers, Lists and Records\PN EN AN Notice Register\AP-AN-EN-PN Register March 2012.xlsm>.
- To monitor the register to ensure that the various follow up inspections are carried at the correct time
- In the case of formal notices where;
 - No appeal has been made to a Magistrates Court
 - No appeal has been made to the Fire Authority concerning the disclosure of secret or confidential trade or manufacturing information
 - No adverse comments received via the consultation process (where building works are required etc.)

After 28 days, the details are to be placed on the National Enforcement Register

To streamline the process the FSI will, at the time of issue of the Notice, create a calendar entry⁷ dated for the expiry of the 28 days, containing the following information to the Premises Risk and Protection Administration Assistance (PAA) (Jacky Hughes) requesting that the details are placed on the national register

Should any object be raised to the issue of the Notice, the appointment is to be cancelled

- **Organisation Name:** (Responsible Person or in the case of PN when no RP has been identified, the name of the person the PN was issued to)
 - **Date of Issue:**
 - **ID of Premises:** (File number)
 - **Premises Type:** (Other Sleeping Accommodation (H) etc.)
 - **Address:**
 - **Reason Issued: i.e.**
 - Article 8
 - (1) The responsible person must
 - (a) take such general fire precautions as will ensure, so far as is reasonably practicable, the safety of any of his employees; and
 - (b) in relation to relevant persons who are not his employees, take such general fire precautions as may reasonably be required in the circumstances of the case to ensure that the premises are safe.
 - Article 8 (1)
 - (1) The responsible person must
 - (a) take such general fire precautions as will ensure, so far as is reasonably practicable, the safety of any of his employees; and
 - (b) in relation to relevant persons who are not his employees, take such general fire precautions as may reasonably be required in the circumstances of the case to ensure that the premises are safe.
 - Article 9 (1)
 - The responsible person must make a suitable and sufficient assessment of the risks to which relevant persons are exposed for the purpose of identifying the general fire precautions he needs to take to comply with the requirements and prohibitions imposed on him by or under this Order.
 - Article 11 (1)
 - The responsible person must make and give effect to such arrangements as are appropriate, having regard to the size of his undertaking and the nature of its activities, for the effective planning, organisation, control, monitoring and review of the preventive and protective measures.
- To provide the PAA with the dates of the intended follow up inspections and request that bring forward notifications are arranged
This will include the follow up inspections required in the case of Prohibition Notices as well as Enforcement Notices
 - Where a formal notice has been complied with, FSI will contact the PAA and request that appropriate comments section of the national register be annotated to the effect that the notice has been complied with.

⁷ Please ensure the “Show as” drop down menu on the task bar is marked “Free”

- To place details in the electronic file
- Where a formal notice has been withdrawn for other reasons, the FSI will contact the PAA and request that an entry is made in the comments section of the national register to the effect that the notice has been withdrawn

b) Notification to other agencies

Full copies of all formal notices will also be sent by the FSI to the recipient as indicated in the table below. Recipients marked with '#' will also receive a copy of any Improvement letter and any Action Plans issued.

Note

All official correspondence to a “Responsible Person” concerning the issue of a formal notice or letter concerning an appointment for an interview under caution, shall be sent by the Royal Mail “Recorded Signed For” service. The receipt of such postage will be retained on the relevant premises file.

c) Responsibilities of the Premises Risk and Protection Administration Assistance (PAA)

Upon receipt of a notification detailed above the PAA will;

- When notified by the FSI that no appeal has been lodged etc., to enter the details into the national register
- Arrange for bring forward notifications on the dates requested
- When notified by the FSI, to amend the details in the national register as appropriate
- In the case of Enforcements Notices after three years from the date of issue, to remove the entry from the national register and place a copy in in the folder “National Enforcement Register Archive” in shared drive Protection Management Team.
- In the case of Enforcements Notices that are not shown as being complied with or withdrawn after 12 months from issue, the details are to be passed to the Business Manager of the area concerned (copied to the Protection Manager) requesting an investigation be undertaken to determine the current situation.
- In the case of Prohibition and Alteration Notices that have been withdrawn, after three years from the date of issue to remove the entry from the national register and place a copy in in the folder “National Enforcement Register Archive” in shared drive Protection Management Team
Note: Prohibition and Alteration Notices that have not been withdrawn will remain on the national register indefinitely

Type of Premises	Recipient
Licensed Premises	licensing@thamesvalley.pnn.police.uk

	<p>+ To the specific DC below licensing@cherwell-dc.gov.uk For West Oxon ers@2020partnership.uk licensing@oxford.gov.uk licensing@southoxon.gov.uk licensing.unit@whitehorsedc.gov.uk</p>	
Residential Premises #	Care	<p>Care Quality Commission Citygate Gallowgate Newcastle Upon Tyne NE1 4PA 03000 616161</p> <p style="text-align: center;">+</p> <p>Social and Community Services Oxfordshire Country Council contracts.admin@oxfordshire.gov.uk</p>
Premises approved under the Marriage and Civil Partnerships (Approved Premises) Regulations 2005 #		<p>Registration Service Oxfordshire District Register Office 1 Tidmarsh Lane Oxford OX1 1NS</p>
Primary Authority Scheme (PAS) & Fire Authority Partnership Scheme (FAPS)		<p>When a Prohibition Notice is issued to premises affiliated to either of these schemes, a copy of the PN should be sent to the partner Fire and Rescue Service concerned. Full details of the companies concerned together with FRS contact details are available in FP PROC 001'O' Primary Authority Scheme (PAS) & Fire Authority Partnership Scheme (FAPS)</p>
Houses in Multiple Occupation		District Council – EHD
Petroleum Explosive sites #		OCC Trading Standards Service

10. Non-English Speakers

Whilst it the Central Governments belief that business should be conducted in English (and Welsh) and that law enforcement documentation in relation to businesses is only available in those languages, attached as Appendix A are translations in several languages of the following instructions, to be used where considered appropriate by the issuing FSI.:

"The documents that you are being handed are important legal documents. If you do not understand English then you should obtain a translation of these documents so that you may understand them fully".

11. Appendix A Translation Document

The documents that you are being handed are important legal documents.

If you do not understand English then you should obtain a translation of these documents so that you may understand them fully.

Albanian

'Dokumentet qe ju janë dhënë janë dokumente të rëndësishme ligjore. Në qoftë se nuk kuptoni anglisht, këto dokumente duhet të përkthehen në mënyrë që të jeni plotësisht të qartë mbi përmbajtjen e tyre.'

Arabic

'ان الوثائق التي يتم تسليمها، ووثائق قانونية هامة. إذا كنت لا تفهم الانجليزية فعليك الحصول على ترجمة هذه الوثائق ، لكي تتمكن من فهمها تماماً.'

Bengali

'আপনাকে যে নথিপত্র দেয়া হয়েছে এগুলো গুরুত্বপূর্ণ আইনী দলিল। আপনি ইংরেজী না বুঝলে আপনার উচিত এসব নথিপত্রের অনুবাদ সংগ্রহ করা যাতে আপনি এগুলো সম্পূর্ণভাবে বুঝতে পারেন।'

Cantonese

交到你手的文件是一些重要的法律文件。

如果你不懂英文，你應該獲得這些文件的翻譯本，讓你可以完全了解這些文件的內容。

Farsi

"مدارکي که به شما تحویل داده می شوند اسناد قانونی مهمی هستند. اگر شما به زبان انگلیسی آشنایی ندارید باید متن ترجمه شده ای از آنها را تهیه نمایید تا بطور کامل آنها را متوجه شوید."

Gujarati

'તમને હાથોહાથ આપવામાં આવેલ દસ્તાવેજો અગત્યના કાનૂની દસ્તાવેજો છે. જો તમે ઈંગ્લિશ ભાષા સમજતા ન હો તો, તમારે આવા દસ્તાવેજોનો તરજૂમો કે ટ્રેન્સલેશન મેળવવું જોઈએ કે જેથી કરીને તમે તે પુરેપુરા સમજી શકો.'

Kurdish

ئەو بەلگەنامانەى پێتدراوە بەلگەنامەى زۆر گرگنى ياساين.
ئەگەر ئینگلیزی تیناگەیت ئەو دەبیت وەرگیرانی (تەرجومەى) ئەم
بەلگەنامانەت دەست کەویت بۆ ئەوێ بەتەواوی لێی تیبگەیت.

Portuguese

'Os documentos que lhe estão a ser entregues são documentos judiciais importantes. Se não compreende inglês, deve obter a tradução destes documentos para que os compreenda na íntegra.'

Polish

Powyższe dokumenty, które są Panu/ Pani przekazywane są ważnymi dokumentami prawnymi. Jeśli Pan/ Pani nie zna języka angielskiego powinien/ powinna poprosić o przetłumaczenie powyższych dokumentów w celu ich pełnego zrozumienia.

Russian

«Документы, которые Вы получите, являются важными юридическими документами. Если вы плохо понимаете английский язык, рекомендуется организовать перевод данных документов на Ваш язык для полного понимания их содержания.»

Service and Community Impact Assessment

SCIA

Document Completed by:	P. Rosum	Date: 19 February 2018
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Outcomes:
This procedure does not have a significant impact on the service provision to the community

Freedom of Information Assessment

FOI Officer

Document Accepted	Yes	Date 19 February 2018
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Data Protection Assessment

DP Officer

Document Accepted	Yes	Date 19 February 2018
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Further information

Full details are contained within "*Community Fire Protection Revised CFOA Fire Safety Guidance Notes and Audit Form Version 4.2*" which can be found on the Chief Fire Officers Association (CFOA) website
<http://www.cfoa.org.uk/10276>

Abbreviations

Final Document Approvals

Document Review Period				
Risk	Low	Normal ✓	High	Reason for low risk:

Department Manager - FPM

Document Accepted	Yes	Date 19 February 2018
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Comments