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Fire Safety (Technical) Strategy (2008/09)

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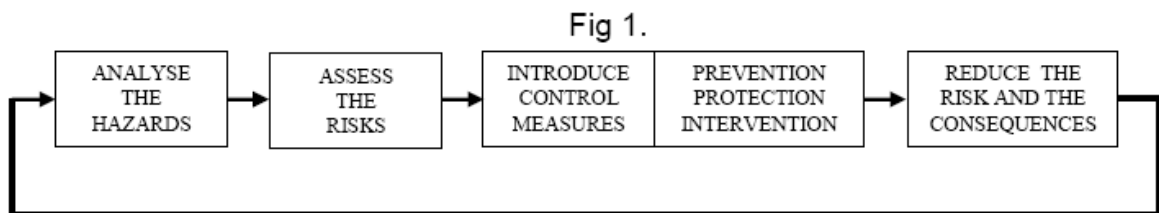
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1. Introduction

- 1.1 East Sussex Fire & Rescue Service (The Service) carries out fire safety enforcement work on behalf of the East Sussex Fire Authority. The Service will discharge its statutory, consultative and advisory duties in a competent and professional manner.
- 1.2 This Strategy document sets out the general policy and principles that the Service 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.
- 1.3 Fire Safety is an integral part of the Service's Integrated Risk Management Planning (IRMP) process, which is a requirement of the Fire Service National Framework¹.
- 1.4 The Service will, as part of its IRMP processes, identify hazards and quantify risks within its area. Risk, in this context, is defined as being risk to lives (both to the general public and to firefighting personnel), risk to buildings and risk to the environment. Figure 1 illustrates the generic process followed:



- 1.5 The strategies implemented to reduce risk can be broadly categorised in 3 areas:
- Prevention:** Strategies and measures aimed at preventing the outbreak of fire by training and education.
- Protection:** Strategies and measures embedded in legislation for protecting lives, buildings and the environment from the impact of fire.
- Response (Intervention):** Strategies and measures for reacting and responding to the outbreak of fire.
- 1.6 It is accepted that there will be an inevitable, desirable, and necessary overlap of the three functions in achieving a balanced approach to risk reduction strategies. This strategy document, however, concentrates on the fire protection element.

2. Statutory Provision

- 2.1 The East Sussex Fire Authority is required to provide fire safety services under the following pieces of legislation:

¹ *The Fire & Rescue National Framework 2008 – 2011*. Office Of The Deputy Prime Minister, April 2006.
Available at: <http://www.communities.gov.uk/fire/developingfuture/fire/>

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2.1.1 **Regulatory Reform (Fire Safety) Order 2005**

For the purposes of the Fire Safety Order, East Sussex Fire Authority is the enforcing authority for the majority of premises which are situated within its area. The Authority is not responsible for those premises detailed in Article 25 sub-paragraphs (b) to (e) of the Order (e.g. registered sports grounds, construction sites and Crown Premises).

2.1.2 **Fire & Rescue Services Act 2004**

The Act places the following responsibilities upon Fire Authorities with regard to fire safety issues:

Make provision for the purpose of promoting fire safety in their areas. In making provision, a fire and rescue authority must in particular, to the extent that it considers it reasonable to do so, make arrangements for:

- (a) the provision of information, publicity and encouragement in respect of the steps to be taken to prevent fires and death or injury by fire, and the giving of advice, on request, about –
 - i How to prevent fires and restrict their spread in buildings and other property.
 - ii The means of escape from buildings and other property in case of fire.

2.1.3 The Fire Authority is the enforcing authority for certain Regulations issued under the Health and Safety at Work Act 1974.

2.1.4 The Fire Authority is a statutory consultee under a number of other Acts such as the Building Act, The Licensing Act and the Housing Act.

2.1.5 The Fire Authority carries out work on behalf of East Sussex County Council and Brighton & Hove City Council with regard to Petroleum matters. There are separate procedures for this work. In order to carry out these duties, the Fire Authority is authorised to appoint inspectors from the Service to undertake enforcement duties on its behalf.

2.1.6 Under the powers provided to it by the Fire & Rescue Services Act, the Service will investigate the cause of all fires that it attends in order that lessons are learnt and information fed back to industry, Government etc. so that similar fires may be prevented in the future. Where a crime has been committed, Fire Investigation Officers will work with investigators from other agencies, such as Sussex Police and the Forensic Science Service, to determine the cause of fire and secure any available evidence.

3. **Principles Of Enforcement**

3.1 The Service undertakes fire safety enforcement activities designed to ensure that both statutory requirements are met and risk to life and property reduced. Under the Fire Safety Order, the Service targets its activities on the areas of greatest risk.

3.2 The Service aims to provide a consistently high quality service to the commercial/business community and other organisations in relation to our local community safety targets and technical/legislative fire safety duties, in accordance with the Enforcement Concordat as published by the Better Regulation Unit of the Cabinet Office.

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- 3.3 The Service believes in firm, but fair, enforcement of the Fire Safety Order and aims 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.
- 3.4 To aid the achievement of consistent standards, the Service will publish fire safety policy in the form of Service Manuals. The standards applied will be based on published codes of practice and will set out the level of service and performance the public and business can expect to receive.
- 3.5 Fire safety inspections are a necessary part, not only of the enforcement regime, but also of the data gathering and risk analysis procedures that underpin the Service's IRMP.

4. **The Enforcement Concordat**

- 4.1 The Service has adopted the Enforcement Concordat, which also has the support of the Chief Fire Officers' Association (CFOA). Inspectors will give due consideration to the contents of the Concordat and apply the principles of good enforcement contained therein.

4.2 **Proportionality**

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

4.3 **Consistency**

Consistency of approach does not mean uniformity; it means taking a similar approach in similar circumstances to achieve similar goals. Therefore, the Service will 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, will adhere to standards and guidance referred to below to promote consistency. The Service will liaise with other enforcing authorities to achieve co-ordination and identify good enforcement practice.

4.4 **Standards**

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

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4.5 **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. The Service's Inspectors will discuss general issues, specific compliance failures or problems, with anyone experiencing difficulties within the legal framework enforced by the Service.

4.6 **Helpfulness**

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

4.7 **Fairness**

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

4.8 **Transparency**

The Service 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. The Service will distinguish between statutory requirements and advice or guidance about what is desirable but not compulsory to meet the legislation.

4.9 **Accountability**

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

4.10 **Complaints**

The Service has in place a complaints 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. The Service aims to resolve issues quickly and effectively and to learn from the outcomes.

4.11 **Targeting**

The Service's policy on inspections will be to focus primarily on those whose premises/workplaces and activities give rise to the most serious risk to life. The Service will maintain a strategy that will identify and assess the risks within premises/workplaces and the community and will allocate resources to carry out inspections accordingly. Where enforcement action is necessary, the Service 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.

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5. Enforcement Procedures

5.1 General

- 5.1.1. 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. The Service may deal with this by informal means or where appropriate we may serve, Alterations, Enforcement and Prohibition Notices, issue formal cautions, and may prosecute. Where formal enforcement action is necessary, inspectors will provide the person responsible with an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference.
- 5.1.2. Where immediate action is considered necessary to reduce the risk to life or to prevent evidence from being destroyed, 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.
- 5.1.3. Where, in the Service's opinion, a 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, the Service may serve on the responsible person an Alterations Notice requiring the responsible person, before making any changes, to notify it of the proposed changes.
- 5.1.4. 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.
- 5.1.5. All staff that take enforcement decisions will be required to follow the principles and guidance in the CFOA 'Enforcement Management Model' (EMM), which is based on the model issued and used by the Health and Safety Commission.

5.2 Dealing With Contraventions

- 5.2.1. The decision on what level of enforcement will be taken following identification of breaches of the relevant Regulations/Legislation, will be determined by applying the CFOA Enforcement Management Model, having regard to the compliance level score identified by the CFOA premises audit process.
- 5.2.2. Where less serious deficiencies are identified in a 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 issued.
- 5.2.3. Premises with more serious deficiencies, where the risk in the event of a fire is such that enforcement action cannot be delayed, will be dealt with by the issue of an Enforcement Notice.

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5.2.4 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.

5.2.5 The failure to comply with an Alterations, Prohibition or Enforcement Notice constitutes an offence and may result in prosecution of the person responsible.

5.2.6 Alterations, Enforcement and Prohibition Notices may be withdrawn at any time but should be deemed to be in force until such time as they are withdrawn or cancelled by the Court.

5.3 Formal Cautions And Prosecution

5.3.1 Formal cautions and prosecution are important ways to bring those responsible for alleged breaches of the law to account. Where appropriate, the Service will use one of these measures in addition to issuing an enforcement or prohibition notice.

5.3.2 A formal caution is a statement by the Service, which 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.

5.3.3 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

6. Inspection Regime

6.1 East Sussex Fire & Rescue Service will carry out technical fire safety inspections using a Risk Based Inspection Programme with the system of audit as its base (the Fire Safety Audit). The CFOA fire safety audit process provides inspectors with a risk-based methodology that supports the enforcement principles embodied in the Regulatory Reform (Fire Safety) Order.

6.2 During any inspection of premises that fall within the control of legislation for which the East Sussex Fire & Rescue Service has direct responsibility, due account will be taken of any significant findings identified in a risk assessment.

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- 6.3 The Standard of fire safety that any risk assessment will be judged against is that laid down in the relevant fire safety risk assessment guide as issued by HM Government.
- 6.4 Where, because of the size or design of the building, there is no applicable guide (e.g. Shopping Centres) then the standard to be applied will be the principles of the guide along with any relevant British/European Standard document.
- 6.5 Where goodwill advice is given, then it must be made absolutely clear to the recipient of the advice that it is offered on a goodwill basis and does not form part of any legal requirement of the Fire Authority. Care will be taken to ensure that such advice cannot be construed by any other agency as mandatory requirements.
- 6.6 Where premises are subject to two different inspection regimes, then Inspectors will, where practical, arrange for joint inspections.

7. **Fire Sprinklers**

- 7.1 East Sussex Fire & Rescue Service has, for many years, actively promoted the use of fire sprinkler systems in buildings. By working with Local Authorities, developers and sprinkler companies, and by lobbying Government, significant progress has been made. However, much remains to be done.
- 7.2 The Minister of State for Schools has recently announced that schools will now be protected by sprinklers if the need is confirmed by a risk assessment tool. This means that sprinklers will now be installed in the vast majority of new and refurbished schools over the coming years, which should lead to a reduction in the damage and destruction caused by fire in these buildings. This, in turn, will reduce the impact of such fire on the local communities.
- 7.3 The Service will now continue to proactively support various campaigns for the introduction of sprinklers, including:
- remaining fully engaged when the analysis of the fire risk threat to a school is being considered;
 - supporting the CFOA campaign for the introduction of fire sprinklers in high-risk residential properties;
 - continuing work to raise the awareness of local authorities of the benefits of fire sprinklers in high-risk dwellings;
 - continue to work with local developers and businesses to promote the benefits of fire sprinklers and encourage their inclusion in future developments; and
 - continuing to play an active role in the National Fire Sprinkler Network.
- 7.4 We will also continue to run events utilising the sprinkler demonstration unit at Service Training Centre. These events graphically illustrate the practical application of fire sprinklers and their potential to reduce the impact of fire.

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8. **Fire Investigation**

- 8.1 East Sussex Fire & Rescue Service will investigate the cause of every fire that it attends, in line with its obligations under the Fire & Rescue Services Act 2004. The initial Incident Commander at smaller and less serious fires will investigate the cause and record the outcome on the FDR1 fire report. A team of specialist Fire Investigation Officers will undertake investigations of larger and more serious fires.
- 8.2 The Service will provide specialist training for all staff required to investigate the cause of a fire. The training provided will be proportionate to the role and will prepare Officers to process a scene, record evidence and prepare evidence for court. Evidence presented in court may include Criminal or Civil cases and, in the case of fatal fires, may be presented to the Coroners' Court.
- 8.3 Where appropriate, investigations will be carried out jointly with other agencies, such as Sussex Police, the Forensic Science Service and Professional Investigators from private companies. Such joint investigations bring together a team of professionals from different disciplines to pool their knowledge and ensure the most comprehensive investigation possible in the circumstances.
- 8.4 The information obtained from fire investigations will help to reduce the number of accidental fires and identify those fires that may have been started deliberately. These outcomes support the Fire Authority's vision to achieve safer and more sustainable communities.

9. **Training**

- 9.1 Effective organisation and delivery of fire safety services is dependent on achieving a core of competent staff. In addition, all staff will need to clearly demonstrate that they are maintaining their competence. This aligns with the principle of the Integrated Personal Development System approach to the management of staff development within the UK Fire Service.
- 9.2 East Sussex Fire & Rescue Service will ensure that it has sufficient trained, competent staff to carry out all aspects of fire safety work, based on the laid-down vocational standards. Training will be provided under the following general headings:
- Fire Safety Legislation
 - Fire Safety Risk Assessments
 - Fire Safety in Building Design
 - Fire Safety in Specialist Areas
 - Legal Training
- 9.3 The vocational standards for Fire Safety Officer, Fire Safety Engineer and Fire Safety Manager will form the basis of the technical expertise within the Service and enforcing officers will be encouraged to seek professional registration as an Engineering Technician, Incorporated Engineer or Chartered Engineer, as appropriate to their role.
- 9.4 A programme of training activities designed to support the continuing professional development of technical fire safety staff will be scheduled throughout the year.

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10. **Management Information**

- 10.1 In order to effectively manage Fire Safety that is fully integrated with all its partners and continuously improves in service delivery, the Service will develop or procure appropriate fire safety management systems.
- 10.2 Information sharing between the Intervention, Prevention and Protection roles of the Service will take place in accordance with the Service's laid down protocols. This will ensure that risk intelligence and information gathering is properly shared and transferred between those roles.
- 10.3 The Service will develop its existing management information systems in order that the National and Local Performance Indicators for fire safety are completed. This will enable the Service to monitor, audit and review the effectiveness of its fire safety work.
- 10.4 In addition, staff workloads and resource planning will be monitored, audited and reviewed via the management information system in order to provide an effective fire safety service.

11. **Public Register**

- 11.1 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.

12. **Data Protection**

- 12.1 East Sussex Fire & Rescue Service will comply with the principles of the Data Protection Act 1998 governing the use of personal data received or obtained and will respect the rights and freedoms of those individuals when processing their details. Details are available on request and on the Service's website.

13. **Freedom Of Information**

- 13.1 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. Details of the Service's publication scheme are available on request and on the Service's website.

14. **Education And Information**

- 14.1 Educating, informing and advising responsible persons about their duties under fire safety legislation will form a fundamental element of East Sussex Fire & Rescue Service's enforcement regime. The Service will fulfil its obligation under section 6(2) of the Fire and Rescue Services Act 2004 to give on request, advice on fire safety free of charge.

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15. Equality Impact Assessment

- 15.1 A full equality impact assessment is being prepared to complement this Strategy. This is to ensure that our Strategy takes into account available community profiling information on the differing needs of needs of people living and working in our area and will further assist, along with risk reduction information to prioritise our future services.

16. References

- 16.1 The following policies and reference documents support this Strategy:
- Strategic Plan
 - Annual (BVPP) Plan
 - Integrated Risk Management Plan (annual)
 - Borough Plans and related Station Action Plans
 - All other Strategies