

This Chart is designed to assist in determining the most appropriate sanction in cases of serious non-compliance with the FSO. It is not designed to deal with routine enforcement matters including formal enforcement that may result in an Enforcement or Alterations notice.

The benefits include:


1. It supports and promotes the principle of open, transparent and consistent procedures for enforcing the Fire Safety Order as identified in the Enforcement Concordat and will provide evidence of this if challenged.
2. It supports compliance with the Regulators Compliance Code, by helping to ensure we deliver desirable regulatory outcomes that deal proportionately with criminal behaviour.
3. It provides a reference tool to apply to individual cases.
4. It provides a proportionate use of sanctions based on those currently available (Informal Caution Simple Caution & Prosecution).
5. It helps in the management of case loads.
6. It provides a tool that whilst indicating a default position allows for some flexibility in decision making.
7. It assists the Service in achieving its vision for a "Safer & More Sustainable Community".
8. It supports inspecting officers in their work by giving them a clear understanding of likely outcomes from offences so as to help ensure appropriate evidence is gathered.
9. It provides assurance to the Fire Authority that in serious cases of non-compliance The Service is enforcing the Fire Safety Order in accordance with its statutory duties under Article 26 of The Order.

Note: In all cases where a Simple Caution is considered, a full legal case investigation will be required and the Business Safety Manager will utilise CFOA Tables 1 & 2 from Circular 2012/009 to confirm decision.

SANCTIONS CHART

Appendix to Manual Note

TFS01 16 V2



East Sussex
Fire & Rescue Service

Table 1: Decision Matrix

Gravity factor level See table 2	Circumstances of the Case 1	Circumstances of the Case 2	Circumstances of the Case 3	Circumstances of the Case 4	Circumstances of the Case 5
Severity level 3	Consider Caution / Prosecute	Prosecute	Prosecute	Prosecute	Prosecute
Security level 2	Consider Caution	Consider Caution / Prosecute	Prosecute	Prosecute	Prosecute
Security level 1	Consider Caution	Consider Caution	Consider Caution / Prosecute	Consider Caution / Prosecute	Prosecute

Table 2: Application of Verification Table

Are vulnerable groups protected?	
Y	Will the issue of a simple caution be a sufficient sanction to control the risk to any vulnerable groups who may be affected by this decision?
	N
What is the long term impact of issuing a caution?	
Y	Will the issue of a simple caution be sufficient to achieve sustained compliance in the affected premises?
Y	Will the issue of a simple caution lead to problems arising on subsequent visits?
	N N
What is the effect on other responsible persons?	
Y	If a caution is issued will it still broadcast a message that supports and confirms the perception of the enforcement policy of the fire authority and the wider appreciation and expectations of fire safety standards within the community?
	N
What is the functional impact of the issue of a simple caution?	
Y	Risk in the premises is the over-riding concern. There are already situations where the issue of a caution would not be appropriate however if the strict application of the law and a prosecution would lead to wider issues such as business closure and subsequent job losses then a simple caution may be an appropriate sanction. It is for the case manager and inspecting officer(s) involved making a judgment on the balance of benefits to employees, relevant persons and the wider community if a caution were to be issued or if a prosecution were to be taken. Is a caution therefore appropriate?
	N
Does the issue of a simple caution coincide with the public interest?	
Y	Will the issue of a caution result in a net benefit to the wider community in terms of addressing risk, encouraging compliance in similar premises and meeting public expectations of the fire authority?
	N
Would it be in the interests of justice to proceed with a simple caution?	
Y	Will it be appropriate in the case at hand to dispose of the offence with a simple caution? This will keep the matter out of court, reducing the burden on the courts system or is it deemed necessary to seek justice via the courts system. It is for the case manager and the inspecting officer(s) to make a judgment on the seriousness of the risk presented at the time of the offence(s) being committed. In arriving at a decision officers may also wish to take into account previous history relating to the responsible persons, the numbers of persons placed at risk and the attitude of the responsible persons.
	N
Predominantly left sided answers should confirm that the issue of a simple caution is an appropriate sanction. It should be remembered that the application of the strategic factors confirms the decision. It should not determine it.	