

EAST SUSSEX FIRE & RESCUE SERVICE
ENFORCEMENT NOTICE

Notice No: ESFRS/EA/GT/0314/E1/23

Notice requiring steps to be taken under Article 30 of the Regulatory Reform (Fire Safety) Order 2005

Name of Premises: Fairlands Hotel
Address of Premises: 15-17 Lascelles Terrace Eastbourne East Sussex BN21 4BJ
Responsible Person: Relentless Hotel Investments Limited

I, Graham H Turner, on behalf of East Sussex Fire Authority, hereby give you notice that the Fire Authority are of the opinion that, as a person being under an obligation to do so, you have failed to comply with the requirements placed upon you by the Regulatory Reform (Fire Safety) Order 2005 in respect of the above named premises and the persons who may be on the premises or who may be affected by a fire on the premises.

The matters which, in the opinion of the Fire Authority, constitute the failure(s) to comply with the Regulatory Reform (Fire Safety) Order 2005 are specified in the Schedule to this Notice.

The Fire Authority is further of the opinion that the steps identified in the Schedule to this Notice must be taken to remedy the specified failure(s) to comply with the Regulatory Reform (Fire Safety) Order 2005.

The steps identified in the Schedule are to be completed by the dates indicated.

Unless the steps identified in the Schedule to this Notice have been completed within the given time limit, you will be deemed not to have complied with this Notice and the Fire Authority may consider a prosecution against you. You may however apply for an extension to this time limit (see notes).

You have the right to appeal against the Notice (see notes), by way of complaint for an order, to the Clerk to the Court of the Magistrates' Court acting for the petty sessions area in which your premises is located. If you wish to bring an appeal, you must do so within 21 days of the date this Notice is served on you. The Magistrates' Courts Act 1980 will apply to the proceedings. The bringing of an appeal shall have the effect of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.

Signature



Date: 14 March 2023

(on behalf of, and duly authorised by, East Sussex Fire Authority)

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO ESFRS/EA/GT/0314/E1/23
REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 30 OF THE REGULATORY REFORM
(FIRE SAFETY) ORDER 2005 ISSUED BY EAST SUSSEX FIRE AUTHORITY ON 14 MARCH
2023.**

Name of Premises: Fairlands Hotel

Address of Premises: 15-17 Lascelles Terrace Eastbourne East Sussex BN21 4BJ

Where appropriate, a plan may form part of this Schedule to illustrate the steps which, in the opinion of the Fire Authority, need to be taken in order to comply with the Regulatory Reform (Fire Safety) Order 2005.

Note: Notwithstanding any consultation undertaken by the Fire Authority, **before** you make any alterations to the premises, **you** may need to apply for approval from either the Local Authority Building Control or an Approved Inspector and/or the approval of any other local bodies having a statutory interest in the premises.

SCHEDULE

The location and details of matters which are considered to be failures to comply with the Regulatory Reform (Fire Safety) Order 2005 are detailed, along with the steps considered necessary to remedy the failures.

1 Failure under Article 8(1)(a) & 8(1)(b) of the Regulatory Reform (Fire Safety) Order 2005.

(The responsible person must take such general fire precautions as will ensure the safety of all persons present).

1.1 Failure

The Responsible Person has failed to take measures to reduce the risk of the spread of fire and smoke throughout the premises. The dumb waiter shaft situated between the lower ground floor flat kitchen and ground floor dining room does not appear to be enclosed with adequate fire resisting construction.

Remedy

The dumb waiter shaft is to be enclosed by construction having a fire resistance of at least half an hour.

DATE REQUIRED - 14 June 2023

2 Failure under Article 9 of the Regulatory Reform (Fire Safety) Order 2005.

(The Responsible Person must carry out a suitable and sufficient fire risk assessment. This risk assessment must identify the general fire precautions needed to comply with the legislation).

2.1 Failure

The Responsible Person has failed to carry out a fire risk assessment for the premises.

Remedy

The responsible person must make a suitable and sufficient assessment of the fire related risks to which relevant persons are exposed and identify the general fire precautions that need to be taken to comply with the published guidance.

DATE REQUIRED - 28 April 2023

Supporting Information

Your risk assessment should adequately address the needs of all people, including disabled people who may be on the premises and ensure that they can safely leave the building in the event of a fire.

For the purposes of identifying the measures to be taken to comply with the relevant legislation, information on how to carry out a fire risk assessment has been published by HM Government in the form of a series of fire risk assessment Guides for different uses of premises. They are available for free download at: <http://www.firesafetyguides.communities.gov.uk> or can be purchased at bookshops. If the Responsible Person feels that they do not have the necessary experience or expertise to do this, they must appoint one or more competent persons to assist them in identifying the general fire precautions needed to comply with the requirements and prohibitions imposed by this Order. Where an employee is deemed to be a competent person, they should be appointed in preference to someone from outside of the workforce. When preparing your risk assessment, you should give careful consideration to identifying sources of ignition within the premises which may cause a fire and how you might control these to prevent a fire occurring. In particular, you should consider the condition of the electrical installations and portable appliances and ensure that they are appropriately inspected and tested.

3 Failure under Article 11(1) and 11(2) of the Regulatory Reform (Fire Safety) Order 2005.

(The responsible person must make and give effect to appropriate arrangements for the effective planning, organisation, control, monitoring and review of the preventative and protective measures).

3.1 Failure

The responsible person has failed to make and give effect to appropriate fire safety arrangements relating to the fire precautions within the premises.

Remedy

The responsible person should make and give effect to appropriate fire safety arrangements relating to the fire precautions within the premises.

DATE REQUIRED - 28 April 2023

Supporting Information

Such arrangements should show what is to be done, who is responsible for ensuring that it is done and when it is scheduled to take place. In making and giving effect to such arrangements, the following matters should be considered:

- Has a senior manager within the organisation been appointed to take responsibility for all matters relating to fire safety?
- Have other managers been delegated fire safety duties relevant to their role?
- Has a fire risk assessment been planned, completed, reviewed, etc.?
- Has staff training (including induction and refresher training) been scheduled?
- Have fire drills been planned and scheduled?
- Has appropriate equipment maintenance been scheduled and booked?
- Are records (of training, maintenance etc.) being maintained and updated?
- Are all of the above matters written-in to a fire safety policy document?

4 Failure under Article 17 of the Regulatory Reform (Fire Safety) Order 2005.

(The responsible person must ensure that any facilities, equipment and devices provided in relation to fire safety matters within the premises are maintained in an efficient state, in efficient working order and in good repair).

4.1 Failure

The responsible person has failed to ensure that fire doors are adequately maintained in an effective working order. Several of the bedroom and landing fire doors were found to be damaged with holes in them, broken outer skins, and cracked glazing. Many of the Perko chain type door closing devices installed on fire doors were found to be broken or inoperative thereby preventing the doors from closing unaided.

Remedy

Arrange initial and on-going maintenance to ensure that fire doors are kept in an efficient state, working order and good repair. All internal fire resisting doors are to be fitted with suitable self-closing devices which ensure that they always close fully and tightly against the

doorstops in accordance with the standards detailed in the appropriate Government Fire Safety guide.

DATE REQUIRED - 14 June 2023

4.2 Failure

The responsible person has failed to ensure that the fire alarm system provided within the premises is adequately maintained.

Remedy

The fire alarm system is to be maintained and tested regularly as required by the current British Standard.

DATE REQUIRED - 14 April 2023

Supporting Information

The requirements for the testing and maintenance of fire detection and warning systems are detailed in Section 6 of BS 5839: Part 1. Such testing should include a weekly inspection and functional test by the premises occupier and an annual service and detailed test of the system by a competent engineer. It is recommended that appropriate records of this maintenance and testing are to be kept.

4.3 Failure

The responsible person has failed to ensure that the emergency lighting system provided within the premises is adequately maintained.

Remedy

The emergency lighting system is to be maintained and tested regularly as required by the current British Standard.

DATE REQUIRED - 14 April 2023

Supporting Information

The requirements for the testing and maintenance of the emergency lighting system are detailed in Section 7.2 of BS 5266: Part 8. Such testing should include a monthly inspection and functional test by the premises occupier and an annual service and detailed test of the system by a competent engineer. It is recommended that appropriate records of this maintenance and testing are to be kept.

The Fire Authority considers that the above detailed steps will reduce the excessive risk to an acceptable level in the premises. Alternative ways of achieving an equivalent standard may be available and any request for the Fire Authority to consider alternative proposals should be submitted as a matter of urgency.

**NOTES TO ACCOMPANY ENFORCEMENT NOTICE
SERVED UNDER ARTICLE 30 OF THE
REGULATORY REFORM (FIRE SAFETY) ORDER 2005**

1. Contravention of any requirement imposed by an Enforcement Notice is an offence under Article 32 of the Regulatory Reform (Fire Safety) Order 2005 and renders the offender liable, on summary conviction, to a fine not exceeding the statutory maximum or, on conviction on indictment, to an unlimited fine, or imprisonment for a term not exceeding two years, or both.
2. In any proceedings for an offence referred to in Note 1, where the commission by any person of an offence under the Order is due to the act or default of some other person, that person is guilty of the offence, and a person may be charged with and convicted of the offence whether or not proceedings are taken against the first mentioned person.
3. Nothing in the Order operates so as to afford an employer a defence in any criminal proceedings for a contravention of those provisions by reason of any act or default of an employee or person nominated to implement measures for fire-fighting and procedures for serious and imminent danger and for danger areas, and appointed to assist him/her in undertaking such preventive and protective measures as necessary.
4. Subject to Note 3, in any proceedings for an offence under the Order, except for a failure to comply with articles 8(a) (Duty to take general fire precautions) or 12 (Elimination or reduction of risks from dangerous substances), it is a defence for the person charged to prove that he/she took all reasonable precautions and exercised due diligence to avoid the commission of such an offence.
5. In any proceedings for an offence under the Order consisting of a failure to comply with a duty or requirement so far as is reasonably practicable, it is for the accused to prove that it was not reasonably practicable to do more than was in fact done to satisfy the duty or requirement.
6. A person on whom an Enforcement Notice is served may under Article 35 of the Order appeal to the Magistrates' Court within 21 days from the date on which the Enforcement Notice was served. The bringing of an 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.
7. The Fire Authority may grant, at their discretion, an extension (or further extension) of time specified for the steps to be taken if an appeal against the Notice is not pending. Application for an extension of time should be addressed to the above named Officer.
8. If you are the responsible person you are under an obligation to comply with the provisions of the Order or of any regulations made under it. If you have failed to comply and you and the Fire Authority cannot agree on the measures that are necessary to remedy the failure(s), the question may be referred to the Secretary of State for his determination under Article 36 of the Order.
9. To satisfy the 'Environment and Safety Information Act 1988' the Fire Authority is obliged to enter details of this Enforcement Notice into a register to which the public have access. If you feel that any such entry would disclose secret or confidential trade or manufacturing information, then you should appeal in writing to the Authority within a period of fourteen days following; a) the day on which the appeal period in Note 6 above expires, or b) the day on which the appeal is finally disposed of, where an appeal is brought. The following summary of the contents of the Notice will be entered on the public register: -

Served On	Notice Type	Premises Name	Location	Notice Number
14/03/2023	Enforcement	Fairlands Hotel	Eastbourne	ESFRS/EA/GT/0314/E1/23

The Public Register can be accessed via the internet at **www.esfrs.org** and this actual notice may be viewed by clicking on the link shown in the table above.

10. The works or actions specified in the Notice are only intended to ensure a satisfactory standard of fire precautions that will comply with the Order. The Notice is issued without prejudice to any other enforcement action that may be taken by this, or any other, enforcing authority.
11. The Fire Authority would be willing to consider and reasonably assist with any proposals you may have to remedy the matters specified in the Notice.
12. To assist with administration procedures, it would be helpful if you could quote the reference number (at the top of this Notice) when dealing with the Fire Authority.

INSPECTION AND ENFORCEMENT PROCEDURES

This advisory leaflet has been provided to ensure that you are aware of the Inspector's powers, and to explain any enforcement action the East Sussex Fire Authority (the Authority) may take to rectify any deficiencies.

As the responsible person it is your duty to ensure the health and safety of your employees and others, such as members of the public, who could be affected by the way you run/operate your premises. The purpose of an inspection is to sample how you are complying with your legal responsibilities imposed by the Regulatory Reform (Fire Safety) Order 2005 (the Order).

Summary of Powers

An Inspector appointed by the Authority and in possession of written authorisation, has powers under the following legislation:

- i) Regulatory Reform (Fire Safety) Order 2005
- ii) Health and Safety at Work etc. Act 1974 (HASWA). Sections 19, 20, 21, 23 and 25.
- iii) Regulations made under the above legislation.

An Inspector may do anything necessary for the purpose of carrying this Order into effect and, without prejudice to the generality of these powers, in particular shall have the power to do, at any reasonable time, the following:

- a) to enter any premises and to inspect the whole or part of the premises and anything in them;
- b) to make such enquiry as may be necessary to ascertain whether the provisions of this order have been complied with and to identify the responsible person in relation to the premises;
- c) to require the production of any records, and to take copies of any entry in the records, which are required under any provision of the Order or for the purposes of examination;
- d) to require any person to give such facilities and assistance to enable the Inspector to exercise the powers conferred by the Order;
- e) to take samples of any articles or substances found on the premises for the purposes of ascertaining their fire resistance or flammability; and
- f) in the case of any article or substance, to cause it to be dismantled or subjected to any process or test.

Enforcing The Law

Where a breach of fire safety legislation is found, the Inspector will decide what action to take. The action will depend on the nature of the breach and will be determined by the Authority's Enforcement Policy.

Inspectors may take enforcement action in several ways to deal with a breach of the legislation. This includes the following:

INFORMAL ACTION

Record of Inspection Form - Notification of Fire Safety Deficiencies

Where the Authority is of the opinion that you have failed to comply with any requirements imposed on you by the Order but the breach does not immediately result in the service of an Enforcement Notice, the above notification will be served on you by the Inspector. The notification will identify the matters to address and the steps considered necessary to remedy them.

The Record of Inspection Form is not an Enforcement Notice. It identifies deficiencies which are required to be addressed to meet your legal obligations under the Order and is issued by the Authority before any formal enforcement action is taken.

As the responsible person you may be given a reasonable period of time in which to remedy the deficiencies.

FORMAL ACTION

Alterations Notice

Where the Authority considers premises constitute a serious risk to persons, whether due to the features of the premises, their use, any hazard present, or any other circumstances; or premises may constitute such a risk if a change is made to them, or the use to which they are put, it may serve on you, as the responsible person, an Alterations Notice. Where an Alterations Notice has been served, you must before making: -

- a change to the premises;
- a change to the services, fittings or equipment in or on the premises;
- an increase in the quantities of dangerous substances which are in or on the premises;
- a change to the use of the premises which may result in a significant increase in risk,

notify the Authority of the proposed changes.

Enforcement Notices

Where the Authority are of the opinion that, as a person being under an obligation to do so, you have failed to comply with the requirements placed upon you by the Order and that an Enforcement Notice is appropriate in the circumstances you will be served with an Enforcement Notice.

Attached to the Notice will be a schedule specifying the matters that, in the opinion of the Authority, constitute failure(s) to comply with the Order.

The schedule will also identify the steps that must be taken to remedy the specified failure(s), to ensure that you comply with the Order.

Unless the steps identified in the schedule to the Notice are taken by the specified date, it will be considered that you have not complied with the Notice and the Authority may consider a prosecution against you. You may however apply for an extension of time, the grant of which is at the discretion of the Fire Authority.

Prohibition Notice

Where the inspector considers that the use of the premises involves, or will involve, a risk to persons on the premises in the event of fire so serious that use of the premises ought to be prohibited or restricted, then the Authority may serve a Prohibition Notice. The notice may prohibit or restrict use immediately or after a specified time and not allow it to be used until remedial action has been taken. The Notice will explain why the action is necessary.

Notice Under Article 37 (Fire-Fighters' Switches for Luminous Tube Signs)

Where apparatus to which this article applies has been installed or an installation is proposed in or on the premises, the Authority may serve a Notice of requirements, relating to the position, colour and marking of the cut-off switch, on the responsible person.

Legal Enforcement

The Authority will consider prosecution where for example, there is failure to comply with the fire safety duties imposed by the Order and that failure has put one or more relevant persons at risk of death or serious injury in case of fire. In addition if there has been a failure to comply with any requirement or restriction imposed by a notice issued under the Order, then again consideration will be given to prosecution.

Where there are sufficient grounds for a prosecution, the Authority may instead choose to issue a Formal Caution. This will be subject to the agreement of the person concerned and their admission of the alleged offence. A Formal Caution will be kept on record and may influence a decision to prosecute should there be infringements of the law in the future.

In cases where the Authority decides that no legal action will be taken for infringements of the law, they may choose to issue an Informal Caution. This will inform the person concerned of the fact and that the details will be recorded and taken into account, in the event of any similar occurrence in the future.

Penalties

Failure to comply with the fire safety duties imposed by this Order or with any requirement or restriction imposed by a notice issued under this Order, is a criminal offence under Article 32 of the Order. A person guilty of such an offence shall be liable: -

- (a) on summary conviction to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine, or to imprisonment for a term not exceeding two years, or both.

Any person found guilty of an offence under any requirement imposed by Article 37 in respect of luminous tube signs is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

Appeals

A person on whom an Alterations Notice, an Enforcement Notice, a Prohibition Notice or a Notice given by the Authority under Article 37 (fire-fighters' switches for luminous tube signs) is served may, within 21 days from which the Notice is served, appeal by way of complaint for an order to a magistrates' court.

Public Register

You should be aware that in order to satisfy the 'Environment and Safety Information Act 1988' the Authority is obliged to enter details of certain notices called 'relevant notices' (which will be identified by the Inspector serving the notice), into a register which the public have access to. 'Relevant notices' are those which impose requirements or conditions not solely for the protection of persons at work. Entries on the register will be kept for a period of at least three years.

Entries to the register will be made within 14 days of the expiry of the right of appeal or the disposal of an appeal against the content of a Notice. If a Notice is cancelled on appeal no entry will be made. Where an Inspector is satisfied that a Notice has been complied with, withdrawn or amended a further entry will be made in the register within 7 days to show this.

If you think that the entry for this Notice would disclose commercially sensitive information you should give written notice to the Authority within 14 days, they in turn will draft an entry which is considered not to disclose the information and serve this on you. In the meantime the entry will specify only your name, address, the place involved and the relevant legal provisions. If you are not satisfied with the redrafted entry you have a further right of appeal to the Secretary of State within 14 days.

Public Availability of Information

Under the Code of Practice to the Freedom of Information Act (2000) the Authority is committed to make available on written request, information about its actions and decisions, which includes information about notices it has issued. In general the information that the Authority will make available about a notice is the information on the front page.

Information on a Notice will not be made available until the right of appeal against the content of a Notice has expired with no appeal having been lodged, or the appeal has been disposed of. Where an Inspector is satisfied that a Notice has been complied with, this information will be made available at the same time as the information on the front page. If you think that the information in the Notice would disclose commercially confidential information you should contact the Authority within 14 days who in turn will redraft the information in a way it believes will not reveal the confidential matter. In the meantime the only information to be made available will be your name, address, any place involved and the relevant legal provisions. If you are not satisfied with the redrafted information there is no further appeal. However, the Authority will make every reasonable effort to agree a form of words that is acceptable to you.

For the avoidance of doubt, where the publicising of a Notice is appropriate to further the safety of persons, the details in the previous paragraph, about making available information regarding a notice will not apply. An example of circumstances where information may be given out directly the Notice is served is where the Notice prohibits the use of sleeping accommodation. Tenants, or other persons, who use this prohibited accommodation may be informed immediately by the Authority.

East Sussex Fire and Rescue Service has zero tolerance for abusive behaviour towards our staff. Our staff are committed to treating everyone with respect. We ask that you show them respect too. If you behave in an intimidating or violent way to our staff, you may be subject to further action by the Authority or other agencies.

If you become concerned about the behaviour of a member of ESFRS staff, please ask to speak to a manager or use our complaints process detailed below.

Complaints

A complaint is a representation from a member of the public or an organisation that the Service has either failed to do something, done something wrong or acted unfairly or discourteously. If you are unhappy with the way the inspection has been conducted, or wish to make a complaint concerning any aspect of an inspection you should either write to the Service Complaints Officer at:

East Sussex Fire & Rescue Service HQ, Church Lane, Lewes, East Sussex, BN7 2DZ
or ask to speak to the Service Complaints Officer on: **0303 999 1000**

A booklet: 'How to Complain', is available from our Service web site at:

www.esfrs.org/contact_us/index.htm

STANDARD TERMS AND DEFINITIONS

FIRE RESISTING (FIRE RESISTANCE)

The ability of a component or construction of a building to satisfy, for a stated period of time, some or all of the appropriate criteria specified in the relevant British Standard.

INTUMESCENT STRIPS

A strip of material placed along the door edges (excluding the bottom edge), or frame, that will react to heat by expanding to form a seal to the passage of hot gases and flame.

SMOKE SEAL

A flexible strip of material (often used in conjunction with an intumescent strip) placed along the door edges or frame to limit the spread of cold smoke during the early stages of a fire.

SELF-CLOSING DEVICE

A device which is capable of closing the door from any angle and against any latch fitted to the door. Rising butt hinges are not acceptable.

AUTOMATIC DOOR RELEASE

A device, linked to (or operated by the sound of) the fire alarm system, that when fitted to a fire resisting self closing door, enables it to be held open during normal working conditions.

EMERGENCY ESCAPE LIGHTING

This part of the emergency lighting system provided for use when the electricity supply to the normal lighting fails so as to ensure that the means of escape can be safely and effectively used at all times.

RISK ASSESSMENT

An organised appraisal of your activities and premises to enable you to identify potential fire hazards, and to decide who (including employees and visitors) might be in danger in the event of fire, and their location. You will then evaluate the risks arising from the hazards and decide whether the existing fire precautions are adequate, or whether more needs to be done. It will be necessary for you to record your findings (if you have five or more employees), and to review and revise when necessary.