



East Sussex
Fire & Rescue Service

EAST SUSSEX FIRE & RESCUE SERVICE
ENFORCEMENT NOTICE

Notice No: ESFRS/HA/MH/1025/E2/22

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

Name of Premises: Common Ways to Flats
Address of Premises: 1 Claremont, Hastings, TN34 1HA
Responsible Person: The Responsible Person

I, Mark Hobbs, 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 failures 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 failures 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of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.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: 25 October 2022

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

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO EFRS/HA/MH/1025/E2/22
REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 30 OF THE REGULATORY REFORM
(FIRE SAFETY) ORDER 2005 ISSUED BY EAST SUSSEX FIRE AUTHORITY ON 25 OCTOBER
2022.**

Name of Premises: Common Ways to Flats
Address of Premises: 1 Claremont, Hastings, TN34 1HA.

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)(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.

Remedy

The single staircase is to be enclosed throughout its height by construction having a fire resistance of at least half an hour in accordance with the standards detailed in the appropriate Government Fire Safety guide. All doorway openings in the enclosure which connect with a floor area are to be fitted with self-closing fire check doors of equivalent standard of fire resistance and maintained self-closing. Fire doors should include intumescent strips and cold smoke seals.

DATE REQUIRED - 25 April 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 suitable and sufficient 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 - 25 November 2022

Supporting Information

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.

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 installation and ensure it is appropriately inspected and tested.

3 Failure under Article 11(1) 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 - 25 November 2022

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 13(1)(a) of the Regulatory Reform (Fire Safety) Order 2005. (The responsible person must ensure that the premises are equipped with appropriate fire detectors and alarms).

4.1 Failure

The responsible person has failed to ensure that the existing fire alarm system currently fitted within the premises is adequate in the circumstances as it is considered that there is insufficient detection and sounders fitted.

Remedy

Upgrade the current fire alarm system coverage within the premises so as to provide appropriate early warning to all relevant persons, in accordance with published guidance; British Standard 5839 For Fire Detection & Alarm Systems, and the findings of your Fire Risk Assessment.

DATE REQUIRED - 25 April 2023

Supporting Information

At the time of my audit, it did not appear that suitable automatic smoke detection was fitted within the flats so as to give common warning of fire to all relevant persons elsewhere within the premises. In addition, the system appeared old with a number of faults showing on the panel. Therefore, you should ensure a competent contractor carries out this work and should seek their advice as to whether a new Fire Detection and Alarm system is required. Note – a suitable zone plan should be provided adjacent to the Fire Alarm Control Panel. Finally, the alarm system is common to both the flats and restaurant below and as such, you should cooperate and coordinate with the Responsible Person for the restaurant who also has a separate Enforcement Notice requiring improvements to the fire detection and alarm system.

5 Failure under Article 14(1) & 14(2)(h) of the Regulatory Reform (Fire Safety) Order 2005. *(The responsible person must ensure that routes to emergency exits from premises and the exits themselves are kept clear at all times).*

5.1 Failure

The responsible person has failed to maintain emergency exit routes clear and free of combustible materials at all times.

Remedy

All routes to emergency exits from the premises and the emergency exits themselves are to be kept clear at all times.

DATE REQUIRED - 25 November 2022

Supporting Information

At the time of my audit there were stored items located on the landings of the single stair.

(The responsible person must ensure that emergency routes and exits requiring artificial illumination are provided with suitable emergency lighting and that the emergency lighting will operate if the normal lighting fails).

5.2 Failure

The responsible person has failed to ensure that adequate emergency lighting is provided within the emergency exit routes of the premises.

Remedy

Provide emergency lighting throughout the common parts of the premises in accordance with the current BS 5266: Part 1 and the findings of your Fire Risk Assessment.

DATE REQUIRED - 25 January 2023

6 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).*

6.1 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 - 25 November 2022

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.

6.2 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. Appropriate records of this maintenance and testing are to be kept.

DATE REQUIRED - 25 November 2022

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. Finally, the alarm system is common to both the flats and restaurant below and as such, you should cooperate and coordinate testing and servicing with the Responsible Person for the restaurant who also has a separate Enforcement Notice on this matter.

7 Failure under Article 22 of the Regulatory Reform (Fire Safety) Order 2005. *(Where two or more responsible persons share or have duties in respect of premises, each such person must co-operate with the other responsible person concerned so far as is necessary to enable them to comply with the requirements and prohibitions imposed on them by or under the Order).*

7.1 Failure

The Responsible Person has failed to co-operate and co-ordinate their activities with other responsible persons with whom they share the premises.

Remedy

The Responsible Person must co-operate and co-ordinate with other responsible persons who share the premises or the building to ensure that they inform the other responsible persons concerned of the risks to relevant persons arising out of or in connection with the conduct by him/her of his/her undertaking.

DATE REQUIRED - 25 November 2022

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
25/10/2022	Enforcement	Common Ways to Flats, 1 Claremont	Hastings	ESFRS/HA/MH/1025/E2/22

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.