



East Sussex
Fire & Rescue Service

EAST SUSSEX FIRE & RESCUE SERVICE

ENFORCEMENT NOTICE

Notice No: ESFRS/RO/DS/1027/E1/23

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

Name of Premises: Rye Bakery
Address of Premises: 89 High Street, Rye. TN31 7JN
Responsible Person: The Bakery at 89 Limited

I, [REDACTED] 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of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.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: 27 October 2023

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

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO ESFRS/RO/DS/1027/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 27 OCTOBER
2023.**

Name of Premises: Rye Bakery

Address of Premises: 89 High Street, Rye. TN31 7JN

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 any of his employees and/or relevant persons present).

1.1

Failure

The Responsible Person has failed to provide adequate fire protection to the ground floor corridor leading from the residential staircase.

Remedy

A fire resisting lobby should be formed at the base of the internal staircase to be provided with 2 exits, each giving access to a final exit via routes which are separated from each other and formed in a construction providing a minimum of 60 minute fire resistance.

The 2 exits from the lobby should be provided with fire resisting self-closing doors formed across the corridor providing a minimum of 30 minutes fire resistance and fitted with intumescent strips and cold smoke seals.

DATE REQUIRED - 18 January 2024

Supporting Information

Figure 37 of HM Government Guide for Offices and Shops identifies applicable benchmark solutions in this instance. The exits from the staircase lobby lead separately to the rear of the building through the bakery, and to the front of the building through the shop.

Where self-closing fire resisting fire doors are fitted along high-density traffic routes it is not acceptable to physically wedge/hold open fire doors.

In order to facilitate staff traffic, it is recommended that automatic door hold open devices complying with BS5839-3 should be fitted with linked automatic fire detection as indicated in HM Government Guidance. These doors are considered safety critical doors and other self-contained hold open devices are not considered suitable.

1.2 Failure

The Responsible Person has failed to ensure the standard of compartmentation provided is adequate. Fire separation of the alternative exit routes at the rear of the shop is compromised between the shop and the bakery.

Remedy

A fire resisting partition providing a minimum of 60 minutes fire resistance should be constructed in the opening on the rear right hand side of the shop between the shop and the bakery.

DATE REQUIRED - 18 January 2024

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 record of the 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 - 23 November 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.

When recording 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.

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:

<https://www.gov.uk/government/collections/fire-safety-legislation-guidance-for-those-with-legal-duties>

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.

3	Failure under Article 13(1)(a), and 13(1)b of the Regulatory Reform (Fire Safety) Order 2005.
	<i>(The responsible person must ensure that the premises are equipped with appropriate fire detectors and alarms).</i>
3.1	Failure
	<p>The Responsible Person has failed to ensure that the existing fire alarm system currently fitted within the premises is adequate in the circumstances and meets current standards.</p>
	Remedy
	<p>Upgrade the current fire alarm system within the premises so as to comply with the standard detailed in the appropriate published HM Government Guide. The fire alarm system should comply with BS 5839: Part 1 or equivalent.</p>
	<p>In the Fire Authority's opinion, a BS 5839: Part 1: Category M System would be appropriate.</p>
	DATE REQUIRED - 25 April 2024
	Supporting Information
	<p>In order to raise the alarm to relevant persons located on the upper floors an additional sounder of sufficient sound intensity should be located within the staircase of the private flat. The sounder should be linked into the proposed fire alarm system and comply with BS5839 Part 1.</p>
4	Failure under Article 14(2)(f), and 14(2)(h) of the Regulatory Reform (Fire Safety) Order 2005.
	<i>(The responsible person must ensure that emergency doors are not locked or fastened so that they cannot be easily and immediately opened by any person who may require to use them in an emergency. The responsible person must also 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)..</i>
4.1	Failure
	<p>Emergency exit doors must be provided with appropriate door fastenings to ensure that they are readily available for use at all times without the use of a key or code when persons are on the premises.</p>
	Remedy
	<p>Emergency exit doors must be provided with appropriate door fastenings to ensure that they are readily available for use at all times without the use of a key or code when persons are on the premises. For exits in normal use thumb turn locks may be acceptable where staff numbers are small and familiar with the devices.</p>
	DATE REQUIRED - 18 January 2024
4.2	Failure
	<p>The Responsible Person has failed to ensure that adequate emergency lighting is provided within the emergency exit routes of the premises.</p>
	Remedy
	<p>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.</p>
	DATE REQUIRED – 25 April 2024

- 5 Failure under Article 15 of the Regulatory Reform (Fire Safety) Order 2005.**
(The Responsible Person must establish and give effect to appropriate emergency procedures, including safety drills, to be followed in the event of serious and imminent danger to relevant persons).

5.1

Failure

The Responsible Person has failed to establish and give effect to appropriate emergency procedures, including safety drills, to be followed in the event of serious and imminent danger.

Remedy

The Responsible Person must establish and give effect to appropriate emergency procedures, including safety drills, to be followed in the event of serious and imminent danger.

DATE REQUIRED - 18 January 2024

Supporting Information

Such emergency procedures should include, but are not limited to, the following matters:

- nominating a sufficient number of competent persons to implement the emergency procedures;
- restricting access to dangerous areas;
- keeping relevant persons informed regarding hazards to which they may be exposed;
- providing systems and procedures to enable persons to stop work and proceed to a place of safety in the event of their being exposed to danger;
- preventing the resumption of work in any situation where danger still exists.
- Further guidance is available in H.M Government publication 'supplementary guide - means of escape for disabled people.'
<https://www.gov.uk/government/collections/fire-safety-legislation-guidance-for-those-with-legal-duties>

- 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 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.

Remedy

The Responsible Person must put in place suitable arrangements to ensure the premises and any fire safety related facilities, equipment and devices are adequately maintained.

DATE REQUIRED – 18 January 2024

Supporting Information

Specific consideration should be given to the following areas: -

- Fire resisting doors should be maintained to ensure that the doors close fully and tightly against the doorstop at all times.

- 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.
- 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.

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
27/10/2023	Enforcement	Rye Bakery	Rye	ESFRS/RO/DS/1027/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.