



East Sussex
Fire & Rescue Service

EAST SUSSEX FIRE & RESCUE SERVICE

ENFORCEMENT NOTICE

Notice No: ESFRS/BH/PS/0912/E1/23

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

Name of Premises:	Common Ways
Address of Premises:	29 Shanklin Road, Brighton BN2 3LP
Responsible Person:	The Responsible Person

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of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.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

[REDACTED]

Date: 12 September 2023

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

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO: ESFRS/BH/PS/0912/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 12
SEPTEMBER 2023.**

Name of Premises: Common Ways

Address of Premises: 29 Shanklin Road, Brighton BN2 3LP

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 reduce the risk of fire and the spread of fire on the premises by not providing adequate fire stopping at the point where services penetrate walls, floors and ceiling levels.

Remedy

Provide and install fire stopping in accordance with the standards detailed in the appropriate Government Fire Safety guide. Services include electrical cabling and conduits, plumbing pipes and similar items.

DATE REQUIRED – 13 December 2023

Supporting Information

Penetrating services were observed in the premises in the electrical intake and distribution cupboard adjacent to the entrance to the property on Shanklin Road as well as within the common ways of the premises.

It is a recommendation of the Fire Authority that the responsible person utilises the services of a competent person to install fire stopping within the building. Such contractors should be third party accredited by a recognised accrediting organisation. It is also recommended that the contractors only uses fire stopping products that have been accredited by a recognised third-party accrediting organisation and installs them in accordance with the manufacturer's instructions.

Further advice on third party accreditation is available on request.

1.2 Failure

The Responsible Person has failed to reduce the risk of fire and the spread of fire on the premises by not implementing measures to prevent the risk of arson from the unsecured entrance to the rear of the property.

Remedy

The rear door at the lowest floor level providing access and egress to the rear car park should be secured shut with a suitable device enabling security from unwanted access.

DATE REQUIRED – 13 October 2023

Supporting Information

Secure emergency exit doors must be provided with appropriate door fastenings to ensure that they are readily available for use at all times when persons are on the premises. Such devices should operate with a single action and without the use of a key, card or code. The door should also be maintained self-closing to ensure that unwanted access is prevented.

2 Failure under Article 9(1) 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 ensure that the fire risk assessment is suitable and sufficient in the circumstances.

Remedy

The matters identified during the fire safety audit carried out on 31 July 2023 and the subsequent visit on the 4 September 2023, when compared against the fire risk assessment carried out on the 22 August 2023, indicate that the existing fire risk assessment is not 'suitable and sufficient'. The fire risk assessment should therefore be reviewed and re-addressed with further specific consideration given to the following areas:

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- Layout of the means of escape.
- Travel distance.
- Design and maintenance of the fire detection and alarm system.
- Design and maintenance of the emergency lighting system.
- Condition and maintenance of fire doors.
- Unprotected service penetrations.
- Flats opening directly onto the single staircase.
- Lack of smoke ventilation.
- Management of the common ways.
- Management of the egress points.
- Adequate assessment of the risks of arson.

DATE REQUIRED – 13 October 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:

<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), of the Regulatory Reform (Fire Safety) Order 2005.

(The responsible person must ensure that the premises are equipped with appropriate fire-fighting equipment and with fire detectors and alarms).

3.1 Failure

The responsible person has failed to ensure that the existing fire alarm system currently fitted within the premises is adequate in the circumstances and meets current standards.

Remedy

Upgrade the current fire alarm system within the premises so as to comply with the standard detailed in the appropriate HM Government Guide. The fire alarm system should comply with BS 5839: Part 1 equivalent.

In the Fire Authority's opinion, a BS 5839: Part 6: Grade A, Category LD2 System with the addition of heat detectors within each flat adjacent to the front doors, would be appropriate.

DATE REQUIRED – 13 March 2024

Supporting Information

The installation of a fire detection and alarm system complying with the above standard would include the provision of a panel adjacent to the premises entrance on Shanklin Road, the installation of sounders and smoke detectors throughout the common ways and heat detectors and sounders within the front entrance of each flat.

It is recommended that the advice of a competent person / contractor is sought in relation to this matter. Such a contractor should be 3rd party accredited by a recognised organisation. Further advice on third party accreditation is available on request.

4 Failure under Article 14(1), 14(2)(g) and 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, that emergency routes and exits are indicated by signs and 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).

4.1 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 – 13 October 2023

Supporting Information

It was identified during the audit carried out on 31 July 2023 and the subsequent visit on the 4 September 2023, that the common ways were being used by residents to store combustible materials and materials that may offer an obstruction to the means of escape. All such materials should be cleared and either stored or disposed of.

Moving forward, a zero-tolerance approach should be immediately considered as part of the review of the premises fire risk assessment incorporated for the premises, in which residents are not permitted to store or dispose of their belongings or rubbish.

4.2 Failure

The responsible person has failed to ensure that the escape routes from the premises are provided with adequate signage.

Remedy

Provide suitable and sufficient fire escape signage throughout the premises in accordance with BS 5499 Part 4, to indicate all fire exits and routes of exit.

DATE REQUIRED – 13 October 2023

4.3 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 – 13 December 2023

Supporting Information

It is recommended that the design of the emergency escape lighting system is reviewed to ensure that adequate light is cast to illuminate the following:

- each exit door;
- escape routes;
- intersections of corridors;
- outside each final exit and on external escape routes;
- emergency escape signs;
- stairways so that each flight receives adequate light;
- changes in floor level;
- windowless rooms and toilet accommodation exceeding 8m²;
- firefighting equipment;
- fire alarm call points;
- equipment that would need to be shut down in an emergency and;
- areas in premises greater than 60m².

It is not necessary to provide individual lights (luminaires) for each item above, but there should be a sufficient overall level of light to allow them to be visible and usable.

It is recommended that the advice of a competent person / contractor is sought in relation to this matter. Such a contractor should be 3rd party accredited by a recognised organisation. Further advice on third party accreditation is available on request.

- 5 Failure under Article 17 (1) 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).
- 5.1 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 – 13 October 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.
- 5.2 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. Appropriate records of this maintenance and testing are to be kept.
- DATE REQUIRED - 13 October 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.
- 5.3 Failure**
The responsible person has failed to ensure that the protective fire resisting doors serving as flat front doors, cupboard doors and those opening onto the staircase within the premises are adequately maintained in an efficient state, in efficient working order and in good repair.
- Remedy**
The fire resisting doors are to be maintained to ensure that the protective fire resisting doors are in good condition, fit the frames appropriately, have appropriate ironmongery affixed, are adequately signed and close fully and tightly against the doorstops at all times.
- DATE REQUIRED - 13 March 2024**
- Supporting Information**
The Fire Authority recommends that to effectively ensure this work is undertaken to a suitable standard, a fire door condition survey (fire door survey) should be carried out of all fire resisting doors opening into the common ways. This should include flat front doors, cupboard doors and those opening onto the staircase. Following the fire door condition

survey (fire door survey) a suitable and sufficient report should be produced. The report should detail deficiencies observed and an action plan for remedial works to be carried out.

Following the provision of the fire door condition survey (fire door survey) report, all works detailed in the report are to be undertaken to remediate deficiencies. It is understood that this may include the replacement of protective fire resisting doors and frames.

It is recommended that the advice of a competent person / contractor is sought in relation to this matter. Such a contractor should be 3rd party accredited by a recognised organisation. Further advice on third party accreditation is available on request.

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
12 September 2023	Enforcement	Common Ways	Brighton	ESFRS/BH/PS/0912/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.

