



East Sussex
Fire & Rescue Service

EAST SUSSEX FIRE & RESCUE SERVICE

ENFORCEMENT NOTICE

Notice No: ESFRS/BH/GOR/0922/E1/23

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

Name of Premises: Saxonbury
Address of Premises: Ashton Rise, Brighton, BN2 9PQ
Responsible Person: Brighton & Hove City Council

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 failure(s) to comply with the Regulatory Reform (Fire Safety) Order 2005 are specified in the Schedule to this Notice.

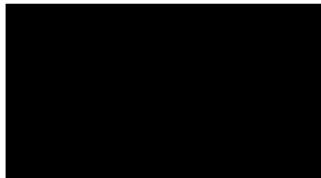
The Fire Authority is further of the opinion that the steps identified in the Schedule to this Notice must be taken to remedy the specified failure(s) to comply with the Regulatory Reform (Fire Safety) Order 2005.

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of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.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: 22 September 2023

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

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO ESFRS/BH/GOR/0922/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 22
SEPTEMBER 2023.**

Name of Premises: Saxonbury

Address of Premises: Ashton Rise, Brighton, BN2 9PQ

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

In accordance with published HM Government Guidance, upgrade all flat entrance doors to FD30s.

DATE REQUIRED - 22 March 2024

Supporting Information

All flat entrance doors are to be fitted with self-closing devices of the equivalent standard of fire resistance and maintained as self-closing. Fire doors should include intumescent strips and cold smoke seals.

1.2 Failure

The Responsible Person had failed to take appropriate measure to keep the means of escape free of smoke in case of fire.

Remedy

Appoint a competent specialist to determine requirements for an appropriate means of ventilating the single common stair in event of fire.

DATE REQUIRED - 23 September 2024

Supporting Information

It is considered that the Fire Safety in Purpose-Built Blocks of Flats Guide is the appropriate guide to follow; where detailed information can be found on smoke ventilation requirements in existing buildings. The POV currently fitted at the head of the single stair does not meet the minimum area requirement of 1m²

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 ensure that the fire risk assessment is suitable and sufficient in the circumstances.

Remedy

The matters identified during the fire safety audit carried out in *August 2021* indicate that the existing fire risk assessment is not 'suitable and sufficient'. The fire risk assessment should therefore be reviewed and re-addressed with specific consideration given to the following areas: -

- Identification of the make-up of the cladding system and the control measures required to limit the risk of external fire spread.
- Identification of the infill panels on the balconies and the control measures required to minimise the risk of external fire spread.

DATE REQUIRED - 23 October 2023

Supporting Information

The most recent PAS79 Fire Risk Assessment conducted in August 2021 identifies the cladding system on the external walls and infill panels on the balconies are of unknown construction. The presence of cavity barriers could not be confirmed.

The level of risk that the design and materials of the external walls give rise to, and any mitigating steps that have been taken in respect of that risk are to be considered and recorded within the Fire Risk Assessment as detailed in Article 24, Regulation 5.

3 Failure under Article 24 of the Regulatory Reform (Fire Safety) Order 2005

(The Secretary of State may by regulation make provision as to the precautions which are to be taken or observed to the risk to relevant persons as regards premises in which relation to which this order applies).

3.1 Deficiency

The Responsible Person has not prepared a record of the design of the external walls of the building, which is referred to in this Notice as The Premises, including details of the materials from which the said external walls are constructed, the level of risk identified in the risk assessment required under article 9 of the Regulatory Reform (Fire Safety) Order 2005 that the design and materials of the external walls give rise to, and any mitigating steps that have been taken in respect of that risk.

This is contrary to Regulation 5 of the Fire Safety (England) Regulations 2022.

Remedy

A record must be prepared of the design of the external walls of the building including details of the materials from which the said external walls are constructed in accordance with Regulation 5(1) and (2). This record should include: -

- details of the materials from which the said external walls are constructed; including insulation, and any cladding, and the said details should be determined by a person sufficiently competent to effectively ascertain them;
- The level of risk identified in the risk assessment required under article 9 of the Regulatory Reform (Fire Safety) Order 2005 that the design and materials of the external walls give rise to, including any known defects in the construction (either as originally built or currently);
- any mitigating steps that have been taken in respect of that risk.

The required information as set out above can be provided to East Sussex Fire and Rescue Authority through completing the relevant parts of the [External Wall Information \(office.com\)](#), accessed through East Sussex Fire and Rescue Service's website. To evidence compliance, it is recommended that you retain proof of when the completed form is sent to The Authority.

DATE REQUIRED - 23 October 2023

3.2 Deficiency

The responsible person has not instigated annual checks of the fire doors at the entrances of individual domestic premises or maintained records of the steps taken to comply with this obligation including any case where access to the domestic premises was not granted during any 12 month period.

This is contrary to Regulation 10 of the Fire Safety (England) Regulations 2022.

Remedy

The responsible person, in relation to a building which contains two or more sets of domestic premises and which is above 11 metres in height, must check all fire doors in common areas quarterly and use best endeavours to undertake checks of fire doors at the entrances of individual domestic premises in the building at least every 12 months and keep a record of the steps taken to comply with the obligation in Regulation (10) paragraph (4) including in any case where access to the domestic premises was not granted during any 12 month period.

DATE REQUIRED - 22 March 2024

3.3 Deficiency

The responsible person for The Premises ("The Premises"), which contains two or more sets of domestic premises and common parts through which residents would need to evacuate in the case of an emergency, has not provided information about the importance of fire doors in relation to the building's fire safety, to the residents of the building.

This is contrary to Regulation 10 of the Fire Safety (England) Regulations 2022.

Remedy

Required information about fire doors in accordance with Regulation 10 must be provided to the residents of the building containing two or more sets of domestic premises and which contains common parts through which residents would need to evacuate in the case of an emergency.

DATE REQUIRED - 23 October 2023

Supporting Information

The required information is information to the effect that:

- (a) fire doors should be kept shut when not in use
- (b) residents or their guests should not tamper with the self-closing devices
- (c) residents should report any faults or damages with doors immediately to the responsible person

The required information must be provided by the responsible person to:

- (a) a new resident of domestic premises in the building, as soon as reasonably practicable after that resident moves into the premises
- (b) to all residents of domestic premises within the building, within each period of 12 months beginning with the date these Regulations come into force.

3.4 Deficiency

Documents specified within Regulation 5 have not been provided to East Sussex Fire and Rescue Authority by electronic means.

This is contrary to Regulation 11 of the Fire Safety (England) Regulations 2022.

Remedy

The responsible person in relation to a high-rise residential building must provide the local fire and rescue authority by electronic means with the documents specified in:

- (a) regulation 5 (design and materials in external walls)

DATE REQUIRED - 23 October 2023

Supporting Information

The required information can be provided to East Sussex Fire and Rescue Authority through completing the relevant parts of the [External Wall Information \(office.com\)](#), accessed through East Sussex Fire and Rescue Service's website or by emailing plans to EOI@esfrs.org. To evidence compliance, it is recommended that you retain proof of when the completed form is sent to The Authority.

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 |
|------------|-------------|---------------|----------|-------------------------|
| 22/09/2023 | Enforcement | Saxonbury | Brighton | ESFRS/BH/GOR/0922/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.