



EAST SUSSEX FIRE & RESCUE SERVICE ENFORCEMENT NOTICE

Notice No: ESFRS/HA/MH/0221/E1/24

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

Name of Premises: Common ways, Yew Tree House
Address of Premises: Wheel Lane, Westfield, TN35 4SG
Responsible Person: Yew Tree House Westfield Ltd, Friston House, Dittons Business Park, Polegate, East Sussex, BN26 6HY.

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of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.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

A large black rectangular box redacting the signature of the authorized representative.

Date: 21 February 2024

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

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO ESFRS/HA/MH/0221/E1/24
REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 30 OF THE REGULATORY REFORM
(FIRE SAFETY) ORDER 2005 ISSUED BY EAST SUSSEX FIRE AUTHORITY ON 21
FEBRUARY 2024.**

Name of Premises: Common ways, Yew Tree House
Address of Premises: Wheel Lane, Westfield, TN35 4SG

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 any relevant 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

Where necessary to protect the means of escape, self-closing fire resisting doors are to be provided in accordance with the standards detailed in the appropriate published HM Government Fire Safety Guide.

DATE REQUIRED – 21 February 2025

Supporting Information

The premises fire risk assessment carried out 08 March 2019 identified numerous existing fire doors were below the standard detailed within the published guidance.

As such a fire door survey should be carried out and its findings implemented to meet the standard for fire doors as detailed in: Lacors Housing Fire Safety, Guidance on fire safety provisions for certain types of existing housing.

1.2 Failure

The Responsible Person has failed to ensure the standard of compartmentation provided is adequate as there are areas of non-fire rated glazing onto the means of escape.

Remedy

All glazing onto the means of escape should be checked, and where found not to be fire rated, should either boarded over with suitable fire rated material, or the glazing replaced with suitable fire rated glazing capable of providing 30 minutes fire resistance.

DATE REQUIRED – 21 February 2025

Supporting Information

The premises fire risk assessment carried out 08 March 2019 identified that some glazing elements within the premises were not fire rated.

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 Fire Authority does not consider that in respect to the items of furniture located in the means of escape, that the fire risk assessment is suitable and sufficient in the circumstances, as upgrading the existing fire detection and alarm system to an appropriate standard does not compensate for inappropriate fire loading in means of escape, which in effect has created an inner room situation.

Remedy

Review the existing Fire Risk Assessment to confirm suitable alternative means of escape from those flats opening onto areas where furniture is located in the means of escape. If no suitable alternatives are available, then the furniture should be reduced to a more acceptable managed level or cleared completely.

DATE REQUIRED – 21 March 2024

Supporting Information

As a protected means of escape the area should ideally be kept sterile of and sources of ignition or fire load. If anything is introduced into this area, it should be carefully managed and limited so as not to create any significant risk.

3 Failure under Article 11 of the Regulatory Reform (Fire Safety) Order 2005
(The responsible person must record the 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 must make and give effect and record the appropriate fire safety arrangements relating to the fire precautions within the premises. The arrangements must be recorded as referred to in the supporting information below.

DATE REQUIRED – 21 March 2024

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 person within the organisation been appointed to take responsibility for all matters relating to fire safety?
- Have other suitable persons been delegated fire safety duties as may be appropriate?
- How and when are fire risk assessment been planned, completed, recorded and reviewed, etc.?
- Has appropriate equipment maintenance been scheduled and booked?
- Are appropriate records (of maintenance etc.) being maintained and updated, as best practice?
- 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 detection and warning system currently fitted within the premises provides adequate coverage and meets current standards

Remedy

Upgrade the current fire detection and 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 6 or equivalent.

In the Fire Authority's opinion, a BS 5839: Part 6: Grade A LD2 System would be appropriate.

DATE REQUIRED – 21 February 2025

Supporting Information

The LACORS 'Guidance on fire safety provisions for certain types of existing housing' states that a 'mixed' fire detection and warning system is appropriate for a three storey building converted into self-contained flats.

This system should comprise the following:

- BS 5839: Part 6 Grade A: LD2 coverage in the common areas and a heat alarm in each flat in the room/lobby opening onto the escape route (interlinked); and
- BS 5839: Part 6 Grade D: LD3 coverage in each flat (non-interlinked smoke alarm in the room/lobby opening onto the escape route) to protect the sleeping occupants of the flat

5 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).

5.1 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 – 21 March 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 doorstep 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 a bi-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
21 February 2024	Enforcement	Common Ways Yew Tree House	Hastings	ESFRS/HA/MH/0221 /E1/24

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.