



East Sussex
Fire & Rescue Service

EAST SUSSEX FIRE & RESCUE SERVICE

ENFORCEMENT NOTICE

Notice No: ESFRS/HA/MH/0510/E1/24

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

Name of Premises: Derwent Care Home
Address of Premises: 38, Sedlescombe Road South, St Leonards, TN38 0TB.
Responsible Person: Derwent Residential Care Limited, The Coach House, 21a Chambres Road, Southport, Merseyside, PR8 6JG.

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of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.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

A handwritten signature in black ink, appearing to be 'Mark Hobbs'.

Date: 10 May 2024

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

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO ESFRS/HA/MH/0510/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 10 MAY 2024.**

Name of Premises: Derwent Care Home

Address of Premises: 38, Sedlescombe Road South, St Leonards, TN38 0TB.

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 ensure the standard of compartmentation provided throughout the premises is adequate.

Remedy

Carry out a suitable and comprehensive compartmentation survey and where compartmentation breaches are identified, ensure defects are suitably fire stopped to provide a minimum of 30 minutes fire resistance.

DATE REQUIRED - 10 September 2024

Supporting Information

During my audit I identified poor fire protection between a basement and the ground floor and also between a cupboard housing hot water cylinders and the means of escape on an upper floor.

1.2 Failure

The Responsible Person has failed to ensure that the single stair means of escape at the north side of the building is protected at the ground floor level, as a lounge / seating area has been created with various pieces of furniture and other combustible items present, that create a risk of fire and could prevent safe escape.

Remedy

Immediately remove furniture and combustible items - if you wish to replace them you should create a suitable fire resisting screen and fire door to separate from the single stair escape route.

DATE REQUIRED - 10 June 2024

1.3 Failure

The Responsible Person has failed to ensure that items are not stored in the means of escape where they could create a risk of fire.

Remedy

Immediately remove items, or if you wish to store within the means of escape, store within a suitable fire resisting and lockable cupboard.

Date Required - 10 June 2024

Supporting Information

At the time of my inspection, laundry was being stored in an unsuitable cupboard within the means of escape.

1.4 Failure

The Responsible Person has failed to ensure that the external fire escape on the south side of the building is suitably protected from any fire occurring within the building.

Remedy

Any windows or openings within 1.8m horizontally or 9m vertically should be secured shut and must provide fire resistance of at least 30 minutes.

Date Required - 10 September 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 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 7 May 2024, 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 matters raised within this notice and also any relevant learning points identified from the recent fire in the laundry room.

DATE REQUIRED - 10 June 2024

Supporting Information

It was identified that during the recent fire, that staff implemented a simultaneous evacuation of all residents, some of whom were reported to be challenging to move due to poor cognitive awareness. Therefore, it is considered that the emergency procedures should be reviewed to consider if Progressive Horizontal Evacuation may be more appropriate for the occupancy profile. This is particularly important during the night-time when staffing levels are reduced to 3 staff.

The storage of rubbish should also be addressed as currently large paladin containers are stored immediately against the building at the south side, which in case of fire could risk spread into the building. In particular the risk of an arson attack on this rubbish should be addressed as it is easily accessed from the road.

It was observed that there were a number of fire doors inappropriately wedged open at the time of my inspection (including the kitchen door). In addition, a number of doors were held open on acoustic door hold open devices. These devices are not suitable for use on “critical doors” as they can fail to close if there was a failure with the fire alarm system and therefore their use should be reviewed.

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.

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.

3 Failure under Article 11(1) and 11(2) 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 review and update the existing fire safety policy created in January 2005 and last reviewed in June 2014 to ensure it is current, appropriate, and effective.

DATE REQUIRED - 10 June 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 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 suitable and sufficient staff training (including induction and refresher training) been scheduled?
- Have fire drills been planned and scheduled?
- Has appropriate equipment maintenance been scheduled and booked, including fire door checks?
- 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 14(1), 14(2)(b), 14(2)(g) and 14(2)(h) of the Regulatory Reform (Fire Safety) Order 2005.

4.1 *(The responsible person must ensure that routes to emergency exits from premises and the exits themselves are kept clear at all times).*

Failure

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

Remedy

Implement suitable control measures and monitoring, to ensure all routes to emergency exits from the premises and the emergency exits themselves are kept clear at all times.

DATE REQUIRED - 10 June 2024

Supporting Information

During my inspection I identified that the fire exit onto the external escape at the south side of the building was obstructed by the storage of boxes.

4.2 *(The responsible person must ensure that, in the event of danger, it is possible for persons to evacuate the premises quickly and safely).*

Failure

The responsible person has failed to ensure that, in the event of danger, it is possible for persons to evacuate the premises quickly and safely.

Remedy

The responsible person must ensure that, in the event of danger, it is possible for persons to evacuate the premises quickly and safely.

DATE REQUIRED - 10 June 2024

Supporting Information

At the time of my inspection a number of glass covered security bolts were missing their hammers which should be replaced.

4.3 *(The responsible person must ensure that emergency routes and exits are indicated by signs).*

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 - 10 June 2024

Supporting Information

At the time of my inspection, I identified areas where there was a lack of clear signage. In addition the exit sign above the kitchen door was a non-compliant sign (not running man).

4.4 *(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).*

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 - 10 July 2024

Supporting Information

At the time of my inspection there was a lack of emergency lighting throughout the external escape route from the south side of the building.

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 existing fire doors are adequately maintained in effective working order.

Remedy

All doors required to be fire resisting are to be maintained to ensure that they automatically close fully and tightly against the doorstops at all times and are free from defects that could allow fire & smoke to spread for a minimum of 30 minutes. Cupboard doors do not require self-closing devices but should instead be kept locked shut.

DATE REQUIRED - 10 July 2024

Supporting Information

During my inspection I identified a number of doors that would not close fully onto their stops. In addition, the double bedroom layouts (x2) have no closers fitted / the doors are not suitably fire resisting.

It is recommended that regular checks of fire doors are programmed so as to ensure they are in good working order at all times.

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
10/05/2024	Enforcement	Derwent Care Home	St Leonards	ESFRS/HA/MH/0510/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.