



NORTHAMPTONSHIRE FIRE AND RESCUE SERVICE

Enforcement Policy

SERVICE INFORMATION SYSTEM

Title	Enforcement Policy
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Executive summary	This policy gives guidance to all personnel on the procedures and processes of the enforcement policy.

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Job title	Protection Manager
Date	January 2019
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1 INTRODUCTION

This statement sets out the general policy and principles which Northamptonshire Fire and Rescue Service (NFRS) expects to follow. It provides guidance for inspectors, businesses and members of the public and is intended to clearly set out the aims, standards and values that will be applied.

NFRS (the Service) carries out fire safety enforcement work on behalf of the Northamptonshire Commissioner Fire and Rescue Authority (the Authority).

The Service aims to provide a consistently high quality service to the commercial/business community in relation to technical/legislative fire safety matters in accordance with the Regulators' Code (the Code), as published by the Better Regulation Delivery Office (see Appendix A). The principles enshrined in the code are outlined below:

2 PRINCIPLES OF REGULATORS' CODE

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow.
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.
- Regulators should base their regulatory activities on risk.
- Regulators should share information about compliance and risk.
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.
- Regulators should ensure that their approach to their regulatory activities is transparent.

With the above principles in mind the Service will exercise its regulatory activities in a way which is:

- Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the contravention.
- Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures.
- Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities.
- Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
- Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

3 COMPLAINTS

The Service has in place a complaints procedure. Further information is available on request. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time scales involved. We aim to resolve issues quickly and effectively and to learn from the outcomes.

4 ENFORCEMENT PROCEDURES

The Service will seek compliance with the law by offering the responsible person information and advice both verbally and/or in writing. This will include an explanation of why any specified work is necessary and a time period for completion. Legal requirements will be clearly distinguished from best practice or non-statutory fire safety advice. We may deal with this by informal means, such as verbally or by letter, or a Notice of Deficiencies, or where appropriate we may serve Alterations, Enforcement and/or Prohibition Notices and may prosecute. Before formal enforcement action is taken, (unless immediate action is required to reduce the risk to life or to prevent evidence from being destroyed), inspectors will provide the responsible person with an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference.

Where immediate action is considered necessary, an explanation of why such action is required will be given at the time and confirmed in writing in most cases within 5 working days and in all cases within 10 working days.

Where in our opinion particular premises could, as a result of any future change of circumstances to the premises or to the use of the premises, result in a significant increase in risk to people using the premises, we may serve on the responsible person an Alterations Notice requiring the responsible person, before making any changes, to notify us of the proposed changes.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing and issued with the documentation.

All staff that make enforcement decisions will be required to follow the principles and guidance in the 'Enforcement Management Model' (EMM) issued by the Health and Safety Commission and detailed in the Service's Standard Operating Procedures (SOPs).

Before any enforcement action is undertaken, due regard will be taken to compliance with the requirements of any Primary Authority Scheme that the business in question has entered into.

The Service may, when otherwise an enforcement notice may be required, issue guidance to the responsible person in the form of an agreed action plan (see SOP F4 – Action Plans) where non-compliance is not thought to be likely.

Further details regarding enforcement procedures to be followed are contained within SOP F3 – Enforcement Procedures.

5 DEALING WITH CONTRAVENTIONS

Where less serious deficiencies are discovered during a visit to premises/workplace, an informal notification identifying those matters considered to be failures to comply, and the suggested steps considered necessary to remedy the failures, will be issued.

Premises with more serious deficiencies may initially be dealt with as per the previous paragraph. Where the situation remains unresolved the issue of an enforcement notice may follow. If however the risk in the case of fire is such that enforcement cannot be delayed, immediate enforcement action will be taken, in accordance with the EMM.

Where dangerous conditions are found and the Service is of the opinion that the use of the premises/workplace involves, or will involve, a risk to persons in case of fire so serious that the use of the premises ought to be prohibited or restricted, the Service will issue a Prohibition Notice prohibiting or restricting the use of the premises.

The failure to comply with an Alterations, Prohibition or Enforcement Notice constitutes an offence and may result in prosecution of the person responsible.

Alterations, Enforcement and Prohibition Notices may be withdrawn at any time. Any notice should be deemed to be in force until such time as it is withdrawn or cancelled by the court, or in the case of an Enforcement Notice, complied with. In the case of Alterations and Enforcement Notices the bringing of an appeal against the notice will have the effect of suspending that notice.

Where firefighters' switches for high voltage luminous tube signs are installed, or are proposed to be installed in or on premises to which the Order applies, the Authority may, if the position, colour and marking does not comply with the current regulations of the Institution of Electrical Engineers, serve a notice on the responsible person which details any such reasonable requirements as the Authority may impose to secure that the cut-off switch is readily recognisable by and accessible to firefighters.

6 PROSECUTION

Prosecution is an important way to bring those responsible for alleged breaches of the law to account. Where appropriate, we will use this measure in addition to issuing an Enforcement or Prohibition Notice.

A prosecution may be taken following full consideration of the many factors arising for the alleged breaches of the law. These will include:

- The seriousness of the offence (the severity and scale of potential and actual risk and the seriousness of any breach of law).
- The previous history (including the safety performance of the party (the responsible person) concerned).

- The willingness of the party to correct the situation and prevent a recurrence of the problem.
- An acceptable explanation for the occurrence (the breach in law).
- The likelihood of the accused being able to establish a satisfactory defence.
- The probable public benefit of a successful prosecution.

Before a decision to prosecute is taken the process laid down in SOP F14 – Prosecution Procedures will be followed.

7 PUBLIC REGISTER

In accordance with the *Environment and Safety Information Act 1988* the Service is obliged to enter details of certain notices called 'Relevant Notices' into a register to which the public have access. These are (a) Alterations Notice, (b) Enforcement Notice, (c) Prohibition Notice. Further details are available on request.

8 DATA PROTECTION

The Service will comply with the principles of the General Data Protection Regulation 2018 governing the use of personal data received or obtained and will respect the rights and freedoms of those individuals when processing their details. Service policy A11 – Security of Information lays out our strategic approach to meeting the legal requirements. Details are available on request and on [our website](#).

9 FREEDOM OF INFORMATION

Under the Freedom of Information Act 2000, individuals are given 'a general right of access to information held by public authorities in the course of carrying out their functions, subject to certain conditions and exemptions'. Under Section 19 of the Act, public authorities are required to produce a publication scheme setting out details of the information routinely published or made available, how the information is made available (in hard copy and on-line), and whether it is available free of charge or on payment. Details of the Service's publication scheme are available from:

Northamptonshire Fire and Rescue Service
Moulton Logistics Centre
Moulton Way
Northampton
NN3 6XJ

10 EDUCATION AND INFORMATION

Educating, informing and advising responsible persons about their duties under fire safety legislation forms a fundamental element of our enforcement regime. The Service will fulfil its obligation under Section 6(2) of the Fire and Rescue Services Act 2004 to give, on request, advice on fire safety free of charge.

Regulators' Code

April 2014

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow

- 1.1 Regulators should avoid imposing unnecessary regulatory burdens through their regulatory activities and should assess whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Regulators should choose proportionate approaches to those they regulate, based on relevant factors including, for example, business size and capacity.
- 1.2 When designing and reviewing policies, operational procedures and practices, regulators should consider how they might support or enable economic growth for compliant businesses and other regulated entities, for example, by considering how they can best:
 - understand and minimise negative economic impacts of their regulatory activities
 - minimising the costs of compliance for those they regulate
 - improve confidence in compliance for those they regulate
 - encourage and promote compliance.
- 1.3 Regulators should ensure that their officers have the necessary knowledge and skills to support those they regulate, including having an understanding of those they regulate that enables them to choose proportionate and effective approaches.
- 1.4 Regulators should ensure that their officers understand the statutory principles of good regulation and of this Code, and how the regulator delivers its activities in accordance with them.

2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views

- 2.1 Regulators should have mechanisms in place to engage those they regulate, citizens and others to offer views and contribute to the development of their policies and service standards. Before changing policies, practices or service standards, regulators should consider the impact on business and engage with business representatives.
- 2.2 In responding to non-compliance that they identify, regulators should clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken and the reasons for these. Regulators should provide an opportunity for dialogue in relation to the advice, requirements or decisions, with a view to ensuring that they are acting in a way that is proportionate and consistent.

This paragraph does not apply where the regulator can demonstrate that immediate enforcement action is required to prevent or respond to a serious breach, or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

- 2.3 Regulators should provide an impartial and clearly explained route to appeal against a regulatory decision, or a failure to act in accordance with this Code. Individual officers of the regulator who took the decision or action against which the appeal is being made should not be involved in considering the appeal. This route to appeal should be publicised to those who are regulated.
- 2.4 Regulators should provide a timely explanation in writing of any right to representation or right to appeal. This explanation should be in plain language and include practical information on the process involved.
- 2.5 Regulators should make available to those they regulate, clearly explained complaints procedures, allowing them to easily make a complaint about the conduct of the regulator.
- 2.6 Regulators should have a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.

3. Regulators should base their regulatory activities on risk

- 3.1 Regulators should take an evidence based approach to determining the priority risks in their area of responsibility, and should allocate resources where they would be most effective in addressing those priority risks.
- 3.2 Regulators should consider risk at every stage of their decision-making processes, including choosing the most appropriate type of intervention or way of working with those regulated; targeting checks on compliance and when taking enforcement action.
- 3.3 Regulators designing a risk assessment framework, for their own use or for use by others, should have mechanisms in place to consult on the design with those affected and to review it regularly.
- 3.4 Regulators, in making their assessment of risk, should recognise the compliance record of those they regulate, including using earned recognition approaches and should consider all available and relevant data on compliance, including evidence of relevant external verification.
- 3.5 Regulators should review the effectiveness of their chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

4. Regulators should share information about compliance and risk

- 4.1 Regulators should collectively follow the principle of “collect once, use many times” when requesting information from those they regulate.
- 4.2 When the law allows, regulators should agree secure mechanisms to share information with each other about businesses and other bodies they regulate, to help target resources and activities and minimise duplication.

5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply

- 5.1 Regulators should provide advice and guidance that is focused on assisting those they regulate to understand and meet their responsibilities. When providing advice and guidance, legal requirements should be distinguished from suggested good practice and the impact of the advice or guidance should be considered so that it does not impose unnecessary burdens in itself.
- 5.2 Regulators should publish guidance and information in a clear, accessible, concise format, using media appropriate to the target audience and written in plain language for the audience.
- 5.3 Regulators should have mechanisms in place to consult those they regulate in relation to the guidance they produce to ensure that it meets their needs.
- 5.4 Regulators should seek to create an environment in which those they regulate have confidence in the advice they receive and feel able to seek advice without fear of triggering enforcement action.
- 5.5 In responding to requests for advice, a regulator’s primary concerns should be to provide the advice necessary to support compliance, and to ensure that the advice can be relied on.
- 5.6 Regulators should have mechanisms to work collaboratively to assist those regulated by more than one regulator. Regulators should consider advice provided by other regulators and, where there is disagreement about the advice provided, this should be discussed with the other regulator to reach agreement.

6. Regulators should ensure that their approach to their regulatory activities is transparent

- 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them.
- 6.2 Regulators’ published service standards should include clear information on:

- a) how they communicate with those they regulate and how they can be contacted.
 - b) their approach to providing information, guidance and advice.
 - c) their approach to checks on compliance, including details of the risk assessment framework used to target those checks and protocols for their conduct, clearly setting out what those they regulate should expect.
 - d) their enforcement policy, explaining how they respond to non-compliance.
 - e) their fees and charges, if any. This information should clearly explain the basis on which these are calculated and should include an explanation of whether compliance will affect fees and charges.
 - f) how to comment or complain about the service provided and routes to appeal.
- 6.3 Information published to meet the requirements of this code should be easily accessible, including being available at a single point on the regulator's website that is clearly signposted and it should be kept up to date.
- 6.4 Regulators should have mechanisms in place to ensure that their officers act in accordance with their published service standards, including their enforcement policy.
- 6.5 Regulators should publish, on a regular basis, details of their performance against their service standards, including feedback received from those they regulate, such as customer satisfaction surveys and data relating to complaints about them and appeals against their decisions.

Monitoring the effectiveness of the Regulators' Code

The Government is committed to making sure the Regulators' Code is effective. To make sure that the code is being used effectively, we want businesses, regulated bodies and citizens to challenge regulators who they believe are not acting in accordance with their published policies and standards. It is in the wider public interest that regulators are transparent and proportionate in their approaches to regulation.

The Government will monitor published policies and standards of regulators subject to the Regulators' Code, and will challenge regulators where there is evidence that policies and standards are not in line with the code or are not followed.

FIRE PROTECTION INSPECTION STRATEGY

1. The principal inspection activity is driven by a risk-based inspection programme which is designed to direct most resources at those premises where the risks are considered to be greatest.
2. The ranking of premises according to risk is based upon the information given to Fire Services within IRMP Guidance Note 4 (Fire Services Circular 53/2009) entitled *A Risk Assessment Based Approach to Managing a Fire Safety Inspection Programme*. The guidance and principles contained within the Better Regulation Delivery Office's *Regulators' Code* and the *Enforcement Management Model* (HSE) will be followed.
3. The frequency of programmed visits to conduct fire safety audits for any particular premises will be based upon the risk rating. The frequencies allocated to different risk levels and premises types will be reviewed and revised periodically as deemed appropriate.
4. Checking for compliance with the *Regulatory Reform (Fire Safety) Order 2005* will be achieved principally through the mechanism of fire safety audits. This enables the adoption of a risk-assessment approach and enables the allocation of a risk rating to inform future inspection frequency.
5. In addition to the routine programme of audit visits, appropriate responses will be made to all reports of unsafe conditions in premises.
6. Visits may be made to assist and advise occupiers who have difficulties in solving the fire safety problems they have identified. Decisions to conduct any such visits will be taken on a risk-based approach; there is no intention to provide a 'visit on request' service.
7. Visits will be made to premises following occurrences of fire. These visits will allow inspectors to offer assistance and advice, but where appropriate it may be necessary to consider commencing legal proceedings if serious breaches of duties are identified.
8. Visits may be made to premises as a follow-up to consultation processes or on direct request, e.g. from Building Control bodies or licensing/registration authorities. The decision to undertake any such visits will be risk-based, but will include consideration of the importance attached to the need for a visit by the partner body/agency. Any such visits will comply with any agreed protocols and with any guidance on expectations issued through the Home Office or National Fire Chiefs Council (NFCC).
9. All Fire Protection visits to premises will also include any appropriate gathering, recording and communicating of risk information which will assist in achieving reduced risk in the community through the Service's Prevention and Response activities.

10. Visits may be made in support of Prevention or Response departments to provide technical assistance and support as required, e.g. as part of fire investigation team, to assist prevention work.
11. The Fire Protection Manager, Fire Protection Team Leader and the Fire Protection Technical Manager may direct any other visits to be made for any other relevant purpose as may be decided from time to time.

A summary of inspection activities is:

- Risk-based inspection programme – routine audits
- Response to report of unsafe conditions
- Visits to assist responsible person in solving problem
- Visits following fires
- Visits following consultations or requests from partners
- Visits to support Prevention or Response activities
- Visit for other purpose as determined by the Protection Manager