

# Fire Safety Enforcement and Engagement Policy

## 1. Purpose

The purpose of this Fire Safety (FS) Enforcement and Engagement Policy is to detail the process that all FS Inspectors or other warranted officers will use when deciding what action to take when carrying out their statutory duties on behalf of the Tyne and Wear Fire & Rescue Authority (the Authority). It also details the engagement duties the department will undertake to assist the business community of Tyne and Wear.

## 2. Link to strategic planning

This policy relates directly to the Authority's goals:

- **Goal One** – To prevent loss of life and injury from fires and other emergencies and promote community wellbeing
- **Goal Two** – To respond appropriately to the risk
- **Goal Three** – To plan and prepare for exceptional events
- **Goal Four** – To deliver a modern, effective service, ensuring value for money with staff who reflect the communities we serve

## 3. Additional Authority

The Authority has a number of legislation, which must be enforced, licensed and consulted on, the most notable being:

- The Regulatory Reform (Fire Safety) Order 2005; and
- The Health and Safety at Work Act 1974 (Petroleum and Explosives legislation)
- Building Act
- Licensing Act

To enable the Authority to perform the duties imposed by the relevant legislation for which it is responsible, the Authority will delegate responsibility to the Tyne and Wear Fire and Rescue Service (TWFRS) Chief Fire Officer (CFO) who will appoint personnel that are warranted for the purpose of conducting inspections and enforcing the relevant legislation. These warranted personnel include; Fire Safety Inspectors, Flexi Duty Officers, and a number of Senior Officers.

All warranted personnel will seek to provide advice that is appropriate to the premises and their use. They will do so by reference to relevant legislation, nationally recognised guidance and standards.

## 4. Scope

This policy details the enforcement and engagement made with the business sector of Tyne and Wear, the North East Region and Nationally through our Primary Authority Scheme (PAS) partnerships and is to be used and viewed by the public, other enforcing and consulting bodies, as well as employees of TWFRS.

## 5. Policy Statement –

TWFRS aim to educate business and commerce on fire safety issues, to ensure that preventative remedial action is taken to protect relevant persons and to secure compliance with the regulatory system. This action may take the form of engagement or enforcement.

Engagement is the preferred method. It may take the form of giving general advice to improve fire safety measures or specific advice on a targeted basis dependent upon the business needs. The purpose of engagement is to:

- Actively engage the business and commercial sector to raise awareness and understanding of responsibilities in respect of fire safety and the regulatory reform framework.

Doc	Issue	Date of issue	Issued by	Review	Pages	
	2	June 2018	FS GMB	June 2023	Total: 5	Page No: 1

- Develop effective partnerships and relationships to improve the application of fire safety methodology.
- Work with interested parties towards the achievement of mutually agreed solutions to fire safety deficiencies.

The need for enforcement may stem from a lack of knowledge or a deliberate or negligent act. The term enforcement has a wide meaning and applies to all dealings between TWFRS and those on whom the law places a duty. The purpose of enforcement is to:

- Promote and achieve sustained compliance with the law;
- Ensure that the person responsible for the premises subject to fire safety regulation takes action to deal immediately with serious risks to the safety of relevant persons.
- Ensure those individuals, businesses and other undertakings that breaches in fire safety legislation are dealt with appropriately, which may include bringing alleged offenders before the courts.

The Human Rights Act 1998 places general obligations on enforcement bodies to ensure fair treatment for all, to prevent any form of prejudice and to provide a right to privacy. This policy reflects the provisions of this Act, and the Regulators' Code.

While it is understood that it is primarily the responsibility of individuals and businesses to ensure compliance with relevant legislation, TWFRS will help them, where possible, to understand their legal responsibilities.

Warranted personnel will endeavor to explain any non-compliance in plain English. Where possible, TWFRS will assess alternative approaches so that the Responsible Person can choose the best solution for their particular premises. In certain circumstances, the Responsible Person should also consult with other enforcing agencies i.e. Building Control Body on measures that require compliance with Building Regulations.

Only FS Inspectors or appropriately warranted personnel may undertake enforcement duties. The CFO will only warrant personnel when satisfied with their level of qualification, training, experience and competence. All warranted personnel including, FS Inspectors undertaking enforcement duties, will be suitably trained to ensure they are fully competent to undertake their enforcement activities. These competencies will be reviewed on a regular basis. Additionally, the training requirements to achieve the necessary level of competence will be regularly reviewed. All enforcement activity shall be quality assured prior to implementation.

Audits completed under The Regulatory Reform Fire Safety Order 2005 (FSO) will be recorded on the Fire Safety Audit and Data Gathering Form on the Community Fire Risk Management Information System (CFRMIS) following the principals of the CFOA Audit Procedures. This Premises Audit form is in common use with most Fire and Rescue Services in England and Wales and should encourage consistency when determining levels of compliance and enforcement outcomes.

Audits and inspections will be undertaken by FS Inspectors on the basis of the FS Department Risk Based Inspection Programme (RBIP) under which priority will be given to premises that have been assessed as being of higher risk. The greatest audit and inspection effort will be allocated to premises where a compliance breach would pose a serious risk to the safety of persons and TWFRS has reason to believe that there is a high likelihood of non-compliance with the law.

FS will endeavor to conduct any reactional workload such as Operational Health Check Referral and statutory consultations either within an reasonable time period as defined by the identified risk or within any statutory response period.

Doc	Issue	Date of issue	Issued by	Review	Pages	
	2	June 2018	FS GMB	June 2023	Total: 5	Page No: 2

Enforcement decisions shall be consistent, balanced, fair and relate to common standards that ensure the public, businesses and employees are adequately protected. Such decisions will be made using the same method as the Health and Safety Executive (HSE) Enforcement Management Model (EMM), which is included in the Premises Audit form template, since Fire & Rescue Services and Local Authorities having enforcement responsibilities accept this method as national best practice.

In deciding what action to take to ensure compliance with the law, the Authority considers the following:

- The nature and seriousness of any alleged offence/s;
- The risk of death or serious injury
- Previous experience and record of compliance of the responsible person;
- Action taken to prevent any recurrence;
- The likely effectiveness of the various enforcement options;
- Any explanation offered and the circumstances and attitude of the responsible person;
- Any statutory defence available.

TWFRS will always seek to use enforcement action that is proportionate, primarily to the circumstances of the offence and the risk to life, but in so doing will also consider other factors such as the size of the business or undertaking and the nature of its activities.

Choices of enforcement or engagement approaches available to TWFRS are:

- Educate and Inform
- Notification of Deficiencies;
- An agreed action plan;
- Relevant/statutory notice (Enforcement/Improvement Notices) identifying the nature of the corrective action needed;
- Prohibition / restriction of use;
- Refusal/revoke licenses;
- Referral to other agencies;
- Conducting an investigation into the breaches in legislation where the decision has been made to seek a conviction in a court of law, resulting in the issuing of a Simple caution or successful prosecution.

TWFRS will keep its regulatory activities under review through management of its fire safety enforcement function. This will ensure, so far as reasonably practicable, that all actions are proportionate and impose the minimum burden necessary to secure reasonable compliance with the law.

TWFRS recognises that the decision to seek a conviction in Court of Law is significant and could have far reaching consequences for the offender. The decision to prosecute is a serious step. Fair and effective prosecution forms a legitimate element of the Authority's strategy to reduce the risk of death and injury by enforcing fire safety law. Any prosecution has serious implications for all involved – including the person prosecuted, casualties, witnesses and Service personnel. TWFRS will apply the guidance set out below along with guidance produced by the National Fire Chief's Council (NFCC) so that it can make fair and consistent decisions about prosecutions.

The decision to prosecute will take account of the evidential test and the relevant public interest factors. No prosecution may go ahead unless the Authority finds there is sufficient evidence to provide a realistic prospect of conviction and decides that prosecution would be in the public interest.

Doc	Issue	Date of issue	Issued by	Review	Pages	
	2	June 2018	FS GMB	June 2023	Total: 5	Page No: 3

TWFRS will consider the following public interest factors (public interest test) in deciding whether or not to prosecute:

- The nature and seriousness of any alleged offence/s;
- The risk of death or serious injury;
- Previous experience and record of compliance of the responsible person;
- Action taken to prevent recurrence;
- The likely effectiveness of the various enforcement options;
- Any explanation offered and the circumstances and attitude of the Responsible Person;
- Any statutory defence available.

Where there is sufficient evidence (evidential test), TWFRS will normally consider prosecution in any of the following circumstances:

- Breaches of legislation that placed people at risk of death or serious injury
- Persistent breaches of statutory requirements in relation to the same undertaking;
- Failure to comply with formal remedial requirements;
- Reckless disregard for fire safety requirements;
- Failure to supply information without reasonable excuse or knowingly or recklessly supplying false or misleading information
- Obstruction of warranted personnel in carrying out their powers. TWFRS regards the obstruction of, or assaults on, its warranted personnel while lawfully carrying out their duties as a serious matter.

TWFRS will consider publicising any conviction, which could serve to draw attention to the need to comply with fire safety requirements, or deter anyone tempted to disregard their duties under fire safety law. Details of statutory notices served will be held on publicly available registers at Service Headquarters in accordance with the Environment and Safety Information Act 1988. Where any notice is served that is relevant for the purposes of the above Act, the Authority will publish the details on its website and also publish the notices as an entry on the NFCC National Enforcement Register.

If any person is unhappy with the action taken, the information or advice given by FS Inspectors of TWFRS, or believe they have not received fair or consistent treatment as outlined in this policy, they will be given the opportunity to discuss the matter with the FS Group Manager (B) Department Head. They will listen to their complaints, consider whether the enforcement policy has been breached and give a reply in writing where necessary. This is without prejudice to any formal appeal mechanism. If the problem cannot be resolved, the person will be informed of the TWFRS Complaints Procedure.

## 6. Outcomes

TWFRS will educate business and commerce on fire safety issues, to ensure that preventative remedial action is taken to protect relevant persons and to secure compliance with the regulatory system

## 7. Governance and Review

The Executive Leadership Team approves this policy. The FS department oversee compliance with the policy.

The GMB FS will review the policy every 5 years.

## 8. Evaluation

The policy will be subject to a review every 5 years that measures impact.

Doc	Issue	Date of issue	Issued by	Review	Pages	
	2	June 2018	FS GMB	June 2023	Total: 5	Page No: 4

## 9. Other Departments

Service Delivery conduct Operational Health Checks/Visits incorporating engagement and also influences enforcement action as an outcome of these visits.

## 10. Supporting procedures

This policy is supported by a number of policies, procedures and guidance:

- The Risk Based Inspection Programme
- Fire Safety Operating Plan
- The Risk Based Attendance Policy
- The Unwanted Fire Signals Strategy

Doc	Issue	Date of issue	Issued by	Review	Pages	
	2	June 2018	FS GMB	June 2023	Total: 5	Page No: 5