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FS001 Enforcement and Engagement Policy

1 Introduction

1.1 Purpose and Scope

- 1.1.1 The purpose of this Fire Safety (FS) Enforcement and Engagement Policy is to detail the process that all Fire Safety Officers 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.
- 1.1.2 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.

1.2 Legal and Regulatory Requirements

- 1.2.1 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)
 - The Building Regulations 2010
 - The Licensing Act 2003
 - The Fire Safety (England) Regulations 2022
 - The Building Safety Act
 - The Fire Safety Act 2021
- 1.2.2 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 Officers, Flexi Duty Officers, and a number of Senior Officers.
- 1.2.3 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.

1.3 Exclusions from this policy

1.3.1 This policy does not cover single private domestic dwellings.

2 Definitions

- Enforcement – the proper execution of the process of ensuring compliance with laws and regulations.
- Engagement – a two-way process between TWFRS and businesses to promote compliance with the relevant legislation.

3 Principles of the policy

- 3.1 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.
- 3.2 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.
 - 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.
- 3.3 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.

- 3.4 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.
- 3.5 Warranted personnel will endeavour 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.
- 3.6 Only Fire Safety Officers 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.
- 3.7 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.
- 3.8 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.
- 3.9 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.
- 3.10 Service Delivery conduct Operational Health Checks/Visits incorporating engagement and also influences enforcement action as an outcome of these visits. FS will endeavour to conduct any reactionary workload such as Operational Health Check Referral and statutory consultations either within a reasonable time period as defined by the identified risk or within any statutory response period.
- 3.11 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.
- 3.12 In deciding what action to take to ensure compliance with the law, the matters the Authority considers includes 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.

3.13 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.

3.14 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.

3.15 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 and public safety.

3.16 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 so that it can make fair and consistent decisions about prosecutions.

3.17 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. The final approval for the decision to prosecute will be given by the Chief Fire Officer based on the information gathered as part of the investigation and legal advice from the Service's legal advisors.

- 3.18 In relation to the Public Interest Test, the matters considered by TWFRS will include the following 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.
- 3.19 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.
- 3.20 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.
- 3.21 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 raise the matter in accordance with Tyne and Wear Fire and Rescue Service's Policy for Managing Compliments and Complaints (BI005). The Policy ensures that compliments and complaints are properly administered, recorded, acknowledged and, where necessary, investigated. This policy will ensure that anyone making a complaint will be treated in a fair, reasonable and consistent manner.

4 Accountability and Responsibility

- 4.1 The Executive Leadership Team approves this policy. The Fire Safety department oversee compliance with the policy in line with legislative requirements.

5 Monitoring and Review

5.1 The Head of Fire Safety will review the policy every 3 years.

6 Other Information

6.1 Tyne and Wear Fire and Rescue Service recognises that the Competency Framework for Fire Safety Regulators is a beneficial objective which will provide identified benchmarks to confirm competences, but Tyne and Wear Fire and Rescue Service notes the acknowledgement in paragraph 6.3 of the Competency Framework that it may take time for enforcing authorities to implement the Framework. The position of Tyne and Wear Fire and Rescue Service is that it's fire safety regulators, who are working towards the objectives of the Framework, are not to be regarded as not competent to carry out their respective fire safety duties, if such officers meet all other criteria for competence in the Framework, as fire safety regulators will only be appointed to roles which (name of FRS) considers that its fire safety regulators can competently fulfill.

7 Authority for Issue

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Review Cycle: Frequency:	3 years	Date:	March 2027
Link to Strategy:	This policy relates directly to the Authority's Community Risk Management Plan and TWFRS Strategy 2025.		
Links to other policies	<ul style="list-style-type: none">• The Risk Based Inspection Programme• Fire Safety Operating Plan• The Risk Based Attendance Policy• The Unwanted Fire Signals Strategy		