



Business Fire Safety

SYFR Business Fire Safety Enforcement Policy



Document Control

Title of Document	Business Fire Safety Enforcement Policy
Document Class	Policy
Document Owner (Name, Job Role)	Prevention & Protection
Document Author (Name, Job Role)	BFS Central Support
Approved By	Head Of Department
Date Created	22 Nov 18
Issue Date	22 Nov 18
Current Version	09 Oct 18
Review Period**	2 Years
Next Review Date	22 Nov 20
Equality Assessment	Completed at
Related Policies	NFCC Enforcement Policy/SYFR Risk Based Audit Programme

Change Management

Name	Position	Organisation	Version	Comments	Date
T Guthrie	BFSCS	SYFR	4	<p>Update for new SYFR Policy template and formatting.</p> <p>Update Government Department names which have been changed.</p> <p>Added Risk Based Audit Policy as reference in text.</p> <p>Included Authorities new Diversity & Inclusion Policy in text</p> <p>Updated new complaints and comments access for customers and all links</p> <p>Update the relevant Acts & Legislation referred to in the document</p>	09 Oct 18
T Guthrie	BFSCS	SYFR	5	<p>Updates from A Jenkinson</p> <p>Areas deleted as they will now be in the guidance documents.</p> <p>Areas updated</p>	20 Nov 18



Contents

Subject	Page No
Purpose	4
Policy Statement	4
Scope	6
Roles and Responsibilities	8



Enforcement Policy Statement

Purpose

1.1 The principal aim of South Yorkshire Fire & Rescue Authority (SYFRA) (“the Authority”) is to make South Yorkshire businesses safer and stronger by reducing as far as possible the risks, social and economic costs of fires and other dangers, without imposing unnecessary burdens. Securing compliance with legal regulatory requirements is an important part of achieving this aim.

1.2 South Yorkshire Fire and Rescue (SYFR) (the Service) enforces general fire safety legislation on behalf of the Authority in South Yorkshire. The legislation the Authority enforces includes:

- The Regulatory Reform (Fire Safety) Order 2005
- The Petroleum (Consolidation) Regulations 2014
- Health and Safety at Work Etc. Act 1974
- The Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR)
- The Explosives Regulations 2014
- The Construction (Design and Management) Regulations 2015
- Environment & Safety Information Act 1988

1.3 The purpose of the Enforcement Policy is to explain, in general terms, the principles that South Yorkshire Fire and Rescue officers will follow when they are carrying out enforcement activities on behalf of SYFR.

1.4 We recognise that the effectiveness of the legislation depends upon the compliance of those regulated and that most businesses and individuals will wish to comply with the law. We will assist and advise wherever possible, while taking firm and appropriate action against those who flout the law or act irresponsibly.

1.5 The ultimate purpose of an enforcing authority is to ensure that duty holders manage and control risks effectively, thus preventing harm. The term ‘enforcement’ has a wide meaning and applies to all dealings between SYFR and those on whom the law places duties (Responsible persons).

1.6 The purpose of enforcement is to:

- Promote and achieve sustained compliance with fire safety law;
- Ensure that responsible persons take action to deal immediately with serious risks
- Ensure that responsible persons who breach fire safety requirements are held to account, which may include bringing alleged offenders before the courts.

Policy Statement

2.1 This Enforcement Policy Statement and the enforcement principles which SYFR follow are in accordance with the Regulators’ Code 2014 and the regulatory principles required under the Legislative and Regulatory Reform Act 2006.

These principles are:



2.2 Proportionality – to ensure that our enforcement action taken relates directly to:

- The actual or potential risk due to fire
- How far the fire protection standards are below what is expected
- What actions have been taken by the duty holder to mitigate the risks.

We will take account of the circumstances of small regulated businesses including any difficulties they may have in complying and where appropriate, discuss options that will allow them to secure compliance.

2.2 Targeting – we will direct our resources at those premises whose activities or occupancy profile give rise to the most serious risk. Enforcement action will be primarily focused on those directly responsible for the risk and who are best placed to control it. The Authority will use a wide range of tools, data sources and information systems to make sure our targeting is effective. These include a risk-based audit programme and localised plans to identify high risk premises. The Authority will continue to seek to identify relevant and good quality data to continually improve its risk based audit programme.

2.3 Consistency – to ensure that similar issues are dealt with in the same way. This is achieved by way of a nationally recognised risk assessment based audit / inspection methodology, the use of the enforcement management model and we will also take into account variables such as:

- Degree of risk
- Attitude and competence of duty holder
- History of incidents or previous enforcement

We will have regard to the Primary Authority Scheme when dealing with non-compliance and will discuss the circumstances of breaches with the local authority representative.

2.4 Transparency – to ensure that enforcement action taken by SYFR is easily understood and that a clear distinction is made between legal requirements and advice or guidance about what is desirable but not compulsory, we will where possible always discuss the contents of an enforcement notice and, if possible, resolve any points of difference before serving it, the notice will state what needs to be done, why and by when. In the case of a prohibition notice explain why the prohibition is necessary.

2.5 Accountability – SYFR is accountable to the community for its actions and will be judged against the principles within this Enforcement Policy Statement, all notices we serve will have guidance on the rights and timescales for a formal appeal.

2.6 Promotion – we will endeavour to raise the awareness about fire safety legal requirements, appropriate fire protection standards within premises and promote general good practice to raise the level of compliance with the law. This will be achieved by a variety of methods including, business education events, signposting of information from our website and answering general enquiries in the office or on site.

To assist with compliance of the legislation, the Government have produced a suite of guidance documents for buildings that are used for different purposes.

These guides are used by SYFR personnel to judge whether a premises has a reasonable level of fire safety provision and that people will be safe.

These documents are available free of charge: <http://www.communities.gov.uk/firesafety>



2.7 Compliance with fire safety legislation will be achieved through education; by providing advice and guidance; and by formal enforcement action. Securing compliance with statutory requirements and proportionate use of enforcement powers, including prosecution, is an important part of this enforcement policy.

2.8 The Authority will ensure that all relevant inspecting officers are competent and are trained in the use of this policy. The Authority will seek to work with other enforcing authorities to ensure collaborative regulation and sharing of information.

2.9 The Authority take the view that our Business Safety Inspectors also have the right not to be subject to assault, abuse or intimidation and will investigate any instances where this occurs and where appropriate refer the matter to the police.

Scope

3. Compliance

3.1 The Authority will aim to secure compliance, avoiding bureaucracy or imposing excessive cost and will seek to work with the regulated entity to support and encourage economic progress, by offering information and advice to those we regulate. Individuals, businesses and other undertakings are encouraged to put safety first and to integrate fire prevention and fire protection requirements into normal working practice.

3.2 In accordance with its duties under Section 6 of the Fire and Rescue Services Act 2004 the Authority will, to the extent that it considers it reasonable to do so, make arrangements for:

- (a) The provision of information, publicity and encouragement in respect of the steps to be taken to prevent fires and death or injury by fire;
- (b) The provision of advice, on request, about:
 - (i) How to prevent fires and restrict their spread in buildings and other property;
 - (ii) The means of escape from buildings and other property in case of fire.

3.3 In exercising its duty to provide advice and information, the Authority will not:

- Undertake fire risk assessments for regulated persons;
- Appear in court on behalf of regulated persons in any prosecution brought by a third party including another enforcing authority, under health and safety or fire safety legislation, except as an expert or neutral witness to give general mitigating evidence;
- Draft fire safety policy and procedures on behalf of regulated persons. It is incumbent upon regulated persons to comply with fire safety legislation;
- Other than in those circumstances, which appear to the Authority to be in the public interest and appropriate to the functions of a best value authority, act as a consultant on fire safety related issues other than as required to meet statutory consultation requirements imposed on other bodies and persons.

3.4 The purpose of the Enforcement Policy is to explain, in general terms, the principles that South Yorkshire Fire and Rescue officers will follow when they are carrying out enforcement activities on behalf of SYFR.



3.5 We recognise that the effectiveness of the legislation depends upon the compliance of those regulated and that most businesses and individuals will wish to comply with the law. We will assist and advise wherever possible, while taking firm and appropriate action against those who flout the law or act irresponsibly.

3.6 The ultimate purpose of an enforcing authority is to ensure that duty holders manage and control risks effectively, thus preventing harm. The term 'enforcement' has a wide meaning and applies to all dealings between SYFR and those on whom the law places duties (Responsible persons).

3.7 Where a business seeks advice or guidance from the Authority, or its officers, about actions needed to correct fire safety deficiencies this will not automatically lead to formal enforcement action by the Authority. Should enforcement action prove to be necessary it will be based on the principles, expectations and methodology of the Enforcement Management Model (EMM) produced by the Health and Safety Executive (HSE), which is considered national best practice.

Roles & Responsibilities

4. Levels of Enforcement Action

4.1 The Authority has a wide range of actions at its disposal to secure compliance with legislation to ensure a proportionate response for contraventions. Officers may offer businesses and individuals information and advice either in person, in writing by letter, e-mail, or by telephone. Where appropriate, officers may agree an action plan; serve a notification of deficiencies or an enforcement/improvement notice; prohibit or restrict the use of premises; or they may prosecute or give a simple caution.

4.2 The Authority will always seek to use enforcement action that is necessary and proportionate primarily to the circumstances of the offence and the risk to life, and in doing so, will consider the following factors:

- The size of the business or undertaking and the nature of the activities
- The seriousness of compliance failure
- The businesses past performance and its record of compliance
- Action taken to prevent any recurrence
- Whether there has been an overt and deliberate failure to comply
- Legal, official or professional guidance.

4.3 Choices of enforcement approach available to the Service are:

- Educate and inform
- Work with the appropriate Primary Authority
- Serving of a statutory notice identifying the nature of the corrective action needed
- Issue of a prohibition / restriction of use notice
- Referral to other agencies
- Simple caution *
- Prosecution

*A simple caution is a statement by an authorised officer that is accepted in writing and signed by the responsible person, where they admit an offence for which there is a realistic prospect of conviction.



5. Prosecution

5.1 The decision to prosecute will always take into account the criteria set down in the 'Code for Crown Prosecutors'. The following public interest criteria will be taken into account when deciding on the relevance of legal proceedings, although this list is not exhaustive:

- The prevalence of the type of offence
- The need for a suitable deterrent
- The risk of danger or injury to the public
- The failure to comply with a statutory notice or to respond to advice about legal requirements
- The failure to comply with requests for information despite reminders
- The disregard of legal requirements for financial reward
- A history of similar offences
- Persistent breaches of legislation
- Where fraud, knowledge of guilt, or gross negligence is a factor

5.2 Where possible the affected person will be informed as soon as sufficient evidence is obtained that a prosecution may follow. All prosecutions will be brought without unnecessary delay in line with SYFR policy.

6. Complaints and Appeals

6.1 Where we take enforcement action, there is often a statutory right to appeal. We will always tell those affected about this at the appropriate time.

6.2 We manage complaints about our service, or about the conduct of our officers through the Services Complaints procedure. Complaints can be raised via the following methods:

- In person at any SYFR building including SYFR HQ, 197 Eyre Street, Sheffield S1 3FG; or to any member of staff at the point of service delivery
- By telephone to the dedicated Customer Care Line 0114 253 2209
- By letter to the Customer Care Manager, SYFR HQ, 197 Eyre Street, Sheffield S1 3FG
- Via e-mail either directly to customercare@syfire.gov.uk or via the SYFR website found under the link: <http://www.syfire.gov.uk/contact/customer-charter/>

7. Feedback

7.1 We value input from you to help us ensure our services and policies are meeting your needs. We would like to hear from you whether your experience of us has been good or in need of improvement. This helps us to ensure we keep doing the right things and make changes where we need to. We use customer satisfaction surveys from time to time but we would welcome your feedback at any time. Any compliments, comments and complaints that we receive will be acknowledged, considered and responded to.

Further details can be found at: <http://www.syfire.gov.uk/contact/customer-charter/>

Feedback specific to Business Fire Safety can be made at: <http://www.syfire.gov.uk/contact/>



8. Audit and Inspection of premises

8.1 The Authority operates a Risk Based Audit System in planning the audits of premises. This system utilises data and guidance from the Department of Communities and Local Government together with local intelligence and knowledge that incorporates local risk priorities identified from trends in location, types of fire and assessment of vulnerability of groups in local areas within South Yorkshire. From time to time, and particularly if any significant changes are proposed, the Authority will consult regulated entities on its methodology through consultation on its Integrated Risk Management Plan or by other means.

8.2 Audits will be undertaken by officers on the basis of the Authority's risk based system under which priority will be given to individual premises and generic premises types or uses that have been assessed as being of relatively 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 relevant persons and the Authority has reason to believe that there is a high likelihood of non-compliance with the law.

8.3 The Authority's overall enforcement programme may take account of the need to sample small numbers of premises in relatively lower risk categories in order to continually test the methodology used. The Authority will respond to allegations of fire risk in any premises for which they are the enforcing authority regardless of the relative risk level of the premises.

8.4 The Authority has entered into a number of agreements with other enforcing authorities to provide clarification about which authority takes the lead for particular premises types where the enforcement regimes overlap. To minimise audit and inspection burdens for regulated entities the Authority will continue to seek to develop, engage in, and foster partnerships working with other enforcers and other stakeholder groups.

8.5 The Authority will continue to work with other enforcing authorities, regulated entities and others in order to avoid duplication of collection of information from regulated entities and to seek and implement ways of:

- Varying data requests according to risk;
- Limiting collection to specific regulated entities sectors/sub-sectors;
- Reducing the frequency of data collection;
- Obtaining data from other sources;
- Allowing electronic submission;
- Requesting only data which is justified by risk assessment;
- Sharing data with other authorities.



9. Non Compliance

9 Decisions on enforcement action and enforcement options

9.1 The Authority seeks to ensure that legislation is enforced in an impartial way through policy and management procedures and safeguards.

9.2 Certain decisions about enforcement action are taken by the officers who inspect the premises and in consultation with more senior colleagues where appropriate. Particularly serious action, such as prohibition or restriction of the use of premises or part of the premises, can only be authorised by identified senior officers following the relevant policies and Guidance Notes. The final decision to caution or prosecute is taken by the Business Fire Safety Manager following consultation with the Area Manager for Prevention and Protection.

9.3 Regulators will be fair, independent and objective when considering enforcement action and will not let their personal views cloud their judgement.

9.4 The Authority will ensure that the identified responsible persons, individual and/or company are prosecuted for the correct offence/s.

9.5 The Authority is a Public Authority for the purposes of the Human Rights Act 1998; it will apply the principles of the European Convention on Human Rights in accordance with the Act, as it does in all of its enforcement activity.

10. Public Registers

10.1 The Authority 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 in accordance with the Environment and Safety Information Act 1988. Where a conviction has taken place the resulting court case details will be published in local newspapers and media outlets. The public Register information can be found at this link : <http://www.syfire.gov.uk/business-advice/public-register-notice/>

11. Data Protection

11.1 SYFR is committed to complying with data protection law. Our objective is to be transparent in how we hold information and ensure all personnel who have access to any personal data is fully aware of their responsibilities.

12. Further Information

12.1 Further information about the Authority's enforcement of fire safety regulation can be obtained from the following source: <http://www.syfire.gov.uk/business-advice/regulatory-reform-order-2005/>

