



# Avon Fire Authority Enforcement Policy

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**PROVIDING AVON FIRE & RESCUE SERVICE**

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## Contents

1	Introduction.....	3
2	Principles.....	3
3	Proportionality .....	3
4	Consistency.....	4
5	Standards .....	4
6	Openness .....	4
7	Helpfulness.....	5
8	Fairness.....	5
9	Transparency .....	5
10	Accountability.....	5
11	Complaints.....	5
12	Targeting.....	6
13	Enforcement Procedures .....	6
14	Dealing with Contraventions .....	7
15	Simple Cautions and Prosecutions .....	8
16	Public Register.....	9
17	Data Protection .....	10
18	Freedom of Information .....	11
19	Education and Information .....	11

### **PROVIDING AVON FIRE & RESCUE SERVICE**

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
Status:	Published	Issue date:	17/04/2018	Enforcement Policy



## 1 Introduction

- 1.1 This statement sets out the general policy and principles, which Avon Fire Authority 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.
- 1.2 We aim to provide a consistently high quality service to the commercial/business community in relation to our local community safety targets and technical/legislative fire safety matters in accordance with Regulator's Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006.

## 2 Principles

- 2.1 Avon Fire Authority, herein after referred to as "the Authority", carries out fire safety enforcement work through officers of Avon Fire & Rescue Service.
- 2.2 The Authority believes in firm, but fair enforcement of The Regulatory Reform (Fire Safety) Order 2005 ('the Order'). As a result, as is consistent with the Health and Safety Executive's Enforcement Policy Statement, we aim to achieve this by the principle of proportionality in applying the law and securing compliance; consistency of approach; targeting of enforcement action; transparency about how we operate and what the regulated may expect; and accountability for our actions.

## 3 Proportionality

- 3.1 The Authority will endeavour to minimise the cost of compliance for business by ensuring that any action taken, or advice offered, is proportionate to the risk. As far as the law allows, we will take account of the circumstances of the case and attitude of the people involved when considering action. We will take particular care to work with small businesses and organisations so that, where practicable, they can meet their legal obligations without unnecessary expense.

### **PROVIDING AVON FIRE & RESCUE SERVICE**

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
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## 4 Consistency

- 4.1 Consistency of approach does not mean uniformity; it means taking a similar approach in similar circumstances to achieve similar goals. The Service will therefore carry out its duties in a fair, equitable and consistent manner. Inspectors are expected to exercise their professional judgement to deal effectively with specific matters but, where possible, will adhere to standards and guidance referred to below to promote consistency. We will liaise with other authorities and enforcement bodies to achieve co-ordination and locate best practice.

## 5 Standards

- 5.1. The Authority will carry out its enforcement and advisory functions in an equitable, practical and consistent manner. We will adopt and adhere to policy and guidance issued by The Department Communities and Local Government (DCLG), the National Fire Chief's Council (NFCC), and National and European accepted standards where published. National and local targets for the quality of delivery of service will be identified and incorporated into our procedures.

## 6 Openness

- 6.1 The Authority will provide information and advice in plain language on the rules that it applies and will disseminate this as widely as possible. The Authority will be open about how it sets about its work, including any charges that it sets, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties within the legal framework governing the Service.

### **PROVIDING AVON FIRE & RESCUE SERVICE**

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
Status:	Published	Issue date:	17/04/2018	Enforcement Policy



## 7 Helpfulness

- 7.1 The Authority believes that prevention is better than cure and that its role, therefore, actively involves working with business, especially small and medium sized businesses, to advise and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide contact points and telephone numbers for further dealings with us and will encourage business to seek advice/information. We will also strive to co-ordinate our services effectively to minimise unnecessary overlaps and time delays.

## 8 Fairness

- 8.1 The Authority will treat all people fairly - we will respect their privacy, dignity and pay particular attention to those with special needs.

## 9 Transparency

- 9.1 We will help those responsible (the responsible person) for complying with the Order to understand what is expected of them and what they should expect from the Authority. We will distinguish between statutory requirements and advice or guidance about what is desirable but not compulsory to comply with the legislation.

## 10 Accountability

- 10.1 The Authority is accountable to the public for its actions. This means we must have policies and standards against which we can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints.

## 11 Complaints

- 11.1 The Authority 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 timescales

**PROVIDING AVON FIRE & RESCUE SERVICE**

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
Status:	Published	Issue date:	17/04/2018	Enforcement Policy



involved. We aim to resolve issues quickly and effectively and to learn from the outcomes.

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## 12 Targeting

- 12.1 Inspections will be focused primarily on those whose premises/workplaces and activities give rise to the most serious risk to life. We will maintain a strategy that will identify and assess the risks within premises/workplaces and the community and allocate resources to carry out inspections accordingly. Where enforcement action is necessary we will identify the person(s) responsible for creating the risk. This may be the owner, occupier, employer, manager or other responsible person. We will seek compliance and may take action against those regarded as primarily in breach.

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## 13 Enforcement Procedures

- 13.1 The Authority will seek compliance with the law by offering the responsible person information and advice verbally and may confirm in writing. This will include an explanation of why any specified work is necessary and if necessary 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 or where appropriate we may serve alterations, enforcement and prohibition notices, issue simple cautions, 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 person responsible with an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference.
- 13.2 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 where immediate action is not necessary the action required will be provided within 10 working days.
- 13.3 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 Authority to be notified in advance of the proposed changes.

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### **PROVIDING AVON FIRE & RESCUE SERVICE**

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
Status:	Published	Issue date:	17/04/2018	Enforcement Policy



- 13.4 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.
- 13.5 All staff taking enforcement decisions will be required to follow the principles and guidance set out in the 'Enforcement Management Model' (EMM) issued by the Health and Safety Executive
- 13.6 The Authority may, where it is considered necessary to focus attention on what preventive and protective measures are necessary to achieve compliance with the Order, issue additional guidance to the responsible person in the form of an action plan.

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## 14 Dealing with Contraventions

- 14.1 Where less serious deficiencies are discovered during a visit to premises/workplace, an informal notification identifying those matters considered to be of non-compliance will be issued; remedial steps to bring back into compliance may be discussed. It will be the obligation of the responsible person to take the necessary action to ensure compliance.
- 14.2 Premises with more serious deficiencies will, in most instances, initially be dealt with as in 14.1 above. Where the situation remains unresolved after 28 days, 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.
- 14.3 Where dangerous conditions are found and the Authority is of the opinion that the use of the premises/workplace involves, or will involve, a serious risk to persons in the case of fire, that the use of the premises ought to be prohibited or restricted, and that risk cannot be remedied immediately, a Prohibition Notice will be served prohibiting or restricting the use of the premises or part of premises.
- 14.4 Failure to comply with an alterations, prohibition or enforcement notice constitutes an offence and may result in prosecution.
- 14.5 Alterations, Enforcement and Prohibition Notices may be withdrawn by the Authority at any time. It must be assumed, however, that a Notice is in force unless written confirmation is given by the Authority that it has been withdrawn or the Notice is cancelled by a court.

### PROVIDING AVON FIRE & RESCUE SERVICE

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
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- 14.6 The Institution of Electrical Engineers (IEE) makes regulations about electrical installations. If firefighters cut-off switches for high voltage luminous tube signs (to be) installed in a building to which the Order relates do not comply with the IEE's current regulations, the Authority may impose requirements to ensure that the switches are readily recognisable by and are accessible to firefighters.
- 14.7 Premises that are provided with facilities, equipment and devices for use by or for the protection of firefighters. Must have a suitable system of maintenance and are maintained in an efficient state, in efficient working order and in good repair.

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## 15 Simple Cautions and Prosecutions

- 15.1 Simple cautions and prosecution are important ways to bring those responsible for alleged breaches of the law to account. Where appropriate, the Authority will use one of these measures in addition to issuing a formal notice.
- 15.2 A simple caution is a statement by the Authority, which is accepted in writing by the alleged offender, that they have committed an offence for which there is a realistic prospect of conviction. A simple caution will be used in appropriate circumstances, but will only be used where a prosecution could properly be brought. It will be kept on file for two years and if the person concerned is convicted of a further offence in that period, it will be brought to the attention of the court.
- 15.3 A prosecution may be taken following full consideration of the many factors arising from the alleged breaches of the law. These will include (where the law allows):
- The seriousness of the offence (including the severity and scale of potential and actual risk and the seriousness of the breach of law).
  - The previous history including the safety performance of the person concerned.
  - The willingness of the person concerned to correct the situation and prevent a recurrence of the problem.
  - The circumstances giving rise to the breach of the law.

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### **PROVIDING AVON FIRE & RESCUE SERVICE**

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
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- The degree to which the person concerned has taken (or failed to take) steps to avoid the commission of an offence.
- The likelihood of the accused being able to establish a satisfactory defence.
- The probable public benefit of a successful prosecution.

15.4 Where there is sufficient evidence, the Authority will normally prosecute in any one or more of the following circumstances:

- The offender has, by intent or by taking action (or choosing not to act) endangered life from fire.
- The offender has taken insufficient action to implement measures required by the Authority to protect persons from the risk of fire.
- The offender has deliberately obstructed an officer carrying out his/her duties.

15.5 Where a company is involved, the Authority will consider the part played in any offence by directors or officers of the company. The Authority will, where the evidence is considered to be sufficient, consider taking proceedings against a director or officer of a company whether or not proceedings are also taken against the company.

15.6 The Authority will always seek to recover costs of investigation and court proceedings.

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## 16 Public Register

16.1 In accordance with the Environment and Safety Information Act 1988 the Authority is obliged to enter details of certain notices into a register to which the public have access. The public register is now published on the CFOA website free of charge as per the link. <http://www.cfoa.org.uk/notices-register>.

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### PROVIDING AVON FIRE & RESCUE SERVICE

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
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## 17 Data Protection

17.1 Any personal information that is processed as per this Policy will be in accordance with current Data Protection Legislation. How the legislation will apply to Avon Fire Authority / Avon Fire & Rescue Service is set out within the Service's related Data Protection Policies, and there is information on the [Avon Fire & Rescue Service external website](#) for members of the public, which also sets out an individual's data rights.

The lawful basis for the Authority to process personal information for the purpose of administering and issuing a Simple Caution or carrying out Enforcement procedures is for the Authority to meet its statutory obligation under the Regulatory Reform Fire Safety Order 2005 and to perform its function of a Fire & Rescue Service.

Any personal information supplied for the purpose of administering enforcement action will only be used for this purpose unless other legislation dictates or further processing is necessary for the performance of a task carried out in the public interest or for Avon Fire Authority to exercise its official duty as a public function.

Personal information in relation to this process is recorded within the Authority's Community Fire Risk Management System, which is subject to the organisation's information security controls. Enforcement information will be shared with the following (but is not limited to) : members of the Technical Fire Safety department, Police (in the event that information is required for criminal checks), local authorities and legal representatives.

In the event of any investigation of fraud or other criminal activity, the Authority has a duty to disclose personal data to the relevant authorities and/or external providers (such as legal representatives) appointed by the Authority.

Any personal data held for the purpose of enforcement will be held by the Authority for 5 years.

Any processing of personal data will be subject to existing Authority / AF&RS data security controls as set out within the [AF&RS Information Security Policy and Data Protection Policy on the AF&RS website](#).

The Group Manager Risk Reduction is responsible for this Policy and the Simple Cautions process.

### PROVIDING AVON FIRE & RESCUE SERVICE

Version:	3.2	Next review:	17/04/2020	Avon Fire Authority
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## 18 Freedom of Information

18.1 Under the Freedom of Information Act 2000, the public 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, the Authority is 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.

## 19 Education and Information

19.1 Educating, informing and advising responsible persons about their duties under fire safety legislation will form 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.

19.2 We will also make every effort to raise awareness about legal requirements in relation to fire safety law. We will also give advice on appropriate fire standards within premises and promote good practice to raise the level of compliance with the law. We will do this through onsite advice, utilising all aspects of social media providing telephone advice and holding seminars and training events.

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Review Date	Version No	Summary of Changes	Equality Impact Assessed (Y/N)
28/07/2006	1.0	Policy Adopted	
12/03/2013	2.0	Policy Review – replacement of Formal Cautions with Simple Cautions and updating S16. Public Register	
13/03/2013	2.0	Policy transferred to new template	
25/03/2013	2.1	Added “Executive’s” to “Enforcement Policy Statement” after consultation with Clerk to FA	
05/08/2015	2.2	Added details in relation Regulators Compliance Code and added principles of legislative and Regulatory Reform Act 2006. Added 19.2 raising awareness of fire safety legal requirements	
24/08/2015	2.2	EIA Added and approved	
31/03/2018	3.2	Data protection information updated and removal of CFOA and replaced with NFCC	

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Date	Version No	Distributed to: (role/s or group/s)
25/03/2013	2.1	All staff (intranet) and external website
22/07/2014	2.1	All staff via new intranet page. No change to external website
29/09/2015	3.0	All staff via Intranet page
29/09/2015	3.0	Request to update AFRS Website to Corporate Communications sent
23/04/2018	3.2	All staff via Intranet page
23/04/2018	3.2	Request to update AFRS Website to Corporate Communications sent

**PROVIDING AVON FIRE & RESCUE SERVICE**

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