

Our Ref: FP868911

Your Ref:

Please ask for: [REDACTED]

Date: 15/02/13

Ann Branson
Leicester City Council
Ian Marlow Centre
Blackbird Road
Leicester
LE40AR

LEICESTERSHIRE

FIRE and RESCUE SERVICE

safer communities

Headquarters, Anstey Frith, Leicester Road
Glenfield, Leicester LE3 8HD

Tel: 0116 287 2241

Fax: 0116 231 1180

e-mail: infomanagement@lfrs.org

www.leicestershire-fire.gov.uk

Dear Madam

The Regulatory Reform (Fire Safety) Order 2005

Premises: Multi Occ Common Area, 39-47 Neston Gardens, Leicester, Leicestershire, LE2 6RE

The Leicestershire Fire and Rescue Authority are the enforcing authority, under Article 25 of the above legislation.

Following a fire safety audit of the above premises by one of my inspectors on 14/02/13 I confirm that the matters and steps specified on the attached Schedule need to be carried out to remedy your failure to comply with the above legislation.

The attached Enforcement Notice is a legal requirement to which you have a right of appeal to a Magistrates' Court. Your attention is drawn to the notes that accompany this Notice.

If you are in any doubt as to the obligations placed upon you, or there is any relevant matter upon which you require clarification, you may write to me direct, or alternatively telephone your enquiry to the inspector named above.

Yours faithfully

[REDACTED]

[REDACTED]
For and on behalf of the Chief Fire & Rescue Officer

Enc:
Enforcement Notice
Schedule to Enforcement Notice
Notes and Standard Terms and Definitions

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Dave Webb QFSM, MA, BSc (Hons), Chief Fire and Rescue Officer and Chief Executive



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**LEICESTERSHIRE FIRE AND RESCUE SERVICE
ENFORCEMENT NOTICE
NOTICE REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 30 OF THE REGULATORY REFORM
(FIRE SAFETY) ORDER 2005**

Name: Ann Branson

Premises: **Multi Occ Common Area**

Address: **39-47 Neston Gardens, Leicester, Leicestershire, LE2 6RE**

I [REDACTED] on behalf of the Leicestershire Fire and Rescue Service, Anstey Frith, Leicester Road, Glenfield, Leicester LE3 8HD, hereby give you notice that the Fire and Rescue Authority are of the opinion that, as a person being under an obligation to do so, you have failed to comply with the requirements placed upon you by The Regulatory Reform (Fire Safety) Order 2005 in respect of the above named premises and the persons who may be on the premises or who may be affected by a fire on the premises.

The provisions of the Regulatory Reform (Fire Safety) Order 2005 which have not been complied with are:-

Articles 8(1), 9(1), 10, 11(1), 13(1)(a), 14(2)(b), 15(2)(a), 17(1), 19(1)

The matters which, in the opinion of the Fire and Rescue Authority, result in the failure to comply with the aforementioned provisions of the Regulatory Reform (Fire Safety) Order 2005 are specified in the schedule to this notice.

The Fire and Rescue Authority are further of the opinion that the steps identified in the schedule to this notice must be taken to remedy the specified failure(s) to comply with The Regulatory Reform (Fire Safety) Order 2005.

Unless the steps identified in the Schedule to this notice have been complied with by **21/05/13** you will be regarded as not being in compliance with this notice and the Fire and Rescue Authority may consider a prosecution against you. You may, however, apply for an extension to this time limit. (See notes).

You have the right to appeal against this notice (see notes), by way of complaint for an order, to the Clerk to the Court of the Magistrates' Court acting for the petty sessions area in which your premises is located. If you wish to bring an appeal, you must do so within 21 days of the date this notice is served on you. The Magistrates' Courts Act 1980 will apply to the proceedings. The bringing of an appeal shall have the effect of suspending the operation of this Enforcement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.

Date18/2/13..... Signed [REDACTED]
(On behalf of and duly authorised by the Fire and Rescue Authority)

**SCHEDULE REFERRED TO IN ENFORCEMENT NOTICE NO 232
FP868911 REQUIRING STEPS TO BE TAKEN UNDER ARTICLE 30 OF THE REGULATORY
REFORM (FIRE SAFETY) ORDER 2005 ISSUED BY THE LEICESTERSHIRE FIRE AND RESCUE
AUTHORITY ON 15 February 2013**

Name and Address of Premises: **Multi Occ Common Area, 39-47 Neston Gardens,
Leicester, Leicestershire, LE2 6RE**

Where appropriate, a plan may form part of this Schedule to illustrate the steps which, in the opinion of the Fire and Rescue Authority, need to be taken in order to comply with The Regulatory Reform (Fire Safety) Order 2005.

Note: Notwithstanding any consultation undertaken by the Fire and Rescue Authority, **before** you make any alterations to the premises, **you** may need to apply for approval from either the Local Authority Building Control or an Approved Inspector and/or the approval of any other bodies having a statutory interest in the workplace.

Please be advised that matters detailed under the "**Suggested actions to remedy failure**" heading(s) are only one method of achieving compliance. You may wish to seek further specialist advice for another means of achieving this compliance.

SCHEDULE

The location and details of matters which are considered to be failures to comply with The Regulatory Reform (Fire Safety) Order 2005 are detailed below.

The steps considered necessary to remedy the failures are detailed below each failure listed.

GENERAL FIRE PRECAUTIONS

Deficiency from Article 8(1)

Failure to ensure preventative and protective measures that have been evaluated in the risk assessment have been implemented.

The responsible person must implement the significant findings of all the risk assessment to ensure the safety of:

- a) His employees
- b) Relevant persons who are not his employees

Suggested actions to remedy failure

Adequate measures have not been taken to reduce the risk of fire spread throughout the premises. The means of escape routes have failed to ensure relevant persons can evacuate the premises in the event of fire.

The risk of Arson within the premises needs to be addressed; the securing of the drying room door may support this. The bin compound should be adequately secured. Consideration to Automatic fire detection should be given within the bin compound.

Where necessary the fire risk assessment needs to ensure that all the required preventative and protective measures are implemented. Leicester City Council should ensure a pro active approach is taken in carrying out duties regarding fire safety under the Regulatory Reform (fire safety) order 2005.

RISK ASSESSMENT

Deficiency from Article 9(1)

The Fire Safety Risk Assessment was not suitable and sufficient

A suitable and sufficient fire safety risk assessment should be undertaken and should be made available on the premises. The assessment should cover all significant risks, which may affect any person who may be affected by fire, and should include the means of access and egress from the premises. The assessment should be reviewed at regular intervals, and when a significant change is made.

Suggested actions to remedy failure

The fire risk assessment dated 08/02/13 was confirmed as being a review of the original fire risk assessment carried out in 2009. It was confirmed that this was a reaction due to the recent fire at the premises on the 07/02/13. The fire risk assessment must be reviewed by the responsible person on a regular basis to ensure that it is up to date. If the original fire risk assessment had been suitable and sufficient then all relevant preventative and protective measures should have been implemented.

The reviewed fire risk assessment needs to ensure further supporting comments are recorded to support yes/no answers to set questions. The fire risk assessment failed to identify all specific improvements that must be taken to ensure the safety of relevant persons. Improvements that have been identified have all been given a priority 1 rating due to the fire, with no indication of the time frames attached to this priority.

The area housing officer and the housing officer have day to day control of the building, yet it was confirmed that no information has been given to them regarding the significant findings of the fire risk assessment for the premises.

Leicester City Council needs to ensure a pro active approach is taken in carrying out and reviewing suitable and sufficient fire risk assessments. The significant findings from those risk assessments need to be assessed and actions taken where necessary. Where improvements are required to be carried out, then the responsible person must ensure work is completed in reasonable time frames; this should be the case across the Neston Gardens site.

PRINCIPLES OF PREVENTION TO BE APPLIED

Deficiency from Article 10 and Part 3 Schedule 1

Preventative and protective measures have not been implemented.

Where preventative and protective measures have been implemented they must be so on the basis of the principles specified in Part 3 of Schedule 1 of the Fire Safety Order.

Suggested actions to remedy failure

A thorough fire risk assessment will need to be carried out to ensure that these principles are being adhered to.

These principles are:-

- a) avoiding risks
- b) evaluating the risks which cannot be avoided
- c) combating the risks at source
- d) adapting to technical progress
- e) replacing the dangerous by non or less dangerous
- f) developing a coherent overall prevention policy which covers technology, organisation of work and the influence of factors relating to the working environment
- g) giving collective protective measures priority over individual protective measures and;
- h) giving appropriate instruction to employees

As can be seen from the above some of these can only be achieved with a thorough fire risk assessment of the premises. It is recommended that the current fire risk assessment is reviewed, it was confirmed that The Neston Garden site as a whole has the same fire safety failings in all of the buildings. This may involve a longer term improvement programme however The responsible person needs to ensure a pro active approach is adopted.

FIRE SAFETY ARRANGEMENTS

Deficiency from Article 11(1)

Effective arrangements have not been made for planning, organisation, control, monitoring and review of preventative and protective measures with regard to the nature of the activities and size of the undertaking.

The responsible person must give effect to making fire safety arrangements as are appropriate, having regard to the nature of his activities and the size of his undertaking, for effective planning, organisation, control, monitoring and review of the preventative and protective measures.

Suggested actions to remedy failure

The responsible person needs to ensure that a suitable and sufficient management system is adopted. This should detail actual roles and responsibilities of appointed persons detailing duties regarding fire safety for the premises. It was confirmed that there was a lack of communication between departments regarding management of the premises, and procedures that should be adopted. Fire safety improvements that may have been identified in the 2009 Fire Risk Assessment had failed to be suitably implemented. Ownership of such improvements that need to be carried out need to be applied. Housing officers were unaware of improvements that should have been adopted due to not receiving information that should have been detailed in the fire risk assessment.

FIRE ALARM

Deficiency from Article 13(1)(a)

The fire warning system is inappropriate (**single point detectors, within the flats**) for the type and use of the premises.

The fire detection arrangements are to be improved to provide adequate warning in case of fire, taking regard of the dimensions, use of the premises, the number of persons and their mobility and special needs.

Suggested actions to remedy failure

Suitable automatic fire detection is required to be installed within the flats to BS 5839 part 6. A category LD3 system should be considered the minimum in all circumstances as detailed within current purpose built flats guidance. It was confirmed that no information was available to confirm the current level of fire detection within the building or the site, this must urgently be addressed.

EMERGENCY ROUTES AND EXITS

Deficiency from Article 14(2)(b)

Persons were unable to evacuate the premises as quickly and as safely as possible.

Taking regard of the features, use and hazards or other circumstances of the premises, improvements are required to enable persons to evacuate the premises as quickly and as safely as possible.

Suggested actions to remedy failure

All flat entrance doors are required to be confirmed as suitable fire doors. These must be FD30S fitted with a suitable self closing device in accordance with BS EN 1154, and fitted with cold smoke seals and intumescent strips. The letter boxes should be confirmed as being suitable and fitted with cold smoke seals and intumescent strips. A number of flat doors were found to be missing self closing devices.

All doors to the staircase, bin chutes and drying rooms should be fire doors (FD30S) fitted with suitable self closing devices to BS EN 1154 and cold smoke seals and intumescent strips. A number of doors were found to be damaged or of metal gate construction. Perko type door closers were seen on a door; however these do not meet the required British Standard.

Information can be found within the purpose built flats guide regarding external balcony's however the layout, use, and amount of available open area on the balcony's does not support this criteria. Therefore flat corridors need to achieve an adequate level of fire resistance; the glazed upvc windows within these corridors need to be replaced with suitable fire resistant windows and ensuring suitable fire resistant glazing is fitted. The location of air vents within the corridors needs to be supported within the fire risk assessment. Smoke and intumescent protection must be considered. A number of bricks were missing within the walls these should be replaced where necessary.

Emergency lighting within the premises needs be confirmed as working; due to the recent fire emergency light units should be replaced where necessary. It was confirmed that the housing officers were unsure if emergency lighting units were fitted within the premises.

Housekeeping needs to be improved within the common areas of the building. A zero tolerance or managed use needs to be adopted. Further information can be found within the purpose built flats guide.

PROCEDURES FOR SERIOUS AND IMMINENT DANGER AND FOR DANGER AREAS

Deficiency from Article 15(2)(a)

Insufficient information was made available to persons in the event of serious and imminent danger.

As far as reasonably practicable, persons that are exposed to serious and imminent danger are to be informed of the nature of the hazard and of the steps taken or to be taken to protect them from it.

Suggested actions to remedy failure

Suitable procedures and actions that should be taken in the event of fire should be given to relevant persons (residents, visitors, employees etc).

The fire risk assessment and emergency action plan must confirm the fire strategy for the premises. It should be confirmed if a "stay put" or "full evacuation" strategy is to be used. If a stay put policy is adopted the fire risk assessment needs to support and confirm that adequate compartmentation is achieved.

Written information in the form of fire action notices should be displayed to inform all relevant persons.

MAINTENANCE

Deficiency from Article 17(1)

The structural fire precautions are inadequately maintained.

The premises and any facilities, equipment and devices are to be subject to a suitable system of maintenance and are suitably maintained in an efficient state, in efficient working order and good repair.

Suggested actions to remedy failure

A suitable system is required to be implemented to ensure fire safety measures requiring regular maintenance are adopted. Particular attention is drawn to the Emergency Lighting system, Means of escape routes, regular inspections of fire doors and the required standard that should be achieved.

It was confirmed that no maintenance records were available for annual servicing or monthly checks of the emergency lights. An inspection sheet for the housing officer was seen however the housing officers were unaware of how to test relevant fire safety systems or the need for self closing devices on fire doors. Written evidence should support all maintenance carried out.

PROVISION OF INFORMATION TO EMPLOYEES

Deficiency from Article 19(1)

Understandable and relevant information on risks identified by the risk assessment is not provided to employees.

The responsible person must provide his employees with comprehensible and relevant information on:-

- (a) the risks to them identified by the risk assessment
- (b) the preventive and protective measures
- (c) the procedures and the measures for serious and imminent danger
- (d) Identities of nominated persons
- (e) the risks notified to him by the nominated persons

Suggested actions to remedy failure

The findings of the fire risk assessment have not been given to relevant employees who have day to day control of the building. Housing officers and area housing officers if required to carry out checks on the building need to be suitably trained and informed of what measures should be in the building and, how to adequately report defects found.

It is recommended that on completion of a suitable and sufficient fire risk assessment, information is given to relevant persons to carry out improvements where necessary and to ensure housing officers are made aware of such requirements and improvements.

A re-inspection will take place on 22/05/13 at 10:30 to ensure the required improvements have been completed.

**NOTES TO ACCOMPANY ENFORCEMENT NOTICE
SERVED UNDER ARTICLE 30 OF
THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005**

- 1 Application to premises. The Regulatory Reform (Fire Safety) Order 2005, subject to paragraphs 6 (1) (a) to (g) below, applies to any premises.
- 2 The Order does not apply in relation to -
 - (a) Domestic premises;
Note: Where the premises are, or consist of, a house in multiple occupation this Order applies in relation to those parts of the premises which are not domestic premises;
 - (b) An offshore installation within the meaning of regulation 3 of the Offshore Installation and Pipeline Works (Management and Administration) Regulations 1995;
 - (c) a ship, in respect of the normal ship-board activities of a ship's crew which are carried out solely by the crew under the direction of the master; fields, woods or other land forming part of an agricultural or forestry undertaking but which is not inside a building and is situated away from the undertaking's main buildings;
 - (e) an aircraft, locomotive or rolling stock, trailer or semi-trailer used as a means of transport or a vehicle for which a licence is in force under the Vehicle Excise and Registration Act 1994 or a vehicle exempted from duty under that Act;
 - (f) a mine within the meaning of section 180 of the Mines and Quarries Act 1954, other than any building on the surface at a mine, and
 - (g) a borehole site to which the Borehole Sites and Regulations 1995 apply.
- 3 You may appeal (under Article 35 of the Order) against an enforcement notice served (under Article 30 of the Order). The appeal is made, within 21 days from the day on which the notice is served, to the magistrates' court for the area in which your premises is situated and may be brought on the grounds that you think that:
 - (a) The service of an enforcement notice was based on an error of fact;
 - (b) The service of the enforcement notice was wrong in law, and
 - (c) The Fire and Rescue Authority erred in the exercise of their discretion in serving the enforcement notice.

Without prejudice to the breadth of the grounds of appeal set out in paragraphs (a) to (c) above, examples of situations in which an appeal may lie are where,

- (a) You dispute any of the facts in the notice which detail the steps which have to be taken in order to comply any provision of the Order.
 - (b) You think that an unreasonable time period has been set for the taking of the steps set out in the notice.
- 4 The Fire and Rescue Authority may grant, at their discretion, an extension (or further extension) of time specified for the steps to be taken if an appeal against the notice is not pending. Application for an extension of time should be addressed to:- The Chief Officer, Leicestershire Fire and Rescue Service, Anstey Frith, Leicester Road, Glenfield, Leicester LE3 8HD
- 5 Failure to comply with any requirement imposed by an enforcement notice served under Article 30 of the Order within the time specified in the notice (or such further time as the Fire and Rescue Authority may, at their discretion, grant) is a criminal offence under Article 32(d) of the Order. A person guilty of such an offence shall be liable,
 - (a) On summary conviction to a fine not exceeding the statutory maximum; or
 - (b) On conviction on indictment, to a fine or to imprisonment for a term not exceeding two years, or both.
- 6 In any proceedings for an offence referred to above, where the commission by any person of an offence under the Order, is due to the act or default of some other person, that person is guilty of the offence, and a person may be charged with and convicted of the offence whether or not proceedings are taken against the first mentioned person.
- 7 Nothing in the Order operates so as to afford an employer a defence in any criminal proceedings for a contravention of those provisions by reason of any act or default of an employee or person nominated to implement measures for fire-fighting and procedures for serious and imminent danger and for danger areas, and appointed to assist him/her in undertaking such preventive and protective measures as necessary.
- 8 Subject to Note 9, in any proceedings for an offence under the Order, except for a failure to comply with articles 8 (1) (Duty to take general fire precautions) or 12 (Elimination or reduction of risks from dangerous substances), it is a defence for the person charged to prove that he/she took all reasonable precautions and exercised due diligence to avoid the commission of such an offence.
- 9 If you are the responsible person you are under an obligation to comply with the provisions of the Order or of any regulations made under it. If you have failed to comply and you and the Fire and Rescue Authority cannot agree on the measures which are necessary to remedy the failures(s). Under article 36 of the Order you and the Fire and Rescue Authority may agree to refer the question, as to what measures are necessary to remedy the failure(s), to the Secretary of State for a determination.

- 10 It should be noted that in order to satisfy the "Environment and Safety Information Act 1988" the Fire and Rescue Authority is obliged to enter details of any enforcement notice into a register to which the public have access. If you feel that any such entry would disclose secret or confidential trade or manufacturing information then you should appeal in writing to the Authority within a period of fourteen days following the service of the notice.

To assist with administration procedures, it would be helpful if you could quote the reference number (at the top of this notice) when dealing with the Fire and Rescue Authority.

STANDARD TERMS AND DEFINITIONS

FIRE RESISTING (FIRE RESISTANCE): The ability of a component or construction of a building to satisfy, for a stated period of time, some or all of the appropriate criteria specified in the relevant British Standard.

INTUMESCENT STRIPS: A strip of material placed along the door edges (excluding the bottom edge), or frame, that will react to heat by expanding to form a seal to the passage of hot gases and flame.

SMOKE SEAL: A flexible strip of material (often used in conjunction with an intumescent strip) placed along the door edges or frame to limit the spread of cold smoke during the early stages of a fire.

SELF-CLOSING DEVICE: A device which is capable of closing the door from any angle and against any latch fitted to the door. Rising butt hinges are not acceptable.

AUTOMATIC DOOR RELEASE: A device, linked to (or operated by the sound of) the fire alarm system, that when fitted to a fire resisting self closing door, enables it to be held open during normal working conditions.

EMERGENCY ESCAPE LIGHTING: That part of the emergency lighting system provided for use when the electricity supply to the normal lighting fails so as to ensure that the means of escape can be safely and effectively used at all times.

RISK ASSESSMENT: An organised appraisal of your activities and premises to enable you to identify potential fire hazards, and to decide who (including employees and visitors) might be in danger in the event of fire, and their location. You will then evaluate the risks arising from the hazards and decide whether the existing fire precautions are adequate, or whether more needs to be done. It will be necessary for you to record your findings (if you have five or more employees), and to review and revise when necessary.