



Appeals, Challenges and Complaints

FS2-014

May 2018

Cornwall Fire and Rescue Service, Protection
(Business Fire Safety)

Current Document Status			
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Version History			
Date	Version	Author/Editor	Comments
July 2016	1.0	WM Joe Garcia	New created policy
May 2018	1.1	WM Joe Garcia	Policy reformatted and updated

Comprehensive Impact Assessment Record					
Date	Type of assessment conducted	Stage/level completed (where applicable)	Summary of actions taken decisions made	Completed by	Impact Assessment review date
July 2016	Full	Complete	None	WM Joe Garcia	July 2019

Risk Assessment Record					
Date of last review	RA ref	Stage/level completed (where applicable)	Summary of actions taken decisions made	Completed by	Next review due
May 2018	RA425	Complete		WM Joe Garcia	Nov 2021

Summary

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1. Introduction

In all your dealings with us you can expect an efficient and professional service; and while we aim to carry out all our activities in a way that supports you to provide safety to people in case of fire, we will also help you if you encounter problems or if we get it wrong. We are always willing to discuss our actions or why we have acted in a particular way or made particular requirements. If you think we have (in some way) got it wrong for you, we would like to know, and this document tells you how to go about it.

There are two ways you could be unhappy with us helping you to be safe in case of fire; either;

1. You don't think that the safety measures that we have suggested are the right solution for you and you want to challenge them, or
2. You don't think that we have treated you in an appropriate way, according to our Service Standards for Business Fire Safety FS2-013 and you want to complain

2. Challenging our advice, actions or decisions

Statutory notices

Where you have been issued with a statutory notice, you can challenge our decisions by following the route to appeal described in the notice. Statutory notices issued under the Regulatory Reform (Fire Safety) Order 2005 ('the Order') include:

- Alterations notices
- Enforcement notices
- Prohibition notices

For Petroleum and explosives statutory notices are issued under the Health and Safety at Work etc. Act 1974, include:

- Improvement notices
- Prohibition notices

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Challenging our advice, actions or decisions

We are always willing to discuss with you our actions and why we have acted in a particular way or made particular requirements of you.

You can challenge our advice, actions or decisions by following the route to appeal described in the statutory notice or letter we issue, or by contacting the officer concerned. If your concerns are not adequately addressed your concern can be raised with a Senior Fire Safety Officer.

If you are unclear or unhappy about any of our advice or decisions and you are involved in a partnership under the Primary Authority Scheme, you should contact your Primary Authority who can take up the matter on your behalf.

When we are not able to resolve your issues, you can make use of our corporate complaints procedure.

- You can access this process at www.cornwall.gov.uk/complaints

If, having used our corporate complaint process, you are still not satisfied you can contact the Local Government Ombudsman (LGO) who may be able to help at <https://www.lgo.org.uk/> it is a free service.

Appeals under the Regulatory Reform (Fire Safety) Order 2005

Fire Safety appeals made with regard to the Regulatory Reform (Fire Safety) Order 2005 must be made within 21 days from the date shown on the notice and you must appeal to the magistrates' court, for the area in which the premises is situated.

- Appeal against a Alterations or Enforcement Notice - Where an appeal is brought against an Alterations or Enforcement Notice, the bringing of the appeal has the effect of suspending the operation of the notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.
- An appeal against a Prohibition Notice – Where an appeal is brought against a Prohibition Notice, the bringing of the appeal does not have the effect of suspending the operation of the notice, unless, on the application of the appellant, the court so directs (and then only from the giving of the direction).

For more information refer to:

- [The Regulatory Reform \(Fire Safety\) Order 2005 - Article 35 Appeals](#)

Determinations by the Secretary of State (Fire Safety)

The Regulatory Reform (Fire Safety) Order 2005 Order also provides a route to resolve disputes by referral for determination by the Secretary of State. To bring a dispute to determination, a number of conditions must be met. The conditions for the bringing of a determination are:

1. the parties are agreed that there has been a failure to comply with 'the Order';
2. there is disagreement between parties about how to rectify the failure; and
3. the parties agree to take the matter to determination.

If any of these conditions are not met, the dispute is not suitable for a determination. For more information refer to:

- [The Regulatory Reform \(Fire Safety\) Order 2005 - Article 36 Determination of disputes by Secretary of State](#)

Appeals under the Health and Safety at Work Act etc. 1974 (Petroleum and Explosives)

Appeals made for statutory notices for petroleum and explosives, fall under the Health and Safety at Work Act 1974 and must be made within 21 days from the date shown on the notice.

- An appeal against an Improvement Notice -The effect of an appeal is to suspend an Improvement Notice until the appeal is finally disposed of or, if the appeal is withdrawn, until the withdrawal of the appeal.
- An appeal against Prohibition Notice - A Prohibition Notice is not suspended but the appellant can apply to the Tribunal for a direction suspending the operation of the notice until the appeal is finally disposed of or withdrawn.

For more information refer to:

- [Health and Safety at Work etc. Act 1974 - Article 24](#)
- [HSE website](#)

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3. Complaining about our service

If you have a complaint, the first thing to do is to let us know that you are unhappy by contacting the officer concerned. In most cases, we will be able to address your dissatisfaction so that you don't feel that you need to take it further. If you do, we manage complaints about our service through our corporate complaints procedure.

To contact us or for further information go to;

- www.cornwall.gov.uk/complaints or
- Tel: 01726 223620 (9am – 5pm) or 0800 3581 999 (24 hours)
- email csadmin@fire.cornwall.gov.uk
- www.cornwall.gov.uk/businessfiresafety

If you are still not satisfied at the end of that process, we will encourage you to contact the Ombudsman and to seek their assistance in the resolution of your concern at <http://www.lgo.org.uk/>.

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