

# London Fire and Emergency Planning Authority

## Enforcement Policy Statement

### Introduction

1. The principal aim of the London Fire and Emergency Planning Authority ("the Authority") is to make London a safer city by reducing as far as possible the risks and social and economic costs of fires and other dangers. Securing compliance with legal regulatory requirements is an important part of achieving this aim. Its vision is to be a world class fire and rescue service for London, Londoners and visitors.
2. The Authority is committed to providing a consistently high quality service to the public including the commercial, business, housing and voluntary sectors in relation to appropriate legislation we enforce and the advice we give. In seeking to achieve this aim, including the development and ongoing review of this policy, the Authority has regard to the requirements and recommendations of the laws and codes of practice and guidance explained in this statement.
3. This statement sets out the policy and principles which the Authority will follow in carrying out its regulatory functions. It provides guidance for inspectors, businesses and members of the public. It is intended, together with the Authority's service standards, to clearly set out the aims, standards and values that officers are expected to apply.
4. This statement is applicable to the Authority's enforcement in Greater London of legislation including:
  - The Regulatory Reform (Fire Safety) Order 2005;
  - Fire Precautions (Sub-surface Railway Stations) (England) Regulations 2009.
  - The Petroleum (Consolidation) Act 1928 and Health and Safety at Work Etc. Act 1974;
  - The Dangerous Substances and Explosive Atmospheres Regulations 2002 (DSEAR); and
  - The Construction (Design and Management) Regulations 2007
  - The Greater London Council (General Powers) Act 1968 (as amended);
  - The Public Health Act 1961.
5. This statement is also applicable to the giving of fire safety advice to regulated entities in accordance with section 6 of the Fire and Rescue Services Act 2004; the exercise of the Authority's powers to investigate the cause and reason for spread of fire under section 44 and 45 of the Fire and Rescue Services Act 2004; and to the operation of Primary Authority Partnerships under the Regulatory Enforcement and Sanctions Act 2008.
6. This statement is supplemented by the Authority's service standards for enforcement together with the Authority's Equalities statement; accessibility statement; and complaints procedure. These are published on the Authority web-site at <http://www.london-fire.gov.uk/>.

## **The authority's approach to enforcement**

7. The Authority believes in firm but fair enforcement of fire safety law. In carrying out our enforcement functions we will always seek to:
  - prioritise our inspection and enforcement action based on risk;
  - apply the principles of proportionality in applying the law and securing compliance;
  - be consistent in our approach;
  - be transparent about how we operate and what can be expected by those we regulate;
  - be fair and objective in our application of enforcement action including not discriminating on grounds of age, race, colour, religion, gender, sexuality or any other immaterial factor;
  - seek to minimise the negative impact of our regulatory activities, and encourage and promote compliance;
  - only use statutory powers to take formal enforcement action where it is justified on the basis of significant risk or significant or repeated non-compliance with the law;
  - offer the opportunity for the person against whom formal enforcement action is to be taken to discuss the circumstances of the case and, if possible, resolve points of difference (unless immediate action is needed to protect life);
  - be accountable for our actions.
8. The Authority is committed to compliance with the law at premises we operate. We will carry out inspection of our premises to ensure we are complying with the law and report any deficiencies found through our management structure, for remedial action to be taken.
9. We will always seek to minimise the cost of compliance for business by ensuring that any action taken, or advice offered, is proportionate to the risk, choosing approaches that are based on relevant factors including, for example, business size and capacity.
10. In the event of an incident that relates to legislation we enforce occurring at our own premises and giving rise to death or injury we will appoint another Authority (which may include the Health and Safety Executive) to investigate.

## **Our officers**

11. All officers exercising enforcement functions will carry official identification provided by the Authority and produce it on request.
12. All officers undertaking enforcement activities will be competent for the role. The Authority will provide initial and ongoing training and professional development appropriate to each officer's role and will keep officers' competence under review.
13. Our officers will:
  - exercise their powers under relevant legislation in a proportionate manner and will produce evidence of their authority on request;
  - act in accordance with this statement, our service standards and other relevant policies and statements;
  - seek to work with officers from other authorities where our enforcement responsibilities overlap in order to minimise the burdens of our activities on those we regulate;

- treat those we regulate in a polite and respectful way.
14. When carrying out our enforcement functions, our officers have the right to do that which is reasonably necessary to:
- ascertain whether the law applies in any particular circumstances;
  - identify people with responsibilities under the law;
  - ascertain whether the law is being complied with.

These powers are granted under the legislation the Authority enforces as described above.

15. The Authority takes the view that our officers also have the right not to be subject to assault, abuse or intimidation and we will investigate any instances where this occurs and where appropriate refer the matter to the police.

### **Attendance at premises**

16. Attendance at premises for regulatory purposes will be made on the basis of assessment of risk in accordance with the policies, objectives and methodologies of the Authority. That may also include:
- Historic regulatory compliance data for the premises and/or the premises operator/owner;
  - Assessment of compliance data for that business sector as a whole;
  - Ongoing fire data on a local and national basis;
  - Local intelligence;
  - Intelligence supplied by other regulatory bodies.
17. The Authority's officers will attend premises for a variety of purposes relating to the Authority's statutory functions. We will undertake reactive visits:
- In response to an allegation of fire risk received by the Authority (all such allegations will be investigated);
  - In consequence of a statutory consultation request;
  - In response to / following a fire or other emergency;
  - At the request of another regulatory body;
  - Following receipt of notification of changes as required by an 'alterations notice';
  - Following repeated false alarms of fire; or
  - similar circumstances;
18. The Authority will observe, and its officers act in accordance with, any inspection programme determined and notified by a Primary Authority Partner for a regulated entity.

19. 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 partnership working with other enforcers and other stakeholder groups through local partnerships which encourage joint working relationships.

### **Requesting information from businesses and other undertakings**

20. 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 and sharing data with other authorities
  - Allowing electronic submission
  - Only requesting data which is justified by risk assessment
21. When determining data that may be required from regulated entities the Authority will consider the costs and benefits of such requests to regulated entities in order to avoid, so far as is reasonably practicable, requesting data that is not required to demonstrate compliance with the law or the person who is responsible under the law.

### **Dealing with non-compliance**

22. The Authority believes in firm but fair enforcement of the law. The Authority's policy on determining the level of enforcement action to take uses recognised risk assessment methodology. In deciding what action to take to ensure compliance with the law, the Authority considers 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 persons;
  - 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 towards fire safety;
  - Any action being taken by other regulatory bodies;
  - Where applicable the views of any Primary Authority Partner for the business;

- The advice or views (where applicable) of other regulatory bodies with responsibilities in respect of the premises;
  - Any statutory defence available.
23. The Authority will always seek to use enforcement action that is proportionate primarily to the circumstances of the non-compliance 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.
  24. The Authority may take several approaches to enforcement against the same breach e.g. serve an Enforcement Notice to require positive remedial steps, serve a Prohibition Notice to prevent uses creating the most serious risks and to prosecute for the breaches where the evidential and public interest tests are satisfied. Additionally, the Authority may take different approaches to different breaches at the same premises/undertaking where that reflects the different risks associated with those different breaches.
  25. The Authority does not accept voluntary undertakings in any case where the level of risk to life is sufficient to justify service of an enforcement, improvement or prohibition notice.
  26. Where the approval of another regulatory body may be required for remedial action the Authority requires a person to take to remedy fire safety contravention, the Authority will consult with that body unless in the circumstances of the case it is impractical to do so. Any consultation the Authority undertakes will not remove any requirement for the responsible person for the premises concerned to obtain any necessary permissions or approvals from the relevant bodies. Any failure on the part of the Authority to consult will not invalidate a notice.
  27. Where a Primary Authority Partnership Scheme exists, we will consult with the primary authority for the regulated entity.
  28. Where LFEPA are the Primary Authority we will deal enforcement actions from other enforcing authorities in accordance with timescales laid down in the Regulatory and Enforcement Sanctions Act 2008.
  29. To assist with consistency of enforcement Primary Authorities can give Primary advice which cannot be challenged by another Enforcing authority.

### **Referral to other agencies**

30. Where other enforcing authorities have a regulatory interest in a particular premises details will be forwarded to the appropriate agency (for example, if apparently dangerous conditions or practices not related to fire are noted in a workplace). The Authority may share data and intelligence gained from its regulatory fire safety and other activities with other regulators to the full extent allowed by law. Referral to another agency may be in addition to action taken by the Authority itself.
31. Where another regulator has responsibilities or power in respect of the same matters as the Authority (particularly if those powers extend to parts of the premises the Authority does not regulate) the matter may be referred to that regulator to take appropriate action. The Authority will pass its own findings to that regulator to assist them.

32. In the event of an incident that relates to legislation we enforce occurring at our own premises and giving rise to death or injury we will make arrangements with another Authority (which may include the Health and Safety Executive) to investigate.

### **Choices of enforcement**

33. Choices of enforcement approach available to the Authority are:

#### **Educate and inform**

34. When a breach of the law is found but the level of risk is not high, oral or written advice about the nature of the non-compliance and the actions needed to remedy it may be given. Where advice is not mandatory this will be made clear.

#### **Non-Statutory Notification of deficiencies**

35. The Authority will formally write to the person responsible for the premises to explain what fire safety deficiencies have been found and what needs to be done to address those deficiencies. The letter does not have legal force and is not binding. The Authority will expect the responsible person to act on the advice given. However, if the risk score calculated following an audit was close to that where an enforcement notice would have been served or officers have doubts that the responsible person will act on the letter they have discretion to revisit to check what has been done. If the responsible person does not take action or act in response to a notification of deficiencies letter, this will be taken into account when considering the level of enforcement action that will be taken if fire safety deficiencies are found on a future visit.

#### **Enforcement, Improvement and similar notices**

36. Regulatory notices calling for corrective action would generally be used where there is a clear breach of the law; where the degree of risk or harm from the situation is significant; and where a remedy needs to be identified and secured within a set period of time. Notices specify the problem and will either require a remedy as determined by officers or (if the legislation allows) may allow for other action with an equivalent remedial effect. In most cases there is a right of appeal against a notice. Where there is a right of appeal, advice on the appeal mechanism will be set out in writing to the person on whom the notice is served.
37. Where a notice requires changes to a premises in which another enforcing body has a statutory interest, the Authority will, so far as is reasonably practicable, consult with such bodies as can reasonably be identified before serving the notice. Any such consultation will not release the person on whom the notice is served from their statutory obligation to consult relevant bodies in respect of works they will undertake as a result of a notice. Any failure by the Authority to consult with any particular body or person will not invalidate any notice served under the Regulatory Reform (Fire Safety) Order 2005.

#### **Alterations notice**

38. Alterations notices are used where by the nature of the use of premises person are at risk of death or serious injury (i.e. the premises use is high risk and this is normal for the type of activity carried on there); or a change to premises, their use, furniture, fittings or equipment; an increase in quantities of dangerous substances could result in persons being placed at risk of death or serious injury.

39. The notice is legally binding and requires that the fire risk assessment for the premises and fire safety records must be recorded. The notice may require that before any changes are made a copy of that fire risk assessment together with details of the proposed changes must be submitted to the Authority. There are rights of appeal against the notice and these will clearly set out in writing at the time the notice is served.

### **Prohibition notices**

40. The Authority has powers under Article 31 of the Regulatory Reform (Fire Safety) Order 2005 and Sections 21 and 22 of the Health and Safety at Work etc. Act 1974 to prohibit the use of the whole or part of premises or to restrict the use of premises. Such action will be considered where conditions are found that constitute a serious risk to life or injury to persons in the event of fire. Where immediate action is necessary an explanation of why such action is required will be given at the time and confirmed in writing. Where there are rights of appeal these will be clearly set out in writing at the time the action is taken.

### **Simple caution (often known as a formal caution)**

41. The Authority will consider offering a simple caution in circumstances where:
- there is sufficient evidence to prove the case; and
  - the offender has admitted the offence; and
  - the offender has agreed to be cautioned; and
  - the offence has not been committed by the offender before.
42. Where a caution is to be offered, the offender will be given a full explanation of the significance of the caution before being allowed to accept it, as a formal caution is an admission of guilt to a criminal offence and is recorded as such. It may be cited if the offender is later prosecuted for an offence. If a caution were to be offered and refused by the offender then a prosecution would be considered.

### **Prosecution**

43. 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 in the workplace by enforcing fire safety law. Any prosecution has serious implications for all involved – including the person prosecuted, casualties, witnesses and Authority personnel. The Authority will apply the guidance set out below so that it can make fair and consistent decisions about prosecutions.
44. The Authority will use discretion in deciding whether to bring a prosecution.
45. The decision to prosecute (including the giving of a simple caution) will be taken by the Head of Legal Services, or a senior legal colleague, in consultation with the Assistant Commissioner (Fire Safety Regulation) or a senior colleague.
46. The Authority will ensure that the correct individual and/or company is prosecuted for the correct offence/s. Where a Company is involved, it will be usual practice to prosecute the Company where the offence resulted from the Company's activities. However, the Authority will also consider any part played in the offence by the officers of the Company: including Directors,

Managers and the Company Secretary. Action may also be considered against staff, contractors or any other person (as well as or instead of the Company) where it can be shown that the offence was attributable to neglect or other failings or actions on their part.

47. In accordance with the Director of Public Prosecution's Code for Crown Prosecutors 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. When considering whether prosecution is in the public interest the Authority will consider the relevant factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors and in particular the following factors:
  - The nature and seriousness of any alleged offence/s;
  - The degree of 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.
48. These factors are not exhaustive and those which apply will depend on the particular circumstances of each case. Deciding on the public interest is not simply a matter of adding up the number of factors for and against prosecution. Each applicable factor must be considered and given appropriate weight according to the circumstances of the case. The Authority will decide how important each factor is in the circumstances of each case and go on to make an overall assessment.
49. Where there is sufficient evidence, the following circumstances are examples of what might suggest prosecution is in the public interest:
  - 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. It is unacceptable to ignore remedial requirements and unfair to those who do take action to comply;
  - Reckless disregard for fire safety requirements. It is in the interests of all that irresponsible operations are brought into compliance.
50. The Authority may also prosecute, whatever level of enforcement action is followed, where there is sufficient evidence and it is in the public interest and there has been either:
  - Failure to supply information without reasonable excuse or knowingly or recklessly supplying false or misleading information. It is essential that lawful requests for information by the Authority or its officers are complied with and that accurate information is always supplied to enable informed regulation to be exercised;

- Obstruction of officers in carrying out their powers. The Authority regards the obstruction of, or assaults on, its officers while lawfully carrying out their duties as a serious matter.
51. When in the course of an investigation the Authority has collected sufficient evidence to provide a realistic prospect of conviction and has decided, in accordance with the Code for Crown Prosecutors, that it is in the public interest then that prosecution will go ahead. Where the circumstances warrant it and the evidence to support a case is available, the Authority may decide to prosecute without warning or recourse to alternative sanctions. However, where a person investigated has made representations on the disposal of the case, including as to which if any offences should be charged, the Authority will have regard to such representations before a decision as to prosecution is made. Similarly, in prosecution decisions the Authority will have regard to any representations on the impact of the offences made by victims of those offences (or the family of victims).
  52. The Authority will always seek to recover the costs of investigation and court proceedings. The Authority will also encourage the criminal courts to use their full range of sentencing powers as appropriate to the case and to have regard to representations made by victims. In particular the Authority might procure a financial investigation and seek a Confiscation Order in cases where a defendant can be shown to have received a benefit as a result of or in connection with fire safety offences.

#### **Decisions of the level of enforcement action to be applied**

53. Officers will apply a level of enforcement (including consideration of timescale within which compliance should be achieved) that is proportionate to the circumstances of the case taking into account the nature and size of the undertaking concerned.
54. All staff that take enforcement decisions will be required to follow the principles and guidance in the 'Enforcement Management Model' (EMM) issued by the Health and Safety Commission as adjusted for use by Fire and Rescue Authorities by the Chief Fire Officers Association.
55. Officers will be fair, independent and objective when considering enforcement action.
56. We will identify the persons responsible for compliance and direct our enforcement action to them. The taking of all formal enforcement action and proposals to vary levels of enforcement action will be reviewed and authorised by a senior officer to ensure, so far as reasonably practicable, that all actions are proportionate to the risk to life and impose the minimum burden necessary to secure reasonable compliance with the law. Preservation of life and avoidance of injury will however always be the Authority's principal objective.
57. In each case where advice, guidance or instruction is given the officer doing so will explain (orally or in the written documents as appropriate) what the non-compliance is; why in the opinion of the Authority there is non-compliance; and what needs to be done to remedy the non-compliance.
58. Where those we regulate approach us for advice about non-compliance in their premises and in doing so show willingness to rectify that non-compliance in a timescale proportionate to the level of risk we will generally not take formal enforcement action unless in the professional judgement of the Authority's fire safety officers it is necessary to do so to protect life.
59. The Authority will enforce most firmly against those whose failure to comply with the law:

- Results in death or serious injury;
- Places people at risk of death or serious injury;
- Is deliberate, persistent, discriminatory or is for financial gain.

60. 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.

### **Investigation of offences**

61. All investigations will be carried out under the following legislation and with due regard to any associated guidance or codes of practice, in so far as they relate to the Authority:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000
- the current Criminal Procedure Rules .

62. These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

63. Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

### **Our powers**

64. Fire Safety Officers exercise their powers as inspectors to obtain relevant information under Article 27 of the Regulatory Reform (Fire Safety) Order;

65. Petroleum Inspectors will exercise their powers to obtain relevant information under and sections 20 and 21 of the Health and Safety at Work etc. Act 1974.

66. Fire investigators will exercise their powers under sections 44 and 45 of the Fire and Rescue Services Act 2004.

67. Where other information gathering powers are relied on this will be made clear to the person from who information is requested

68. Fire safety officers, petroleum inspectors and fire investigators (the latter when exercising our powers to investigate the causes and /or spread of fire) may:

- enter premises (without use of force)
- require fire safety records to be produced and to inspect them
- examine, measure, test and where necessary dismantle articles items, equipment machinery and plant (where relevant to safety);
- take samples;

- seize and destroy any substance identified as hazardous;
- require people to respond to reasonable enquiries.

69. In addition fire investigators may:

- Apply for a warrant from a Justice of the Peace to enter premises by force
- take possession of an article or substance found on the premises and detain it for as long as is necessary for any of these purposes:
  - (i) to examine, measure or test it (including to dismantle it for that purpose) ;
  - (ii) to ensure that it is not tampered with before examination of it is completed;
  - (iii) to ensure that it is available for use as evidence in proceedings for an offence relevant to the investigation;
- require a person present on the premises to provide him/her with any facilities, information, documents or records, or other assistance, that he/she may reasonably request.

70. Petroleum inspectors may require a written statement from a person (but any such statement cannot be used in criminal proceedings against that person).

71. Obstructing a duly appointed fire inspector or petroleum inspector in the course of their duties is a criminal offence under Article 32 of the Regulatory Reform (Fire Safety) Order 2005 and section 33 of the Health and Safety at Work etc. Act 1974. Failure to comply with the reasonable request of an inspector is also an offence under this legislation and may lead to prosecution.

### **Conduct of investigations**

72. The initial decision to conduct an investigation will rest with the Team Leader for the area or function and be taken in on the basis of the matters discussed in 'Prosecution' above, in discussion with the Area Fire Safety Manager or Head of Petroleum as appropriate. All decisions to investigate will be notified to Fire Safety Regulation Department senior management.

73. Where investigations are conducted, the Authority will prioritise use of its resources in favour of cases where fatalities or serious physical injuries have occurred.

74. All individuals and companies that are under investigation by the Authority will be notified in writing that they are under investigation unless, in the opinion of the Authority to do so may prejudice the investigation or otherwise compromise the conduct of the Authority's enforcement functions. Such circumstances may include avoiding:

- intimidation of witnesses;
- evidence being destroyed or tampered with prior to examination;
- interference with the carrying out of wider investigations into other premises;
- disclosing the means of undertaking investigations in a way that would assist people avoid detection of offences or the persons(s) responsible.

75. Persons that have been notified that they are under investigation, witnesses and the victims of fire incidents (or their surviving family) will be kept informed of the progress of the investigation

unless to do so may, in the opinion of the Authority prejudice the investigation or otherwise compromise the conduct of the Authority's enforcement functions.

76. Where substances or, articles are to be removed from premises by an officer in the exercise of their power, the officers will do so in accordance with Code B to the Police and Criminal Evidence Act 1984 (PACE).
77. Statements from witnesses will be taken in accordance with the Criminal Justice Act 1967 and the Criminal Procedure Rules.
78. People under investigation (including companies and other undertakings) will usually be offered the opportunity to attend an interview under caution to give their version of events and to offer any explanation that they may wish to. However, for some offences investigated this may not be necessary if the Authority is satisfied it already holds enough evidence to take a decision on prosecution and that an interview would not be a reasonable line of enquiry.
79. Other than where a person makes admissions about involvement in possible offences, is cautioned on site and a record is made of the subsequent conversation or questioning (in accordance with PACE Code B). Interviews under caution will be conducted at London Fire Brigade premises and will be recorded unless the circumstances of the case make this impractical. Interviews will be conducted in accordance with PACE Code C.
80. Persons attending interviews under caution at Brigade premises will not be under arrest and will be entitled to legal representation at their own cost. This will not apply in joint investigations where the police or similar bodies may have exercised power of arrest, in which case the provisions applicable to that body's conduct of interviews will apply. People attending interviews will be informed of their rights in the letter inviting them to attend and again at interview if they attend.
81. Offences that the Authority investigates are divided into two categories:
  - Summary offences (which are heard in magistrates courts); and
  - 'Either way' offences (which may be heard in either magistrates or Crown Court).
82. For summary offences, investigations must be concluded and, where a decision to prosecute is taken, proceedings must be started within six months of the commission of the offence. This does not apply to 'either way' offences for which there is no time limit.
83. Progress on cases will be monitored by the Area Fire Safety Manager and the Head of Regulatory Enforcement. Cases will also be subject to review at their conclusion by the Head of Regulatory enforcement (or an officer appointed by him) and a legal officer regardless of whether a decision is taken to prosecute. Lessons learned from reviews will be used to inform the conduct of future investigations.

#### **Publicity about enforcement action taken**

84. Details of all notices served under the Regulatory Reform (Fire Safety) Order 2005, and the Health and Safety at Work etc. Act 1974 will be placed on the Authority's public register, in accordance with the Environment and Safety Information Act 1988, 28 days after issue service of the notice. The register will be updated to show whether a notice has been complied with or an extension of time to comply has been granted.

85. The Authority's public register can be viewed on the Authority's web-site. Details of notices will also be placed on the national database maintained by the Chief Fire Officers Association.
86. The person on whom a notice has been served may apply to have elements of the public register entry removed or redacted where the entry may allow other to identify trade secrets.
87. The Authority will seek to publicise the results of successful prosecutions as a deterrent to others and to encourage compliance with the law. In doing so we may use photographs and similar material taken at the premises by our officers or which have been supplied to us, whether or not they were presented in evidence.

## **Appeals, comments and complaints**

### **Appeals against enforcement action**

88. Following service of any kind of enforcement action our officers will, on request, consider any representations that the person the notice was served on may wish to make. The Authority regards such representations as an informal appeal. Such representations will usually be considered by the local Team Leader (for fire safety) or the Petroleum Team Leader.
89. Any formal notice served by the Authority may be appealed. For enforcement notices, alterations notices and prohibition notices under the Regulatory Reform (Fire Safety) Order 2005 , appeal is to the magistrate's court. For improvement notices under the Health and Safety at Work etc. Act 1974 , appeal is to an Employment Tribunal; for refusal to grant consent under the Greater London Council (General Powers) Act 1968, appeal is to the Secretary of State.
90. Legal appeals should be made within 21 days of the service of the notice. Making an appeal against an enforcement, improvement or alterations notice will have the effect of suspending the notice. Prohibition notices remain in force until and unless their requirements are met or a court has revoked them or the Authority withdraws them.
91. Information on rights of appeal will be included with all formal notices when they are served.
92. Generally, where a person has been engaged in an 'informal appeal' with the Authority's officers, the Authority will not object to a late legal appeal to a court or tribunal unless more than 21 days have gone by since the 'informal' appeal was concluded or it appears such a late appeal is vexatious.

### **Appeals against the decisions of a court**

93. Appeals against the findings of a court or a sentence imposed are dealt with through the judicial system The Authority will engage in such appeals and may launch them itself where it appears to be in the public interest to do so.
94. Complaints about Authority staff, enforcement decision and compliance with the Regulators' Code
95. Regulators are accountable to the public for their actions. This means that enforcing authorities must have policies and standards against which they can be judged (such as those outlined in this Policy Statement and the Authority's Equalities policy), and an effective and easily accessible mechanism for dealing with comments and handling complaints.

96. The Authority's "Compliments and Complaints procedure" is explained fully on our website <http://www.london-fire.gov.uk>. Having a published and publicised procedure helps demonstrate to the public that the Authority takes their comments seriously. These comments can help highlight potential problems and help the Authority to build on the things that it does well.

**Review of this policy statement**

97. The Authority's officers will keep this policy statement under review and in any event review it every two years. Any necessary changes to policy will be submitted to the Authority (including any committee nominated by the Authority for that purpose) for approval.

APPROVED DATE: 16 September 2014 by Strategy Committee