

Freedom of Information request reference number: 7723.1

Date of response: 21/08/2023

Request:

On May 16th I brought to the attention of the LFB that the restaurant Boys'n'Berry (839 Fulham Rd, SW6 5HQ) had some irregular fire exits among other safety issues. I've been in touch. I was just informed that an inspection was performed, but that I should request more information through here. I would like to know what actions have been taken.

Response:

Further to your request, a Fire Audit Safety report was completed on the 12th June 2023. The outcome of the report was Low Risk, therefore a Notification of Deficiencies (NOD) was issued on the 11th July 2023. Please see below for a redacted copy of the letter and the NOD. Personal data has been redacted in accordance with [section 40 of the FOIA – Personal Information](#).

We have dealt with your request under the Freedom of Information Act 2000. For more information about this process please see the guidance we publish about making a request on our website: <https://www.london-fire.gov.uk/about-us/transparency/request-information-from-us/>



Fire Safety Regulation, South West 2 Team
169 Union Street London SE1 0LL
T 020 8555 1200

Minicom 020 7960 9629
london-fire.gov.uk

The Company Secretary
Kumi Ltd
1 Tileman House
133 Upper Richmond Road
London
SW15 2DD

The London Fire Commissioner is the
fire and rescue authority for London

Date 11 July 2023
Our Ref 11/081888/SH

Dear Sir/Madam

REGULATORY REFORM (FIRE SAFETY) ORDER 2005 (AS AMENDED): NOTIFICATION OF FIRE SAFETY DEFICIENCIES

Premises: Boys'n'Berry, 839 Fulham Road, London SW6 5HQ

The London Fire Commissioner (the Commissioner) is the fire and rescue authority for London. The Commissioner is responsible for enforcing the Regulatory Reform (Fire Safety) Order 2005 (as amended) hereafter the Fire Safety Order (as amended) in London.

The Commissioner's Inspectors have recently carried out an inspection of the above-mentioned premises. During the inspection, it was noted that some fire safety matters require attention to reduce the risk of fire and/or reasonably ensure the safety of people using the premises. These matters need to be addressed in order to comply with the Fire Safety Order (as amended).

The matters that need to be addressed, together with the Commissioner's recommendations about the actions you should take are explained in the attached schedule. We recommend that action should be taken by **3 October 2023**.

If you are in any doubt about what you need to do to comply with the Fire Safety Order (as amended); or if there is anything in the schedule that you do not understand or need further explanation of then please contact the Inspector named at the end of this letter. If you are dissatisfied in any way with the response given please ask to speak to the Team Leader quoting the above reference.

You may also wish to know that fire safety guidance for businesses can be found on the Commissioner's website at www.london-fire.gov.uk under the heading 'Fire safety at work'. Additionally, guidance on general fire precautions and how to comply with the Fire Safety Order (as amended) can be found at www.Gov.uk under the heading 'Fire safety law and guidance documents for business'.

When undertaking fire safety works at your premises you may need to seek approval for what you are going to do. Examples of this would include:

- any building works for which you are obliged to notify or seek the approval of Building Control;
- if your premises have a listed heritage status, approval from the local authority conservation officer; or
- if your premises are licenced then you may need to consult the relevant licensing or approvals authority.
- It is your responsibility to consult the relevant bodies and obtain any necessary approvals.

I would ask you to note that as well as placing people at risk, operating premises without having adequate general fire precaution in place to remove or reduce fire risk and to ensure people can safely escape if a fire does occur can result in a criminal offence being committed. This letter and its associated schedule are consequently issued without prejudice to any legal action the Commissioner may subsequently take regarding failures to comply with the Fire Safety Order (as amended).

Yours faithfully,

[REDACTED]

for Assistant Commissioner (Fire Safety)
Directorate of Operations

[REDACTED]

Reply to Fire Safety Advisor [REDACTED]
Direct T 0208 555 1200 [REDACTED]

Enc: Form FS03_01b Legislation Extracts
Form FS03_06 Definitions of standard terms

Cc: [REDACTED], Boys'n'Berry, 839 Fulham Road, London SW6 5HQ

Notes to accompany the Notification of Deficiencies schedule.

Important information to consider before taking remedial steps:

1. Certain terms written in BLOCK CAPITALS in the attached schedule are standard terms defined in "Definitions of standard terms used in means of escape requirements" which form part of this schedule.
2. Officers of the Commissioner may visit your premises again to check on the action you have taken.
3. **Notwithstanding any consultation undertaken by the Commissioner, before you make any alterations to the premises, you must apply for local authority building control department approval (and/or the approval of any other bodies having a statutory interest in the premises) if their permission is required for those alterations to be made.**
4. There may be suitable alternative safety measures to those detailed in this schedule, which would meet the requirements of the Order. If you wish to propose or discuss any alternative measures you should get in touch with the person named as the contact above, before you take any action, to ensure that your proposed measures are deemed satisfactory by the Commissioner.
5. Remedial steps must be undertaken by a competent person who has sufficient training, experience, knowledge or other qualities to enable him or her to properly undertake them.
6. We recommend that remedial steps are undertaken in accordance with the appropriate British or European Standards, or recognised industry guidance.

THE REGULATORY REFORM (FIRE SAFETY) ORDER 2005

Your rights when Fire Safety Inspecting Officers take action.

The Commissioner has a duty to enforce the Regulatory Reform (Fire Safety) Order 2005.

If an Inspector:

tells you to do something - you have a right to a verbal and written explanation of what needs to be done and why.

Intends to take immediate action - for example by issuing an enforcement notice this will include a written explanation either forming part of the notice or by separate letter.

Issues a formal notice - you will be told in writing about your right to appeal to a magistrates' court. You will be told:

- ◆ how to appeal;
- ◆ where and within what period an appeal may be brought; and
- ◆ that action required by a prohibition/restriction notice is not suspended while an appeal is pending unless the court so directs.
- ◆ that action required by an enforcement notice is suspended while an appeal is pending.

Issues a Notification of Fire Safety Deficiencies - full discussion should have taken place and agreed improvements to bring the premises up to minimal standards should be formulated. A Notification of Fire Safety Deficiencies carries no statutory force but may result in formal action being considered if the agreed improvements do not take place.

The procedures and rights above provide ways for you to have your views heard. If you are not happy with the inspecting officer's action you should contact the Team Leader on the telephone number shown at the head of the covering letter in the first instance.

ENVIRONMENT AND SAFETY INFORMATION ACT 1988
SECTION 4 - PROTECTION OF TRADE SECRETS

The above Act requires the London Fire Commissioner to maintain public registers of notices issued under Article 30 of the Regulatory Reform (Fire Safety) Order 2005, (other than those which impose requirements or prohibitions solely for the protection of persons at work) and Sections 21 and 22 of the Health and Safety at Work etc, Act 1974.

Provisions are made within the Act for persons on whom the above notices are served to appeal against any proposed entry in the register which may disclose "trade secrets" or "secret manufacturing processes".

Entries in the register are required to be made after the period for appeal against the notice expires or after any appeal is disposed of.

If you feel that any such entry would disclose information about a trade secret or secret manufacturing process you may write to the Commissioner within a period of 14 days following the service of the notice, requesting exclusion of these details (see Section 4 of the 1988 Act).

SCHEDULE

PREMISES: Boys'n'Berry, 839 Fulham Road, London SW6 5HQ

FILE NUMBER: 11/081888

This schedule should be read in conjunction with the Commissioner's letter dated **11 July 2023**.

The condition(s) specified in the Regulatory Reform (Fire Safety) Order 2005, were being contravened and the following step(s) need(s) to be taken in order to comply with the above legislation:

Article	Area of Concern	Steps Considered necessary to remedy the contravention.
Article 10	At the time of the audit the risk reduction and prevention principles of the Order had not been applied in the correct sequence. It was found that agency staff members are not trained in their fire safety responsibilities.	Apply the principles of prevention contained in Schedule 1 Part 3 of the Order in the priority set out in that schedule. In particular the fire safety training for agency staff members.
Article 11	At the time of the audit your preventative and protective measures had not been planned, organised, controlled, monitored or reviewed where required. It was found that fire safety training for agency staff members has not been organised.	Arrangements identified as not suitably addressed must be effectively planned, organised, controlled, monitored or reviewed.
Article 15	At the time of the audit your procedures to be followed in the event of serious and imminent danger were inadequate. It was found that there was not a written emergency plan in place, nor had it been communicated to staff.	Adequate procedures for serious and imminent danger and for danger areas should be established and followed. This can be achieved by creating and informing all staff of the written emergency plan.
Article 19	At the time of the audit, you had not provided your employees with clear and relevant information. It was found that staff were uninformed of the fire related risks within the premises identified in the fire risk assessment.	Provide your employees with information. This can be achieved by informing all staff members of the relevant risks within the premises.
Article 21	At the time of the audit your employees had not been provided with adequate safety training. It was found that agency staff members are not provided with training.	Provide your staff with adequate safety training. In particular provide all staff members with fire safety training.

Article 8	<p>At the time of the audit the FIRE RESISTING separation in your premises was inadequate. It was found that:</p> <ol style="list-style-type: none"> 1) The electrical intake were exposed and there were combustible materials stored nearby. 2) There was compartmentation issues found in the wall in the lower ground floor bar area. 	<p>Provide suitable FIRE RESISTING separation by:</p> <ol style="list-style-type: none"> 1) Providing HRF FIRE RESISTING construction around the electrical intake. 2) Sealing the hole in the wall in the lower ground floor bar area with FIRE RESISTING construction.
Article 9	<p>At the time of the audit, the fire risk assessment for your premises was not suitable and sufficient. It was found that It was found that there was not a competent assessment of the risks to relevant persons. The fire risk assessment did not take into account:</p> <ol style="list-style-type: none"> 1) The travel distance within the means of escape. 2) All risks to relevant persons on site such as customers and staff. 3) That staff training was not correctly mentioned. 	<p>The fire risk assessment should be reviewed, with specific consideration given to given to identifying the risks present and the mitigating factors to reduce the risks.</p>

*****RECOMMENDATIONS NOT FORMING REQUIREMENTS OF THE SCHEDULE*****

The Commissioner would strongly urge that you consider the presence of combustible façade cladding materials as part of the risk assessment process for these premises. All relevant information about any replacement window and facade schemes should be made fully available to fire risk assessors. Where no reliable information is available for a given property, a strategy to assess the risk and where necessary implement short, medium and long term actions to address the risk should be implemented.

Where remedial measures are to be undertaken to which consultation requirements under Section 20 of the Landlord and Tenant Act 1985 will apply, the Commissioner would urge you to consider application of the disapplication provisions under Section 20ZA of that Act.