

CHESHIRE FIRE AND RESCUE

MEETING OF: PERFORMANCE AND OVERVIEW COMMITTEE
DATE: 12TH JULY 2023
REPORT OF: HEAD OF PREVENTION AND PROTECTION
AUTHOR: LEE MCGARITY

SUBJECT: PROSECUTIONS ANNUAL REPORT 2022-23

Purpose of Report

1. To present an update on Cheshire Fire Authority's (the Authority) prosecutions under the Regulatory Reform (Fire Safety) Order 2005 (the Order) during the financial year 2022-23.

Recommended that:

- [1] the contents of this paper be noted; and
- [2] prosecutions remain on the Performance and Overview Committee future work programme for annual review.

Background

2. The Order was introduced on the 1st of October 2006 and it had the effect of widening the range of premises that fire and rescue services had powers to inspect.
3. Depending on the seriousness of a regulatory breach, inspectors have a range of enforcement options available to them ranging from educate and inform, through to prosecution.

Prosecutions summary

4. In the year 2022-23 Protection, supported by Legal Services and external solicitors, undertook three prosecutions. They were all successful (Appendix 1).
5. The Authority secured extensive press coverage, providing public reassurance about its regulatory effectiveness and sending a clear message of deterrent to other businesses.

6. There are currently seven cases in various stages of the prosecution process. These include three cases going to trial in the Crown Court and four cases with suspects under investigation.
7. Of the seven cases three of these commenced during the reporting year of 2022-23. The remaining four cases were brought before the last financial reporting period. In recent times Protection has seen a delay in getting Prosecutions into the court setting. This is mainly due to the backlog following the Covid Pandemic.

Financial implications

8. Where the Authority successfully prosecutes cases, it may be awarded costs to cover its own solicitor's fees and staff time. The Authority maintains a prosecution reserve capped at approx. £300k (any additional costs are transferred to the general reserve). The reserve currently stands at £213,296.81 as of 31st March 2023. Expenditure for 2022-23 was £76,522.30.
9. The ongoing Beechmere prosecution is expected to be our most expensive prosecution. Due to the complexity of this case and the need for legal support the costs incurred will continue to increase.

Legal implications

10. Adherence to legal requirements when undertaking prosecutions and investigations is vital in preserving the reputation of the Service. The aim is to guide, educate and assist commercial business owners to make their premises safe for users, employers and the wider community. The Service prosecutes only when appropriate and the prospect of success is high. More speculative or aggressive use of the Order in court could result in awards of costs against the Authority, reputational damage and resource implications which would affect the Service as a whole and not serve the interest of the public.
11. Protection staff undergo regular legal training to ensure the reputation of the Service is preserved by the appropriate use of the Order. Protection Office Managers are also trained to a higher degree to provide assurance on any Prosecution case file that is brought against a business.

Equality and Diversity implications

12. Due to an increase in serious fires locally and nationally which involve certain types of fast-food outlets, officers have, over recent years, visited more of these businesses to help them reduce risk and comply with regulations. This, in the most high risk premises, has resulted in an increase in enforcement action issued to businesses which are frequently owned and

operated by members of Black, Asian and Minority Ethnic (BAME) communities. An Equality Impact Assessment for this work has been completed.

Environmental implications

13. Effective enforcement reduces the risk of fire and therefore contributes to reduced emissions, water use and CO₂ associated with transporting and producing re-building products.

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BACKGROUND PAPERS: NONE

Agenda Item 7, Appendix 1

Prosecutions 2022-23

2022

1. Ashberry Healthcare Ltd (Heathercroft Care Home) – Warrington



Care home company prosecuted for “unforgivable” fire safety failures

The owners of a Warrington care home at which a 90-year-old resident accidentally set fire to himself while smoking have been fined more than £60,000 for serious breaches of fire safety regulations.

Ashberry Healthcare Ltd., which ran the former Heathercroft Care Home in Woolston until 2021, pleaded guilty to three counts of failing to comply with the Fire Safety (Regulatory Reform) Order 2005 at Warrington Crown Court on Tuesday (October 11th).

Cheshire Fire and Rescue Service brought the charges after firefighters were called to the home on May 21st 2018 by carers, who found Henry Robinson on fire in an outdoor smoking shelter. He died on the way to Whiston Hospital as a result of heart attack.

Inspecting officers found that an individual risk assessment to enable Mr Robinson to smoke safely had gone missing and was not available on the night of the fire. Their audit also uncovered two defects in the building’s ‘compartmentation’, potentially allowing smoke and flames to spread in the event of a fire.

Sentencing, Judge Jack McGarva said the decision to allow Mr Robinson to smoke unsupervised did not cause his death. However, he said it was “unforgivable” that deficiencies in a safe system of work led to it taking three minutes and 43 seconds for anyone to respond to him pressing the shelter’s call button.

He ordered the Hemel Hempstead-based company to pay a total of £62,000 in fines and costs of £17,500.

Welcoming the sentencing, Lee Shears, Assistant Chief Fire Officer for Cheshire Fire and Rescue Service, said: “This has been a very distressing case for the firefighters who attended the fire, the care staff at the home, ambulance crews and our inspecting officers. Our thoughts are with Mr Robinson’s loved ones.

“His final moments serve as a reminder to care providers of the importance of having in place – and, more importantly, following – detailed individual risk assessments for all residents who smoke. They are particularly vulnerable if they have mobility problems or are treated with emollient creams, which make skin, clothing and bedding highly flammable.

“We work hard to help care providers to understand their responsibilities when it comes to fire safety, but as this tragic case highlights there are serious consequences for failing to comply.”

2. Main Top Hotel (Hanson) – Halton



The Halton & Warrington Protection team completed a successful prosecution. The owner of The Maintop Hotel was sentenced at Liverpool Crown Court on 28/04/2022 for serious breaches of The Fire Safety Order 2005.

Inspectors had previously identified that the premises was not suitable to be used as an HMO and a prohibition notice was served in 2019. The premises had no working fire alarm, poor compartmentation and no protected means of escape due to issues with fire doors. These deficiencies placed relevant persons at serious risk which is why the prohibition notice was served.

In 2020 it was identified that the owner of the premises had breached the prohibition notice and started to use the premises as an HMO despite not completing any of the necessary works outlined in the schedule of work which accompanied the notice.

The owner received a 12-month suspended sentence, £5000 fine, 35 days rehabilitation and 80 hours of unpaid work.

At sentencing Judge Garrett Byrne said that Hanson had 'put profit before safety'.

2023

3. 149 Edleston Road (Colebounne & Oddies Bar Ltd) – Crewe



Suspended sentence for Crewe bar owner who breached fire safety regulations

The director of a Crewe property comprising a bar, takeaway and flats has been given a six-month prison sentence, suspended for 18 months, after pleading guilty to serious breaches of fire safety regulations.

Christopher Colebourne, the sole director of Oddies Bar Crewe Ltd, pleaded guilty to seven counts of failing to comply with the Fire Safety (Regulatory Reform) Order 2005 at Chester Crown Court on Thursday (23 March).

Cheshire Fire and Rescue Service brought the charges after firefighters were called to a fire a kitchen shared by the two flats above the bar and adjacent Pizza Haven on Saturday 3 August 2019. The crews raised concerns about the ease with which smoke had spread throughout the escape routes serving the flats.

A fire safety officer identified serious fire safety deficiencies including failures:

- to take measures to reduce the risk of the spread of fire on the premises
- to ensure that the premises was equipped with appropriate fire detectors and alarms
- to ensure that people could evacuate the premises as quickly and safely as possible
- to ensure that the fire alarm and emergency lighting systems had been serviced by a competent contractor and tested locally.

Sentencing, Judge Simon Berkson, said: "This was a very dangerous premises that you were responsible for and a number of people were clearly put at risk. If that fire had taken hold it would have caused serious problems."

He ordered Mr Colebourne to be sentenced to six months in prison, suspended for 18 months and undertake a 35-day rehabilitation order and 150 hours unpaid work. He also ordered him to pay a £700 fine and £7,000 costs to Cheshire Fire and Rescue Service.

Welcoming the sentencing, Lee Shears, Assistant Chief Fire Officer for Cheshire Fire and Rescue Service, said: "This case shows how our firefighters and fire safety teams work together to keep our communities safe. Had the fire spread that day it could easily have put the occupants at risk of death or serious injury.

"We work hard to help business owners to understand their responsibilities when it comes to fire safety, but as this case highlights, we will not hesitate to pursue prosecution if they fail to comply. Fire safety must be taken seriously."