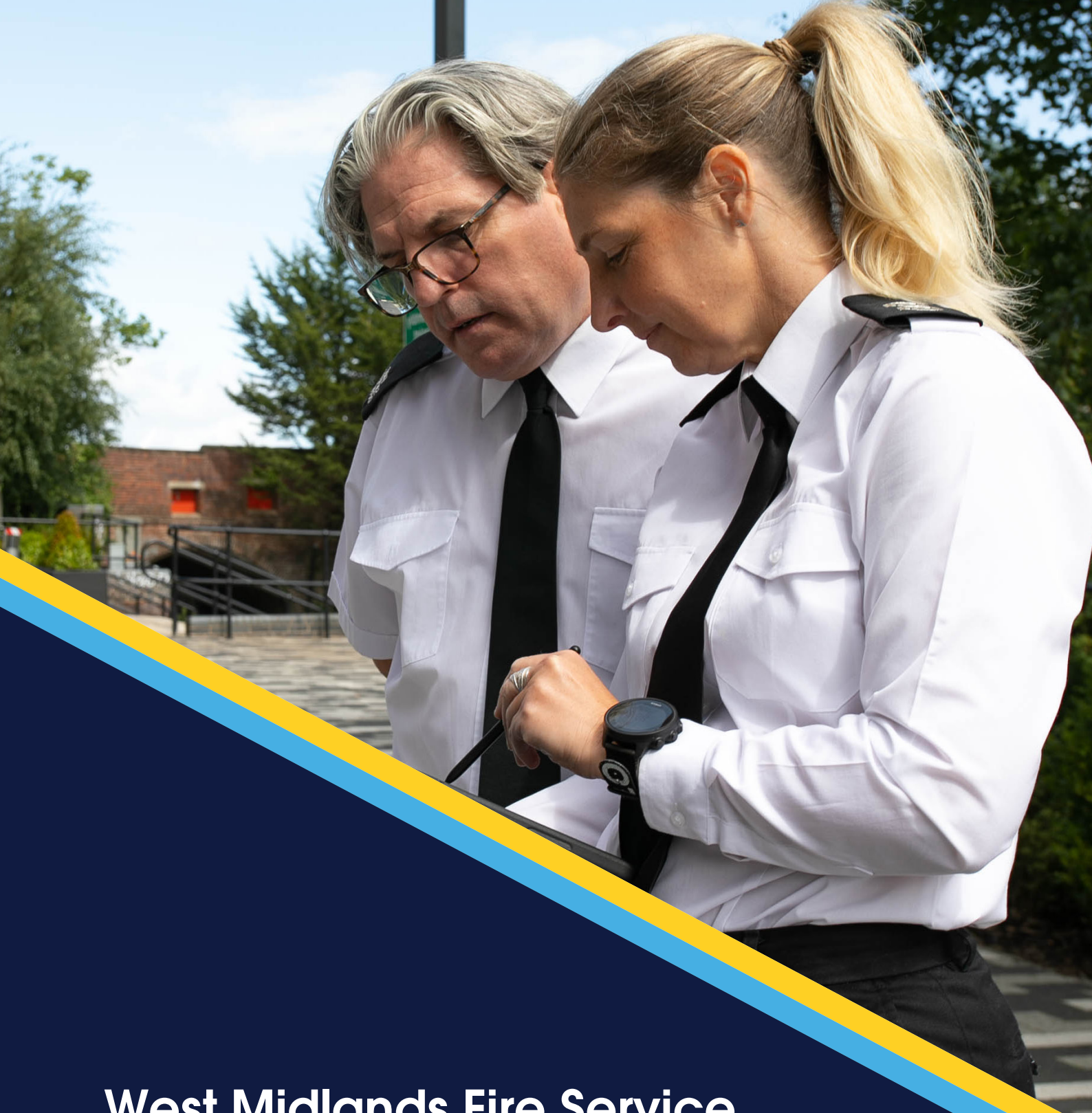


West Midlands Fire Service
Protection Officers Powers of Entry and Inspection

WMFS
West Midlands Fire Service

This booklet sets out the powers of West Midlands Fire Service protection staff

The West Midlands Fire and Rescue Authority ("the Authority") is responsible for ensuring compliance with regulations relating to fire safety, and also to the storage and sale of petroleum and explosives (fireworks) within the West Midlands Area. The West Midlands Fire Service Protection department carries out this function on behalf of the Authority.

All West Midlands Fire Service Protection officers will carry an identity (ID) card which confirms their appointment and sets out on the back the law that they are authorised to enforce and their powers of entry and inspection. They will show this on request, and their identity can be verified by calling the phone number on the ID card at any time.

This document sets out in more detail the powers that appointed officers are entitled to exercise under the law.

Definitions

In this document:

FSO means the Regulatory Reform (Fire Safety) Order 2005

HSWA means the Health and Safety at Work etc Act 1974

LA means the Licensing Act 2003

The statutes and regulations referred to in this document can be found at

http://www.legislation.gov.uk

Regulatory Reform (Fire Safety) Order 2005

Officers with an ID Card which shows the above Order (the FSO) on the reverse are appointed on behalf of the Authority as inspectors under Article 26. They are authorised to exercise the powers of inspectors set out in Article 27. In particular they can:

- Enter and inspect any premises to which FSO applies at any reasonable time, without the use of force. (FSO Article 27(1)(a)).
- Make inquiries to ascertain whether FSO applies and is being complied with or to identify who is responsible for the premises under the FSO (the "Responsible Person".) (FSO Article 27 (1)(b))
- Require production of records which are "required to be kept under the FSO or regulations made under it" or "which it is necessary for him to see for purposes of an inspection" (FSO Article 27 (1)(c))
- Require the Responsible Person or other person with responsibilities in relation to the premises to provide facilities or assistance to enable the inspector to exercise their powers (FSO Article 27 (1)(d))
- Take samples of articles or substances found within the premises to ascertain fire resistance or flammability (FSO Article 27 (1)(e))
- Dismantle or test any article or substance found within the premises, if the article or substance appears to have caused or be likely to cause danger to people in or around the premises (FSO Article 27 (1)(f)). Dismantling or testing should not damage or destroy the article or substance unless this is necessary in the circumstances.
- Enter and inspect domestic premises (other than a house which is occupied as a single domestic dwelling) if there are reasonable grounds to believe that there is a risk so serious that use of the premises ought to be prohibited. (FSO Article 31(10))

FSO Articles 29 - 31

Officers with FSO Articles 29-31 listed on the reverse of their ID card are authorised to issue the following statutory notices on behalf of the Authority:

- Alterations Notice (Article 29)
- Enforcement Notice (Article 30)
- Prohibition Notice (Article 31). A Prohibition Notice will be authorised by a second signatory, of the rank of Station Commander or above.

Other Relevant Legislation and Regulations

Inspectors appointed under the FSO are authorised to exercise such other statutory powers that the Chief Officer is entitled to exercise and to undertake the Authority's functions under the following:

- **Fire Safety (England) Regulations 2022**
- **Building Safety Act 2021**
  To assist the Building Safety Regulator in the regulation of higher risk buildings or higher risk building work (section 14)
- **Construction (Design & Management) Regulations 2015**
  Regulations 30, 31 & 32, where a construction site forms part of premises occupied by people other than those carrying out the construction work)

Health and Safety at Work etc Act 1974

Officers with an ID card with the HSWA shown on the reverse are appointed on behalf of the Authority as inspectors of health and safety, under section 19. They are authorised to exercise the powers of the Authority in its capacity as the Petroleum Enforcing Authority (in relation to Petroleum) and the Local Authority (in relation to explosives).

The powers of inspectors are set out in Section 20 of the HSWA. In particular they can:

- Enter any premises to carry into effect statutory provisions within the responsibility of the Petroleum Enforcement Authority (Petrol) and Local Authority (Explosives) and make such examination or investigation as may be necessary. This will usually be at reasonable times but may be at any time in a situation which, in the inspectors opinion, is or may be dangerous. (HSWA s.20(1), s.20(2)(a), s.20(2)(d))
- Direct that the premises, or part of them, or anything therein, be left undisturbed for as long as reasonably necessary for purpose of examination or investigation. (HSWA s.20(2)(e))
- Take measurements, photographs or recordings as necessary for purpose of examination or investigation (HSWA s.20(2)(f))
- Take samples of any articles or substances found on the premises, and of the atmosphere within or in the vicinity of the premises HSWA s.20(2)(g))
- Dismantle or test any article or substance which appears to have caused, or appears likely to cause a danger to health and safety. Dismantling or testing will usually be done in the presence of the responsible person or duty holder should they so request, and should not damage or destroy the article or substance unless this is necessary in the circumstances. Inspectors may take possession of said articles or substances if necessary for the purposes of examination, or to ensure that they are not tampered with and available as evidence. (HSWA s.20(2)(h) & (i))

- Require the production of any books or documents which is is necessary to see for the purposes of an examination or investigation, and to take copies of all or part of such documents. (HSWA s.20(2)(k))

- Require any person to provide facilities or assistance (in relation to matters within their control or responsibility) to enable the inspector to exercise their powers under this section. (HSWA s.(20)(2)(l))

HSWA sections 21, 22 and 25

Officers with the above sections of the HSWA on the reverse of their ID cards are authorised to exercise the following powers on behalf of the Authority:

- To issue an improvement notice (section 21).
  To issue prohibition notice (section 22)). A prohibition notice will be authorised by a second signatory, of the rank of Station Commander or above.

- To seize articles or substances which the inspector has reasonable cause to believe is a cause of imminent danger of serious personal injury (section 25)

Other relevant Legislation and Regulations

Officers appointed under the HSWA are also authorised to exercise such other statutory powers as the Chief Officer is entitled to exercise and to undertake the Authority's functions under the following:

- **The Fireworks Act 2003**
- **The Explosives Regulations 2014**
- **The Petroleum (Consolidation) Regulations 2014**
- **The Dangerous Substances and Explosive Atmospheres Regulations 2002**

Licencing Act 2003

Officers with an ID card which shows the LA on the reverse are appointed inspectors under section 13(2)(b). They are authorised to exercise the following powers on behalf of the Authority (being a responsible authority under the LA section 13(4)(b)):

- To enter premises prior to determination of an application for grant, variation or review of a premises licence, to assess the likely effect on promotion of the licensing objective relating to public safety. (LA section 59)

- To enter and inspect premises prior to the grant of a club premises certificate (LA section 96). This power of entry applies within 14 days of the application for the certificate, with at least 48 hours' notice, and at a reasonable time of day.

- Enter premises the inspector has reason to suspect are being used, or about to be used, for a licensable activity, with a view to seeing whether the activity is being or is to be carried on in accordance with an authorisation (LA section 179)
  Powers of entry under sections 59 and 179 include use of reasonable force where necessary.

Inspectors appointed under the LA are further authorised to make representations to the Licensing Authority in respect of applications to grant, vary or review a premises licence or club premises certificate, and to apply for a review on behalf of the Authority should they consider this necessary.