

**TYNE AND WEAR FIRE AND RESCUE AUTHORITY**  
**No**

**Item**

**MEETING: 15<sup>th</sup> June, 2009**

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**SUBJECT: Prosecution – Fire Safety**

**JOINT REPORT OF CHIEF FIRE OFFICER AND CLERK TO THE AUTHORITY**

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**1 INTRODUCTION**

- 1.1 The purpose of this report is to inform members of the successful outcome of a recent prosecution brought by the Authority Jesmond Court Limited which was heard at Newcastle Magistrates Court on June 1<sup>st</sup> 2009.

**2 BACKGROUND**

- 2.1 Jesmond Court Limited own Mr. Lynch Bar. On the 10<sup>th</sup> November, 2007, a member of the public, Alan Brown, suffered serious burns to his back during a night out at Mr. Lynch Bar. This was as a result of his shirt catching fire from a tea light resting on a ledge inside the bar.
- 2.2 Following an anonymous call, officers of the Authority conducted a thorough investigation of this case to determine where Jesmond Court had failed in their fire safety duties. This Authority is the enforcing authority for fire safety in nightclubs, public houses and other licensed premises.
- 2.3 The investigation concluded that no suitable or sufficient training had been provided to staff in respect of the use of tea lights. In addition, there had been a failure to combat or avoid risks by replacing the dangerous tea lights with something less dangerous or non dangerous and a failure to give appropriate instructions to employees regarding the use of tea lights.

**3 OUTCOME**

- 3.1 Jesmond Court Limited as the responsible person for fire safety was charged with 2 offences against the Regulatory Reform (Fire Safety) Order 2005.

- 3.2 These breaches of the Regulatory Reform ( Fire Safety ) Order 2005 were:

**Article 10: Principles of prevention to be applied**

*Where the responsible person implements any preventive and protective measures he must do so on the basis of the principles of avoiding risks, combating the risks at source, replacing the dangerous by the non-dangerous or less dangerous, give appropriate instructions to employees.*

**Article 21(2): Training**

*The responsible person must ensure that his employees are provided with adequate safety training and must include suitable and sufficient instruction and training on the appropriate precautions and actions to be taken by the employee in order to safeguard himself and other relevant persons on the premises.*

- 3.3 As is customary, Sunderland City Council Legal Services represented the authority in the prosecution of the case. Jesmond Court Limited pleaded guilty to both offences. They were fined £5000 for each offence, which was then discounted to £3,500 for each offence for an early guilty plea. In addition, they were ordered to pay the standard £15.00 victim surcharge and costs of £2,700, this being a total fine of £9,715.00
- 3.4 The action the Authority has taken is in line with national guidance and was proportionate to the seriousness of the offences.

## **4 RECOMMENDATIONS**

- 4.1 The Authority is recommended to note the contents of this report and receive further reports as appropriate

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## **BACKGROUND PAPERS**

The under mentioned background papers refer to the subject matter of the above report:

HSE – Enforcement Management Model 2005  
FSC 42/07 – Annex A – Enforcers Guide  
The Regulatory Reform (Fire Safety) Order 2005