



## Service Delivery (Protection)

### Technical Bulletin No 031

Subject	Notices - Withdrawal or Compliance
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Originator	Procedures Manager
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A potential conflict of wording exists between the Regulatory Reform (Fire Safety) Order 2005 (RRO) and the Environment and Safety Information Act 1988 (ESI).

Notices issued under the RRO can be *withdrawn* as detailed in articles 29(6), 30(7) and 31(9). The word *withdrawn* is also used in the text of our standard CFRMIS letters and on the pre printed article 31 notice form.

The RRO makes no reference to the use of the words *lifted* or *compliance* as notice management options, but instead uses the word *withdrawal* to indicate that a notice is no longer in force. It is generally accepted that this is an unintentional oversight and that the options of *compliance* or *lifting* are necessary when processing notices.

Because of this, use of the word *withdrawn* has become common parlance and is used to express "compliance", in the case of an article 30 enforcement, or "lifting" when dealing with an article 31 restriction or prohibition.

The ESI requires that we maintain a publicly accessible register of relevant notices. Relevant notices are then required to remain on the register for a minimum period of 3 years.

Regulation 3(3) of the ESI requires that when a "*notice has been complied with, an entry to that effect shall be made on the register*" and regulation 3(4) requires that "*where a notice is withdrawn or amended any entries in the register which relate to the notice shall be deleted.....or amended*". The use of the word *withdrawn* in this context has a specific action attached to it.

In order to comply with the ESI, notices described as being *withdrawn* will need to be removed from the public register within 7 days. This is clearly not what is intended for a valid relevant notice that has been correctly served.

In order to satisfy the requirements of the ESI, Wiltshire FRS will adopt the following definitions of words to be used in any communications pertaining to notices:

- **Complied with** - Will be used to confirm that the Community Safety Inspector is satisfied that all necessary action to fulfil the requirements of the notice is now complete.

- **Lifted** - Will be used to confirm that the prohibition or restriction is no longer required.
- **Withdrawn** - Will be used to cancel a notice that may have been incorrectly served or require amendment however it must be noted that the RRO does not allow for an article 30 to be withdrawn after the expiry date.

The public register entries will be updated to reflect the status of *complied with* or *lifted* (including the date of compliance or lifting) or to remove *withdrawn* notices. This will ensure that relevant notices remain on the register for the required 3-year minimum period and that withdrawn notices are removed within the 7-day deadline.

The following changes will be implemented to support this:

- SOP numbers "039 - Article 30 Withdrawal" and "040 - Article 31 Prohibition Notice -Serving Of" will be amended to incorporate the approved wording.
- CFRMIS standard letters will be amended accordingly or additional letters added to reflect the correct status (i.e. complied with).
- The wording of an article 29 alterations notice will be reliant on the circumstances and will therefore be subject to clarification if and when required.
- The pre printed article 31 form currently in use has one reference in the text to *withdrawn*, this will remain until the documents are reprinted. This inclusion is as an explanatory note only and will not adversely affect the notice status or the public register entries.

End.