

Environmental Health Enforcement Policy Summary

INTRODUCTION

The Environmental Health Service seeks to protect the health, safety and wellbeing of residents and visitors to our borough and in the process, uses regulations and provides advice on best practice to ensure high standards are maintained. The service consists of, Food Safety, Health and Safety, Trading Standards, Pollution Regulatory Team, Licensing, Pest Control, Private Sector Housing, Construction Management Team and Noise and Nuisance.

Whilst the enforcement tools available to each team may differ depending on the legislation, there are general overarching principles that govern good enforcement and apply to all services within the Environmental Health Service.

The Regulators' Code requires regulators to publish their Enforcement Policy explaining how we approach compliance and respond to non-compliance. The department therefore has an Enforcement Policy in place that aims to:

- Set out how we, as regulators, meet our responsibilities under the statutory provisions and guidance that we enforce by setting out the Council's approach
- Provides transparency in our enforcement activities
- Ensures that enforcement activities are targeted where needed
- Helps businesses and individuals to understand our objectives and methods for achieving compliance and the criteria we consider when deciding the most appropriate response to a breach of legislation.
- Explains how we take a graduated approach to enforcement
- Provide a framework for enforcement officers within Environmental Health to ensure that their powers are transparent and consistently applied.

COMPLIANCE WITH THE PRINCIPLES OF GOOD ENFORCEMENT

The Policy seeks to ensure that the application of any enforcement is:

- Transparent and Accountable by making communications clear, explaining what must be done and any actions that must be taken, and the conduct you can expect from officers.
- That proportionate action is taken to the breach/offence which has occurred.
- Is targeted towards those whose activities give rise to serious risk to the public, this could be through programmes of inspections where those with the greatest hazards/ risks are inspected more frequently, the investigation of complaints, receipt of intelligence and other enforcement initiatives carried out in response to national or local concerns.
- Consistent in approach through officers following current internal and external procedural guidance documents/policies, liaison with other authoritative or professional bodies and considering relevant legislation and case law.

ENFORCEMENT OPTIONS

The method of enforcement action chosen by officers should produce the highest (reasonable) standards of compliance. In assessing what enforcement action is necessary and proportionate, several factors will be considered including the seriousness of the complaint/non-compliance, previous advice and relevant criminal history, degree of risk/ harm and any harm caused, the circumstances of the case and likelihood of its continuation or recurrence and the effectiveness of the various enforcement options.

The main types of action that can be considered are:

Informal Action- this could be on the form of no action where appropriate, or officers giving advice, education, or training. Warning letters may also be issued in circumstance where there has been a technical breach or there is no recent history of non-compliance. Informal action will be recorded on departmental files and will be used as a basis for relevant future enforcement action where required.

Formal Action- can be via numerous routes including:

- **Statutory Notices** requiring action to be taken or, that certain operations/activities be stopped immediately.
- **Fixed Penalty Notices and Penalty Charge Notices** are generally issued as an alternative to prosecution in respect of a range of offences.
- **Prohibition** notices are issued where the situation cannot be allowed to continue because of the risks involved.
- **Injunctions** may be sought to prevent a serious risk of threat, harassment, alarm or distress to any person(s).
- **Undertakings** under the Enterprise Act 2002 can be issued when there are breaches of consumer protection legislation.
- **Seizure of Goods, Equipment, Food, Articles or Records**
- **Work in Default** allows the Council to carry out the work required by a notice (usually by hiring contractors) if the recipient of the notice does not comply with the said notice
- **Forfeiture** is the loss of property without compensation because of a breach or non-performance of some legal obligation or the commission of a crime.
- **Licence Review**, Responsible Authorities and 'Other Persons' have the power under the Licensing Act 2003 and the Gambling Act 2005 to apply to have a premises licence or club premises certificate reviewed by the Licensing Committee where activities appear to undermine one or more of the Licensing Objectives.
- **Simple Caution** is where a statement signed as accepted by the offender that they have committed an offence for which there is a realistic prospect of conviction.
- **Prosecution** if successful, is the more serious method of enforcement and can lead to a wide range of sentences from a small fine to a custodial sentence.

INVESTIGATIONS

Officers have statutory powers to investigate or undertake inspections in accordance with their legislative duties; as part of their investigatory remit they may liaise with or make referrals to other regulatory bodies and enforcement agencies (in accordance with the requirements of the General Data Protection Regulations) as necessary.

IMPLEMENTATION AND REVIEW

Directors, Heads of Service and Team Managers will be responsible for ensuring that all officers are familiar with the policy requirements and conduct their duties in accordance with the Enforcement Policy. The Policy will be reviewed annually to ensure it remains relevant and up to date.

COMPLAINTS AND CONTACT DETAILS

Section 8 and 9 of the Enforcement Policy contains contact details and a link to the Council's complaints policy.

Please note the summary is only intended for reference only. Please refer to the Enforcement Policy for full details.