

**Wiltshire Council**

**Public Protection Enforcement Policy**

**1 Introduction**

- 1.1 This policy addresses the practical application of the Public Protection enforcement procedures and aims to provide a fair and effective approach to enforcement action by officers of the authority.
- 1.2 All enforcement action must be compliant with all relevant legislation and guidelines and must be fair, clear, transparent, consistent and robust.
- 1.3 The policy covers all aspects of the service and seeks to assist officers in the decision making process when dealing with enforcement issues. It sets out a consistent approach regarding the use of formal and informal mechanisms at their disposal to achieve effective and efficient compliance with relevant statutes.

**2 Purpose of enforcement**

- 2.1 The service supports the judicious use of statutory powers as an effective means of ensuring that businesses and individuals, local premises, practices and activities comply with statutory requirements and do not put the economic wellbeing, health and safety or amenity of the general public, employees, other businesses or consumers at risk. We will assist and advise wherever possible but will also take firm action against those who act irresponsibly or flout the law.

**3 Scope**

- 3.1 This policy applies to all enforcement activities taken by the Public Protection Service.
- 3.2 This policy should be read in conjunction with any service specific and corporate policies and procedures as well as national guidance on enforcement issues, and the Public Protection Enforcement and Legal Process Manual.
- 3.3 Enforcement in the context of this policy includes action carried out in the exercise of statutory enforcement powers and duties. It includes the inspection of premises, the provision of advice as well as formal enforcement including fixed penalty notices, statutory notices and prosecution.

- 3.4 All officers will follow this enforcement policy as far as reasonably practicable. Any departure from the policy, for example to deal with situations of urgency or imminent risk, must be justifiable and be approved by the appropriate line manager when practicable, which may be after the event.
- 3.5 There may be circumstances where shared or complementary enforcement action may be taken with other agencies. In such cases the decision on enforcement options shall have regard to any relevant policies and procedures of the other agency.

## 4 Principles

- 4.1 Regulatory effort will be directed in accordance with the Government's "Regulators' Compliance Code: Statutory Code of Practice for Regulators", by:-
- Considering the impact of regulatory intervention on economic progress, including thorough consideration of the costs, effectiveness and perceptions of fairness of regulation. A particular approach will only be adopted if the benefits justify the costs and it entails minimum burden compatible with achieving objectives
  - Promptly communicating general information, advice and guidance to make it easier for businesses to meet their regulatory obligations
- 4.2 The Council has also adopted the Enforcement Concordat, which established principles of good enforcement and set out what businesses and others being regulated are entitled to expect from enforcement officers.
- 4.3 Enforcement activities will be conducted in an open and transparent manner. Officers will explain clearly in plain language what is expected of those to whom legislation applies and what can be expected of the enforcement service. Clear distinctions will be drawn between statutory requirements and advice or guidance regarding what is good practice but not compulsory.
- 4.4 The authority will seek to raise awareness about the need to comply with legislation using an educational approach to promote good practice.
- 4.5 We aim to provide a courteous and efficient service, and all enforcement activities will be carried out in a helpful manner, actively working with businesses to advise on compliance.

- 4.6 Any enforcement action will be proportionate to the risk and seriousness of the breach of legislation.
- 4.7 The Service will endeavour to ensure that enforcement action is consistent by taking a similar approach in similar circumstances. However officers will take into account many variables such as level of risk, compliance history and the attitude and actions of those involved which may result in different outcomes in what appear potentially similar investigations.
- 4.8 Officers engaged in enforcement activity will be expected to maintain an open mind during the course of an investigation.

## 5 Investigative Procedures

- 5.1 All investigations into breaches of legislation will follow best professional practice and the requirements of the following:-
- [The Human Rights Act 1998](#)
  - [The Regulation of Investigatory Powers Act 2000](#)
  - [The Police and Criminal Evidence Act 1984](#) and associated [Codes of Practice](#)
  - [The Criminal Procedure and Investigations Act 1996](#)
  - [The Code of Practice for Crown Prosecutors](#)
- 5.2 Regard shall be had to corporate guidance and policies on the specific requirements of the above legislation.

## 6 Enforcement Options

- 6.1 All officers will have regard to:
- the documented procedures listed in the schedule,
  - any departmental or organisational procedure notes
  - any relevant guidance in Statutory Codes of Practice or guidance notes issued under the relevant statutes or by a recognised body and which are accepted as providing a national standard
  - the Public Protection Service Enforcement and Legal Process Manual

### 6.2 Informal Action

- 6.2.1 Informal action includes offering advice, verbal warnings and requests for action, the use of informal letters and inspection reports. Informal action should be considered against the following criteria:-

- The act or omission is not serious enough to warrant formal action and does not pose a significant risk to public health, safety or economic welfare.
- The individual or company's history is such that it can be reasonably expected that the informal action will achieve compliance.
- The officer has high confidence in the individual or management's ability to correct a defect or contravention and undertake any works which may be required.
- Standards in general are good, suggesting a high level of awareness of statutory responsibilities.
- The consequences of non-compliance are acceptable, e.g. minor matters, or the time period allowed to seek compliance does not present a risk to health safety or welfare.

6.2.2 Informal action includes education, publicity and media campaigns and working with commercial and community groups.

### 6.3 **Formal actions**

6.3.1 Formal action involves the proportionate use of formal mechanisms to achieve compliance. Formal action may be taken where informal action has been unsuccessful or is deemed inappropriate when considering the seriousness of the offence or the urgency of the situation. Administrative penalties, including fixed penalty notices may be used without prior informal action.

6.3.2 Formal action includes the use of Statutory Notices, Penalty Notices, works in default or direct action, review or revocation of licences or other approvals, simple cautions, or prosecution and any other legal action of any nature.

6.3.3 Decisions to instigate formal actions will be taken in accordance with the Enforcement Options Guidelines (Appendix 1), which will be reviewed and updated as necessary under the authority of the Director or Service Director.

6.3.4 Decisions to instigate prosecutions will be taken in accordance with the Prosecution Guidelines and all other guidelines and procedures (Appendix 2), which will be reviewed and updated as necessary under the authority of the Director or Service Director.

## **7. Qualifications and Authorisations of Officers**

- 7.1 The Director or Service Director shall ensure that officers who carry out enforcement duties are appropriately qualified and trained.
- 7.2 The Director or Service Director shall ensure that officers carrying out enforcement duties are authorised in writing and that the extent of the authorisation is reviewed from time to time in the light of their qualifications and experience.

## **8 Equal Opportunities**

- 8.1 The service recognises that there is diversity within the community and enforcement activities will have regard to its [equality policy](#).

## **9 Complaints Procedure**

- 9.1 The Council has a formal [complaints procedure](#) which ensures that any complaint is dealt with quickly, consistently and helpfully. Complaints can be made in person, in writing, by e-mail or on-line complaints form.
- 9.2 Where repeated or vexatious [complaints](#) are received advice may be sought from the corporate complaints officer.

## **10 Review**

- 10.1 This Enforcement Policy will be reviewed every two years or when significant new legislation affects the policy and updated as appropriate.

## **11 Access to this policy**

- 11.1 A copy of this policy is available on the Council website, or can be obtained by writing to the Public Protection Service Director, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA12 8JN.