



**Environmental, Streetscene and Parking:** Looking after the local environment by taking appropriate enforcement action in relation to littering, flytipping, dog fouling and anti-social behaviour; and by ensuring the expeditious movement of traffic on the local road network and the town's council-managed car parks using the powers delegated through the Traffic Management Act 2004 and Civil Parking Enforcement.

**Private Sector Housing:** investigating and taking enforcement action in response to complaints about housing conditions in the private rented sector under Part 1 of the Housing Act 2004. The Licensing of Houses in Multiple Occupation under Part 2 of the Housing Act 2004 and compliance with the Management of Houses in Multiple Occupation (England) Regulations 2006. Investigating com

The Building Act 1984

The Building Regulations 2010

Safety at Sports Ground Act 1975

### **3.0 RESPONSIBILITIES**

- 3.1 The Heads of Services are responsible for keeping this Enforcement Policy under review and monitoring it.
- 3.2 Where authorisation levels are specified within the document, those are considered to be the lowest level at which such action may be authorised.
- 3.3 All officers have individual responsibility for complying with the Enforcement Policy and must use the most appropriate legislation.
- 3.4 For the purposes of the Criminal Procedure and Investigations Act 1996 the Group Managers shall perform the function of Disclosure Officer for their Teams.
- 3.5 For the purposes of the Regulation of Investigatory Powers Act 2000, the Heads of the Services (or in their absence a Group Manager) has the delegated authority to authorise surveillance operations.
- 3.6 Where a shared enforcement role is identified, the relevant enforcement team will

4.2 In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

4.3 The aim of the Services is to improve the health, safety and wellbeing of the borough's residents, visitors and business community and to enforce the Council's planning policies. To help us achieve this we will:-

- (a) Work within the legal framework and apply the law fairly;
- (b) Make the service accessible to all sectors of the community;
- (c) Remain responsive to customer needs;
- (d) Deal with customers with honesty and integrity;
- (e) Work in partnership with groups which represent our customers;
- (f) Use the resources available to the maximum benefit of our customers;
- (g) Train and develop our staff to ensure their effectiveness;
- (h) Treat our staff and customers equally regardless of race, colour, nationality, ethnic origin, sex, marital status, disability or age.

These objectives will be achieved through education, guidance, advice and warning letters and where necessary by appropriate legal action including the service of statutory notices, compliance notices, suspension notices, prohibitions, formal cautions and prosecution.

4.4 The Human Rights Act 1998, which came into force in October 2000 places general obligations on enforcement bodies to ensure fair treatment for all, to prevent any form of prejudice and to provide a right to privacy. T173.94778(i)4.62233(g)-9.2(p104(i)4.62239

- (d) We will ensure that businesses are not required to carry out works at unnecessary expense;
  - (e) We will make provision for the particular interests of consumers within our area including business owners, employees and the public. For example we will make provision to visit businesses outside of normal office hours if necessary when the business is open; we will have access to an interpreting / translation service for those who do not speak English.
- 4.6 The Services will carry out their enforcement functions in an equitable, practical and consistent manner and to this end is committed to:-
- (a) Drawing up clear standards, setting out the level of service and performance the public and business people can expect to receive;
  - (b) Dealing with the public and business community in an open and honest way;
  - (c) Providing a courteous, efficient and helpful service;
  - (d) Responding promptly and positively to complaints about the service;
  - (e) Ensuring that enforcement action is proportionate to the risks in each case.
- 4.7 While it is understood that it is primarily the responsibility of individuals and businesses to ensure compliance with relevant legislation, the Council will help them, where possible, to understand their legal responsibilities. The aim of the Council is to secure compliance with the legislation, which it will do by making the most efficient use of the Council's resources and having regard to minimising burdens on businesses.
- 4.8 This policy supports and supplements specific guidance on enforcement action contained in statutory Codes of Practice, Government guidelines, approved industry guides, co-ordinating bodies such as the LBRO and other approved sources.
- 5. TRAINING, COMPETENCY AND AUTHORISATION**
- 5.1 Only officers authorised by the Heads of the Services may undertake enforcement duties. The Heads of the Services will only authorise officers where satisfied with their level of qualification, training and experience. Newly appointed or transferred officers will also be assessed by the Group Managers for competency and referred for training where necessary, in line with the Divisions' training policy.
- 5.2 Officers undertaking enforcement duties will be suitably trained and qualified to ensure they are fully competent to undertake their enforcement activities. Qualifications will be based on current government guidance. Appropriate training programmes for officers will be set up to achieve the necessary competence. The training requirements to achieve the necessary level of competence will be regularly reviewed by the Group Managers. Training will be prioritised within available resources.
- 5.3 Officers are responsible for ensuring they have regard to relevant guidance documents laid out in team procedures.
- 6. MANAGEMENT SYSTEMS**



- (e) Highlight the right to question works required by raising the matter with the relevant named manager;
- (f) Where appropriate, include the possible consequences of non compliance, the possibility of formal action being initiated with possible associated costs to the relevant person.

Copies of such documentation will be sent to all interested parties, such as head or regional offices, contract managers, etc. and in the case of health and safety matters, to staff representatives.

## **8. ENFORCEMENT OPTIONS**

- 8.1 In cases where more formal action is considered, such decisions will usually be taken by the Heads of the Services following an enforcement review. Enforcement reviews will comprise the appropriate Heads of the Services (or his/her nominee in his/her absence), as chair, along with the case officer, their Group Manager and a lawyer from the Council's Legal Services Division. Enforcement decisions will be consistent, balanced, fair and relate to common standards that ensure the public, businesses, employees and the environment are adequately protected.
- 8.2 In order to achieve and maintain consistency of enforcement, officers will follow all official guidance and codes of practice.
- 8.3 In the areas of food safety the Home Authority Principle set up by LACORS will be adhered to and in the area of health and safety the Lead Authority Principle shall be adhered to. Where applicable, the comments of the home, lead or originating authorities shall be considered.
- 8.4 The factors to be considered in coming to a decision include:
  - (a) The seriousness of the offence and health and safety implications;
  - (b) The past history of the offender;
  - (c) The confidence in management and the degree of wilfulness involved;
  - (e) The consequence of non-compliance;
  - (f) Mandatory/discretionary duties;
  - (g) The likely effectiveness of the various enforcement options;
  - (h) The different technical means of remedying the situation;
  - (i) The impact of the enforcement choice in encouraging others to comply with the law.
  - (j) The expediency of initiating enforcement action.
- 8.5 In the event of a contravention being detected then the enforcement options available to the Council include:
  - (a) Advice;
  - (b) Issue of an inspection report with details of recommended actions;

- (c) Warning letter;
- (d) Statutory powers, for example service of notice, emergency prohibition order or seizure provisions;
- (e) Formal caution;
- (f) Prosecution;
- (g) Injunctive restraint;
- (h) Execution of work required by statutory notice where the recipient has not complied.
- (i) Issue of Fixed Penalty Notice for Littering and Dog Fouling
- (j) Issue of a Penalty Charge Notice in relation to parking contraventions
- (k) Enforced Sale or Compulsory Purchase of property

In some cases a combination of enforcement options may be appropriate.

- 8.6 Officers will comply with Codes B, C and E of the Police and Criminal Evidence Act 1984 as it relates to local authority enforcement.
- 8.7 If enforcement action is being considered which the Council believes may be inconsistent with that adopted by other authorities or with nationally recognised guidance, or when the Council is informed of a possible inconsistency, the matter will, if appropriate, be referred to the relevant local co-ordinating body or the home authority. However, where circumstances could result in a serious risk to health, officers may continue to take enforcement action prior to any referrals.

## **9. STATUTORY NOTICES**

- 9.1 The statutory notice procedures will in general be





- 10.7 In considering whether to administer a formal caution the following criteria must be met:
- (a) There must be evidence of the offender's guilt sufficient to give a realistic prospect of conviction. In other words a conviction should be more likely than an acquittal before a court of law,
  - (b) The offender must admit the offence, and
  - (c) The offender must be an adult and must understand the significance of a caution and give informed consent to being cautioned. This agreement will not be sought until it is decided that cautioning is the correct course of action.
- 10.8 In deciding whether to caution or prosecute the following factors must be taken into consideration:
- (a) The nature and seriousness of the offence;
  - (b) The likely penalty if the offender was convicted by a court;
  - (c) The offender's age and state of health;
  - (d) The offender's previous criminal history;
  - (e) The offender's attitude towards the offence;
  - (f) The views of the victim or any aggrieved party;
  - (g) Whether compensation has been paid.
- 10.9 If a prosecution is deemed not to be required in the public interest it will often be appropriate to take no further action (other than to give advice) and this course will always be considered. However, the nature of the offence and other factors may make it more desirable to issue a caution.
- 10.10 If an offender refuses to accept a formal caution, the delegated officer will reconsider the evidence and decide whether or not a prosecution should be instituted in line with the Council's Constitution.

## **11. PROSECUTION**

- 11.1 The Council recognises that the decision to prosecute is significant and could have

## 11.5 The Evidential Stage

- (n) The need to influence the offender's future behaviour;
- (o) The probable public benefit of a prosecution and the importance of the case in maintaining community confidence;

prosecution for health and safety breaches. In all cases, the work-related deaths protocol for liaison signed by the appropriate agencies will be followed.

- 11.14 On completion of prosecution cases, officers must inform other interested parties of the outcome of the case as necessary. In particular, any complainants or victims will be informed. The outcome of the case will be reviewed with the relevant Group Manager to discuss any necessary future action.

## **12. COMPLAINTS AGAINST THE SERVICES**

- 12.1 If any person is unhappy with the action taken or information or advice given by officers of the Council or believe they have not received fair or consistent treatment as outlined in this policy, they will be given the opportunity to discuss the matter with the appropriate Heads of the Services. Officers approached with such a request will refer them to their Group Manager, who will listen to their complaints, consider whether the enforcement policy has been breached in this instance and give a reply in writing. This is without prejudice to any formal appeal mechanism. If the problem cannot be resolved, the person will be informed of the Council's complaints procedure.

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