



Enforcement Policy

Environmental Health Department (April 2014)

1. Introduction

When carrying out regulatory work, the Environmental Health Department will comply fully with the Council's Corporate Enforcement Policy, Enforcement Concordat and the Regulators Code. This departmental policy describes the procedures in place to ensure compliance with these documents and makes reference to specific issues associated with the regulatory work that we do, not necessarily shared with other Council departments.

2. Departmental Enforcement Procedures

The Department will avoid imposing unnecessary regulatory burdens through our regulatory activities, assessing whether similar social, environmental and economic outcomes can be achieved by less burdensome means.

Proportionate approaches will be taken on businesses that we regulate, based upon factors such as business size and capacity. When developing and reviewing policies, operating procedures and practices we will consider how to support or enable economic growth for compliant businesses and other regulated entities.

The Department will also consider how we can:

- Minimise the negative economic impacts of our regulatory activities
- Minimise the costs of compliance of those we regulate
- Improve confidence in compliance for those we regulate
- Encourage and promote compliance

We will ensure that our regulatory officers working in the Department will have the necessary knowledge and skills to support those businesses that we regulate and to understand those we regulate against and how to choose the correct proportionate and effective approaches to compliance.

We will give businesses clear and reliable regulatory information, guidance and advice so they can invest and grow with confidence that if they comply with that advice they will not face enforcement action.

This approach will be our first option to secure compliance, however this may not always be appropriate and as such a reasonable approach using regulation will be followed, guided by these key principles of enforcement.

- Proportionality
- Consistency of approach
- Transparency
- Targeting
- And flexibility

When an officer identifies non-compliance they will clearly explain what this is, the advice being given, actions required or decisions to be taken, and the reasons for these. There will be an opportunity wherever possible for dialogue to ensure that the officer is acting in a way which is proportionate and consistent. We are committed to deal firmly with businesses that deliberately or persistently fail to comply.

Where an officer witnesses a situation where immediate enforcement action is required to prevent or respond to a serious breach, appropriate action will be taken.

There are a wide range of options available covering the breadth of environmental health functions and these include:

- Verbal and written warnings
- Voluntary undertakings
- Liaison with the primary authority
- Statutory notices
- Simple cautions
- Formal prosecutions
- Financial penalties eg. fixed penalty notices
- Works in default
- Modification, refusal, suspension and revocation of Licences or changes to conditions
- Seizure, forfeiture and detention
- Closure / prohibition of premises or equipment usage
- Prohibition of persons
- Anti social behaviour powers
- Injunctive actions and Enforcement Orders
- Penalty points (taxi and private hire license holders only)

Any enforcement action considered by this Department will follow the procedures below:

- i) Once an offence is deemed by an Officer to have been committed, the appropriate action will be taken to remedy the offence, guided by the principles of the Council's Corporate Enforcement Policy.
- ii) When an Officer believes enforcement action is appropriate they shall ensure that:
 - the action is in line with recognised guidance on securing compliance.
 - the action is in line with the powers used by authorised officers
 - the action is in line with departmental quality assurance (QA) work instructions, with reference to consulting their line manager where appropriate.
 - the action is proportionate to the alleged offence.
 - the evidence is likely to stand up to legal scrutiny to demonstrate an offence has occurred.
 - a successful defence is unlikely and any interference with a Convention under the Human Rights Act 1998 is justified.
 - it is in line with the Regulation of Investigatory Powers Act 2000.
 - it is in line with the Regulatory Enforcement and Sanctions Act 2008
 - the Council's enforcement policy has been adhered to.
 - they differentiate between a legal requirement which is essential to that of "good practice" which is desirable where necessary.
- iii) If the appropriate action is to consider a prosecution or simple caution, any officer who prepares a report recommending this will ensure that:
 - the action is proportionate to the alleged offence.
 - evidence gathered in accordance with the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996 and Criminal Justice and Police Act 2001.
 - a successful defence is unlikely and any interference with a Convention under the Human Rights Act 1998 is justified.
 - It is in line with the Regulation of Investigatory Powers Act 2000.
 - consideration has been given to the general principles contained within the Code for Crown Prosecutors and the action satisfies the "Evidential Test" and the "Public Interest Test"
 - and the action is consistent with the overall enforcement approach taken across the department.
- iv) The final decision as to whether a prosecution is the correct course of action is made by the Governance Director, following any recommendations made by the Chief Environmental Health Officer

3. Consideration of Shared Enforcement Roles

The breadth and nature of Environmental Health work means that we regularly come across situations where other council departments and outside agencies also have a role in protecting human health and the environment. In dealing with those situations and applying the correct regulations, it is important that all those involved are aware of their role and the need to ensure that they work effectively together. The following list describes the main areas of shared responsibility and some of the other agencies with whom we will work.

<u>Department/Agency</u>	<u>Nature of Shared Responsibility</u>
Planning Department, Preston City Council	Applications for Planning Permission
Trading Standards Department, Lancashire County Council	Food safety matters - labelling, food quality and composition. Underage sales of alcohol
Health & Safety Executive	Health & safety in the workplace
Lancashire Constabulary	Licensing of premises for alcohol sales, regulated entertainment and late night refreshments. Community safety
Lancashire Fire & Rescue Service	Fire safety - ensuring that fire safety standards are maintained in business premises and private rented housing.
Environment Agency	Contaminated land, pollution prevention & control & accumulations
Public Health Team, Lancashire County Council	Smoking cessation within workplaces
DEFRA (Dept. of the Environment, Farming and Rural Affairs), the Agricultural and Dairy Advisory Service and the Farming and Rural Conservation Association	Standards within dairy operations and pasteurisation plants. Egg production and packing operations
Vehicle and Operator Services Agency	Maintenance of safety standards of taxi and private hire vehicles.
Food Standards Agency	Large scale food safety issues to do with contamination/distribution or food crime
HM Revenue and Customs	Tobacco duty and illegal importation

Although the degree of overlap between these agencies and the Council may vary from case to case, we will always follow the procedures outlined below. In some cases, specific instructions in our documented quality assurance systems may also supplement these procedures. Where there is a need to share enforcement information with other agencies we will follow the provisions of the Data Protection Act 1988.

i) Routine Requests for Service

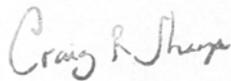
Where such a request is received and it is immediately apparent that it is the responsibility of another agency, the request will be forwarded to that agency as soon as practicable and in any event, within 5 working days. The customer will also be informed that their request has been passed on.

ii) Investigations

During the course of routine investigations, it may become apparent that another agency should be involved or taking the lead role. If this is the case, our investigation will cease, pending further instructions from the lead agency. (Gathering information and evidence on behalf of another agency could, in some cases, compromise this information). Any information gathered by our department will be passed on immediately to make sure the investigation is not delayed in any way.

iii) Joint Investigations

There may be some circumstances where joint visits or investigations may be necessary. Similarly, certain application or licensing procedures undertaken by the Council may require an input from more than one department or agency. In such cases, all relevant information will be shared openly and promptly between the parties involved.



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