



ENFORCEMENT PROTOCOL

1.0 INTRODUCTION

This document sets out what businesses, individuals and the community as a whole can expect from the Division's enforcement officers. It commits us to good enforcement policies and procedures.

The primary function of the Division's enforcement work is to protect the public and the environment. At the same time equitable and consistent enforcement helps to maintain a level playing field for local business, as well as our service users.

We recognise that the effectiveness of legislation depends upon the compliance of those regulated and that most businesses and individuals want to comply with the law. We will therefore assist and advise wherever possible, whilst taking firm action against those who flout the law or act irresponsibly.

Broxtowe Borough Council has adopted the Government's Concordat on Good Enforcement and the Regulators Compliance Code, we thereby commit ourselves to the following policies and procedures:

2.0 POLICIES

2.1 **Standards**

In consultation with businesses and other interested parties, we will draw up clear standards setting out the level of service and performance that the public and business can expect to receive. We will publish these standards and our annual performance against them.

2.2 **Openness**

We will provide accessible information and advice, in plain language, on the legislation that we enforce. We will be open about how we set about our work, consulting local businesses and other interested parties.

2.3 Helpfulness

We believe that prevention is better than cure; we will actively work with local businesses to advise on, and assist with, compliance. We will provide a courteous and efficient service, and our staff will identify themselves by name. We will offer a contact point and telephone number to encourage further liaison. We will make interpreters and translation available whenever necessary. Applications for licences, registrations etc. will be dealt with efficiently and promptly. We will strive to ensure that wherever practicable, our activities are effectively co-ordinated to avoid unnecessary overlaps and/or delays.

2.4 Complaints about our service

We will maintain our informal and formal complaints procedures, which are easily accessible to all service users, and which explain all rights of complaint and appeal, including the likely time-scales involved.

2.5 Proportionality

We will take into account the costs of compliance for business by ensuring that any enforcement action we take or remedial action we require is proportional to the risks. We will, as far as the law allows, work with businesses and individuals so that they can meet their legal obligations, without unnecessary expense.

2.6 Consistency

We will carry out our duties in a fair, equitable and consistent manner. Whilst officers necessarily exercise judgement in individual cases, we will have arrangements in place to promote consistency, including liaison with other authorities and enforcement bodies.

2.7 Human Rights Act 1998

All enforcement activity will be undertaken with due regard to the provisions of the above legislation which derives from the European Convention on human rights especially:-

- Article 6 – the right to a fair trial.
- Article 8 – the right to respect for private and family life.
- Article 1 of the First Protocol, which relates to the protection of property.

3.0 PROCEDURES

Advice from an officer will be put clearly and simply, in writing on request and including any appropriate time scale. Legal requirements will be clearly distinguished from best practice advice.

- Before formal enforcement action is taken, officers will provide an opportunity for discussion of relevant circumstances, unless immediate action is required (e.g. to prevent destruction of evidence).
- Where immediate action is taken, reasons for such action will be given at the time, and confirmed in writing within 10 working days.
- Where there are rights of appeal against formal action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

4.0 APPLICATION OF OUR PROTOCOL

- All Officers must refer to this protocol when making enforcement decisions. It must be read in conjunction with approved guidance on enforcement action. Regard must also be had to any internal quality procedures.
- Enforcement options include
 - Written advice
 - Reference to another enforcement agency
 - Written warning
 - Improvement/prohibition notice
 - Emergency Prohibition notice/Rendering an article safe
 - Simple caution
 - Prosecution
- In some circumstances matters may be referred from or to another agency for advice, information or for enforcement action. Where a joint approach is needed with another agency we will arrange it.
- Any departure from this protocol must be exceptional, capable of justification and be fully considered by the Principal Officer or the Assistant Director (Health) before a final decision is taken. This proviso shall not apply where a risk of injury or to health is likely to occur due to a delay in any decision being made.

- In cases of emergency or where exceptional conditions prevail, the Director of Housing, Health and Leisure or Assistant Director (Health), may suspend all or part of this protocol where necessary to achieve effective running of the service and/or where there is a risk or injury to health or employees or members of the public.

5.0 DECIDING WHETHER TO PROSECUTE

Before deciding whether to prosecute a business or an individual we will consult with the Council's solicitor and give consideration to a number of factors including Central Government guidance and the Code for Crown Prosecutors. These factors, which are not listed in order of significance, will include the following:-

- The seriousness of the alleged offence;
- The history of the party concerned;
- The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers;
- Whether it is in the public interest to prosecute;
- The likelihood of success of the prosecution;
- Whether any other action (including formal caution) would be more appropriate or effective.

6.0 REVIEW

It is intended that this document will be subject to a periodic review to accommodate changes in legislation, local needs and the views of our customers.

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