

General Introduction to Enforcement

The Council is responsible for protecting the health and well-being of the people that live and work in its areas under Acts of Parliament that are concerned with things such as:

- Controlling how land can be used and what can be built on it
- Ensuring that food that people buy and are served with is safe to eat
- Making dangerous buildings safe
- Protecting the safety of people at places where they work and enjoy their leisure time
- The provision of facilities such as car parks
- Keeping the environment clean and safe

Most people and businesses behave in a neighbourly and considerate way towards others. Unfortunately, however, some do not and this sometimes results in them breaking laws that the Council has been entrusted to uphold. When this happens the Council may taken “enforcement action” to make those who have done something wrong put things right.

The Principles of Good Enforcement – Policy and Procedures

Introduction

The Council has signed up to the “National/Local Government Concordat on Good Enforcement”, an informal agreement, which seeks to achieve uniformity and consistency by all local authorities when exercising their enforcement functions.

This Corporate Enforcement Policy defines how Stafford Borough Council will achieve uniformity and consistency in our dealings with customers. It sets out what businesses and individuals can expect from Stafford Borough Council officers who are enforcing legislation. It is a general policy and will be supported by specific procedures, policies and customer charters that are applicable to the individual Sections of the Council for their specific regulatory requirements (for example in Environmental Health, Planning, Engineering, Legal, and Benefits).

The main function of local government enforcement work is to protect the public, the environment and groups such as consumers, private tenants and workers and to safeguard public funds. The effectiveness of legislation in protecting society depends crucially on the compliance of those being regulated. The Council recognises that most businesses and individuals want to comply with the law. The Council will, therefore, take care to help businesses and others to meet their legal obligations without unnecessary expense whilst taking firm action, including prosecution, where appropriate, against those who fail to comply with the law or act irresponsibly. All citizens will benefit from this policy through better information, choice and safety.

Principles of Good Enforcement – Policy

- **Standards of service provision** – To draw up clear standards setting out the level of service and performance the public and business can expect to receive. These standards of service will be made available to customers at the beginning of dealings with them.
- **Openness about the service**- Information and advice on the rules that we apply are in plain language. We are open about how we set about our work, including any charges that we are required to set. We will also discuss general issue, specific compliance failure or problems with anyone experiencing difficulties.
- **Helpfulness to service users** – We believe that prevention is better than cure and that our role involves actively working with the public and business to advise and assist with compliance. We aim to ensure that our service is polite, courteous and efficient at all times. Our staff will identify themselves by name and a specific contact name will be allocated to each request for service or inspection where practicable. Where possible we will co-ordinate inspections with other disciplines/departments to ensure that disruption to business is kept to a minimum while carrying out our statutory functions. It should be remembered, however, that the enforcement function seeks compliance with legislation. Where non-compliance poses imminent risks, or where informal action continually fails to meet the required compliance, we will not hesitate to use our statutory powers to ensure a satisfactory conclusion.
- **Complaints about the service** – Complaints about actions/advice from members of staff are dealt with in the first instance by the officer's line manager. Details of this procedure and contact name are given to the customer at the outset of the inspection/investigation. If the officer is a line manager then the contact will be the Chief Officer of the particular service area. If the customer is still dissatisfied they will be advised to contact the Council's Chief Executive's office for advice on the corporate complaints procedure. The complaints procedure is an integral part of service monitoring and review.
- **Proportionality of the service response** – We aim to minimise the cost to business for compliance by ensuring that any action we take is proportionate to the risks involved. We therefore risk assess each premises and allocate resources dependant on the risks they pose. High-risk premises are inspected on a far more frequent basis than those posing little or no risk. We will take particular care in our dealings with small businesses and voluntary organisations so that they can meet their legal obligations without unnecessary expense. However, it should be borne in mind that the Council has a duty to protect employees and persons visiting commercial or business premises and this must remain uppermost in the determination of compliance action at the end of the day.
- **Consistency of service**– We aim to carry out our duties in a fair, equitable and consistent manner. We have systems and procedures in place to ensure our officers operate consistently and we implement and review training programmes to encourage this practice. We also

review training and enforcement arrangements in liaison with both adjoining local authorities and other statutory bodies to ensure consistency in those businesses with multiple local or national outlets where applicable.

- **Service Reviews** – We continually review service delivery and customer satisfaction through surveys and customer feedback. Comment and feedback are important to us and this is why we positively encourage customers to let us know whether our actions have met the above criteria. We look at every suggestion to ensure we provide the best possible service at all times.

Principles of Good Enforcement – Procedures

Advice from an officer will be put clearly and simply and will be confirmed in writing, explaining why any remedial work is necessary and within what timescale where applicable. Such advice will ensure that legal requirements are clearly distinguished from best practice advice.

Before formal action is taken, officers normally provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference – unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence from being destroyed).

Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within 5 working days.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

Levels of Enforcement Action

Prevention

We believe that the first step in enforcement is to help prevent contravention of the law by raising awareness and promoting good practice. Methods of achieving this include the production of leaflets and other forms of written guidance and opportunities presented by day-to-day contact with businesses and other customers.

Informal Action

Informal action includes offering advice, verbal warnings and requests for action, the use of letters and inspection reports. We will use our best efforts to resolve any situations where the law may have been broken without the use of formal notices, or referring the matter to the courts. This will be our first option when the circumstances indicate that a minor offence may have been committed and we are confident that appropriate corrective action will be taken. This may not be an option in the case of criminal investigations. We will confirm the situation in writing in a clear manner and explain why any

recommended remedial work is necessary and over what time scale it should be completed. When we write to you, we will make sure that legal requirements are clearly distinguished from recommendations.

Legal Notice

Many of the various pieces of legislation that we enforce provide for the service of formal notices or instructions to individuals, businesses and other organisations requiring them to meet specific legal requirements (for example Statutory Notice, Stop Notice, Improvement Notice, Enforcement Notice, Prohibition Notice, Abatement Notice).

Where a formal notice or instruction is served the method of appealing against the notice and the timescale for doing so will be provided in writing at the same time. The notice or instruction will explain what is wrong, what is required to put things right and what the likely consequences are if it is not complied with.

In most situations before formal action is taken, we will provide an opportunity to discuss matters and hopefully resolve points of difference. However, this may not be possible where immediate action is considered necessary, e.g. in the interests of health, safety, to combat fraud or to protect the environment.

Formal Caution

The use of formal caution offers an alternative to prosecution and will be considered during any decision to prosecute. Before issuing a caution, the following conditions must be satisfied:

- There must be evidence of guilt sufficient to give a realistic prospect of conviction if the case were to be taken to prosecution
- The offender must understand the significance of the formal caution and consent to it
- The offender must admit the alleged offence by signing a formal caution form

A formal caution is a serious matter, which will influence any future decision should a Company or individual offend again. It can be referred to in any subsequent court proceedings, but this will not apply if the caution was issued more than 3 years before. Where the offer of a formal caution is refused, a prosecution will generally be pursued.

In certain cases an administrative penalty (or fine) may be offered as an alternative to prosecution.

Prosecution

Where the circumstances warrant it and the alternative actions previously mentioned in this policy are considered inappropriate, then prosecution may result. Any decision to prosecute will take into account the criteria set down in

the Code for Crown Prosecutors and Attorney Generals Guidelines. Copies of the Code for Crown Prosecutors are available from HMSO Stationery Office. We will consider the following factors when deciding whether or not to prosecute:

- The seriousness and effect of the offence
- The foreseeability of the offence, or the circumstances leading to it
- The intent of the offender
- The history of offending
- The attitude of the offender
- The deterrent effect of a prosecution, on the offender and others
- Whether there is enough evidence to prove the offence

Injunction

In certain circumstances, if the authority is of the opinion that proceedings in the magistrates' court would afford an inadequate remedy, it may take proceedings for injunctive relief.

Direct action

Entering onto land or other premises to put right what has been done wrong at the wrong doer's expense.

What you can expect from us

We will be objective to ensure that our decisions are not influenced by the gender, ethnic origin, religious or political beliefs, or sexual preferences of any alleged offender. We will respect your human rights.

We will enter into discussion and offer advice to anyone to try to ensure that they do not unnecessarily expose themselves to the possibility of formal action through a lack of understanding or information.

We will be consistent in our approach by following the criteria and guidance set down in relevant legislation, codes of practice and the written procedures that our Services have developed.

In any verbal communication, if the person appears to have an impairment or there is doubt about his/her hearing or speaking ability to understand English then the enforcement officer will call upon the services of an Interpreter. Where the recipient's first language is not English a suitable written translation of all written communications, in the recipient's first language, will also be issued in addition to an English version on request.