

Enforcement Policy for Waverley Borough Council

The Council's Enforcement Policy is reproduced below. It was adopted formally by Waverley in 2003, and is consistent with the 'Enforcement Concordat' produced by the Cabinet Offices' Better Regulation Unit.

Introduction

The Council has signed up to the 'Enforcement Concordat' produced by the Cabinet Offices' better regulation unit.

Aim of the Enforcement Policy

Legislation will be enforced in a fair and consistent manner but with care taken to ensure that the merits of any particular case are fully explored

The Council's approach to non-compliance with the law.

Enforcement powers will be used as a means to support policy objectives and consistent regulatory control rather than for their own sake.

The Council's approach to enforcement will be related to the seriousness of the circumstances in any case and the potential risk to health, safety, public amenity and good order.

- Where a minor breach of the law occurs and the business or individual is prepared to put things right, a written warning will normally be given. (However, action will be taken if the written warning is ignored in accordance with the approach set out below).
- Where a serious breach of the law occurs, the Council is likely to take the most appropriate enforcement action in order to prohibit activities, remove unacceptable structures or effect necessary improvements in the public interest.

In all cases, the Council will explain the law or regulation being broken. Two types of enforcement activity are undertaken by the Council. (i) that which is "planned" to monitor compliance with regulations and (ii) that which is responsive to complaints.

Guidance and advice will be given so that those who come into contact with enforcement will know precisely what is expected of them and what they can expect from the Council. A clear distinction will be made when requesting remedial work between what is desirable and what must be done.

The emphasis will be on persuasion, influence and education to secure the aims of legislation and local policies but swift and firm action will be taken against those who deliberately flout or ignore the law.

The Council undertakes two types of enforcement activity. (i) that which is "planned" to monitor compliance with regulations and (ii) that which is responsive to complaints.

Priority on planned and responsive (i.e. complaints) work will be given to those activities/work which give rise to the most serious risk of harm to health, safety or public amenity or where hazards are poorly controlled. On occasions this will mean that responsive work will assume a higher level of priority than planned work, e.g. when there is an outbreak of food poisoning.

The Council will confirm its decision in writing following an investigation.

The practical application of the Council's approach to non-compliance with legislation

Where the Council has decided to take immediate enforcement action or requires immediate remedial action (including those cases where it has a duty as opposed to a discretion to act), it will provide a written statement explaining the reasons for the immediate action in addition to the formal notice.

Where the Council has expressed the opinion that remedial action is necessary, it will write to the business or person concerned to explain what the legal requirement is, what needs to be done and by when.

Rights of appeal will be explained.

The Council will provide a written statement, where enforcement action has been taken, explaining the grounds and procedures for any statutory appeal. Time limits for appeals to be made will be explained. If action is suspended when an appeal has been made you will be informed.

What you may expect from the Council when you complain about a breach of the law or regulations.

The Council will respond in writing explaining

- Who is dealing with your complaint;
- whether or not there has been a breach of regulations;
- setting out what the Council intends to do together with the timetable to which it will be working.

The Council will keep you informed on progress on a case under investigation as and when there are developments to report.

Complaints will be dealt with in confidence and your identity will be protected during the investigation. Complainants may, however, be asked to assist the Council if the matter of concern to them ends up in a hearing, tribunal or court. This may include being required to give evidence.

The Council will not be under an obligation to act on complaints which are made anonymously.

Complaints will be prioritised in accordance with the assessed level of harm to public safety and/or public amenity and this will be reflected in the timetable set out in the initial response to a complaint.

Since new cases are continuously opened, the initial priority rating of any one case may be changed over time. New evidence obtained during investigation may raise the priority rating of an individual case.

Where the Council is not responsible for enforcing the area of concern, it will pass on the complaint to the relevant enforcement agency within five working days of receipt of the complaint and will advise the complainant of this.

Criteria relating to the prosecution or proceedings for non-compliance with legislation

Prosecution will be necessary where there is:

- a risk of serious pollution of the environment or harm to health;
- a blatant disregard of responsibilities under the relevant legislation;
- failure to comply with an earlier enforcement notice;
- an offence that is of such gravity that other forms of action is inappropriate.

Before deciding whether or not to prosecute, the following factors will be considered:

- the seriousness of the offence or misconduct;
- the willingness of the party to prevent a recurrence of the problem; the probable public benefit of a prosecution or proceeding;
- whether other action would be more appropriate, e.g. the issue of a formal caution or a notice;
- any explanation offered by the individual, organisation or business concerned.

Where a prosecution is warranted, it will be brought promptly. Similar criteria will be applied where the Council has to consider proceedings to improve the conduct of business or individuals in the public interest.

Rules that will govern the way in which enforcement officers carry out their work

Officers will:

- identify themselves by name and organisation and produce their identification badges;
- act with courtesy, competence, fairness, honesty and integrity;
- impartially exercise their independent professional judgement to the best of their skill and understanding;
- be open about how they go about their work;
- treat the views of persons/organisations in breach of regulations and of complainants with due care and sensitivity;
- talk to colleagues to ensure that others are aware of their actions;
- respect commercial and personal confidentiality.

Enforcement Officer means any person who acts on behalf of the Council, or in his/her own right under relevant legislation, to enforce regulations.

The Council will protect its staff from aggression at work, including during investigations and prosecutions. Incidents of aggression will be reported to the Police.

There are differing timescales for different complaints. Information will be given on time targets for dealing with each stage of work on a complaint or pursuing a case. The Council's agreed targets, where relevant, will be specifically identified.

If You Are Unhappy With The Way You Have Been Treated.

If are not satisfied with the way in which the Council has acted in carrying out its duties, then you should discuss your concerns with a Manager of the service in an attempt to resolve the issue. If this fails to satisfy you, then you should direct your concern to the Chief Executive and through the Council's formal complaints procedure.

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