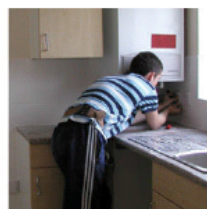




ENFORCEMENT POLICY

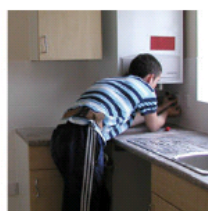
2018-2021



Document Control	
Prepared by:	Environmental Health
Title	Enforcement Policy
Status	Draft
Author	Nesta Barker
File Name	
Document Owner	Nesta Barker
Keywords	Enforcement, policy, compliance, regulation, non-compliance
Date of Review	03/02/2018

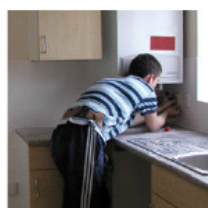
Revision History			
Version	Date	By	Summary of Change
1.0	18/02/2014	N Henshaw	Creation
1.1	19/03/2014	N Henshaw	Comments from EH incorporated
1.2	09/05/2014	N Henshaw	Comments from Corporate enforcement working group. Approved by Council 04/06/2014
2.0	03/01/2018	N Barker	Review & Update

Approval Signature			
Name: Nesta Barker	Head of Environmental Health	Date	
Name:	Chief Executive	Date	
Council	Approved	Date	



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1.0 INTRODUCTION

Fair and effective enforcement is essential for the economic interest and protection of the public, business and the environment.

This enforcement policy provides guidance to officers, businesses and the general public on the range of options that are available to achieve compliance with legislation enforced by Newcastle-under-Lyme Borough Council. The policy has been approved by Newcastle-under-Lyme Borough Council.

The decisions of the Council and its officers about enforcement action, and in particular the decision to prosecute, have serious implications for all involved. The aim of this policy is to set out the principles that apply when the Council conducts its enforcement work and should be read in conjunction with the scheme of delegation. By applying the same principles, everyone involved in the decision making process is treated fairly and our business is conducted effectively. This Policy is adopted by Newcastle-under-Lyme Borough Council (hereafter referred to as 'the Council').

This policy applies to all areas except Planning, which is available [here](#). Although specific guidance on the particular approach taken by certain areas may also be provided – any additional guidance will be in accordance with the approach taken by this policy.

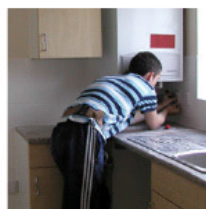
We believe that most businesses and individuals want to abide by the law and the Council will assist them where possible. We recognise that prevention is better than cure, but firm action will be taken against those who break the law or act irresponsibly.

We believe that businesses and individuals should know the approach that will be taken by the Council where enforcement is warranted and should have confidence that officers will ensure that their approach is:

- Focused
- Fair
- Accountable
- Consistent
- Proportionate and
- Transparent.

The Council seeks to follow the principles of good enforcement contained in the [Regulators' Code](#). These principles help businesses and individuals to comply with regulations, and help enforcers to achieve higher levels of voluntary compliance. Our key approach is summarised as follows:

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- Focused enforcement - Our enforcement resources will be targeted primarily on activities giving rise to the most serious risks to the environment, health and safety or the public.
- Any enforcement will be fair, accountable, consistent, proportionate and transparent.
- The burden on business will be reduced through improved partnership working and more consistent working as a Council
- The public and businesses will be involved in our enforcement approach and policies.
- Improved communication.

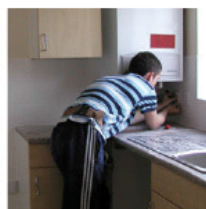
2.0 AIMS

2.1 Focused Enforcement

We will take account of both national priorities for local government enforcement together with local priorities based on evidence or emerging need. We will focus enforcement towards matters with the greatest risk to public health, safety, animal health, the economic or environmental well being of the community, those where we believe there is an expectation from our residents, businesses or elected members that action should be taken, or to the other stated priorities of the Council including those set out in [Council's Plan](#). Focused enforcement means making sure that regulatory effort is directed primarily towards those whose activities give rise to the most serious risk or where the risks are less well controlled. Action will be primarily focused on those directly responsible for the risk and who are best placed to control it.

The services prioritise regulatory effort. Factors include response to complaints from the public; the existence of statutory powers and the assessment of risk (e.g. the potential for a particular breach of regulations to cause environmental damage or damage persons' health and safety). Management actions are important in the assessment of risk. Repeated incidents or breaches of regulatory requirements, which are related, may be an indication of an unwillingness to change behaviour, or an inability to achieve sufficient control. A relatively low hazard site or activity poorly managed has potential for greater risk than a higher hazard site or activity where proper control measures are in place.

Where formal enforcement action is necessary the person responsible should be held to account. Where several persons share responsibility, the services will take action against those who can be regarded as primarily in breach.



We will

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;
- be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- be proportionate to the nature of the offence and the harm caused;
- aim to restore or redress the harm caused by regulatory non-compliance, where appropriate; and
- aim to deter future non-compliance.

2.2 Fairness/Consistency/Accountability/Transparency

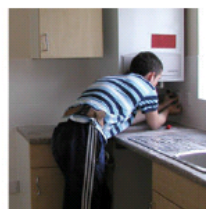
Fairness - Whilst responsibility for compliance with legislation falls to businesses or individuals, we will provide relevant advice and guidance. We will advise businesses and individuals of relevant requirements by publicity, use of the Council website, signage and information leaflets as necessary. Where direct contact is made officers will identify themselves by name, and a contact telephone number will be provided. We will take account of the circumstances of small regulated businesses or individuals, including any difficulties they may have in achieving compliance.

We will provide appropriate advice or signposting, where we can, in response to requests. Officers will consider statutory codes of practice and other relevant 'good practice' guidelines or standards as well as current legislation. Where appropriate, officers will highlight forthcoming legal developments.

Consistency - The Council will maintain systems designed to ensure, so far as practicable, that enforcement activities are carried out to a consistent standard and will monitor compliance with our enforcement policy. Officers will continue to work with colleagues in other authorities to seek to ensure consistency and continuous learning.

Transparency - Unless immediate action is required to prevent or respond to a serious breach, or where to do so is likely to defeat the purpose of the proposed enforcement action, when considering formal enforcement action, we will normally discuss the circumstances with those suspected of a breach and take into account their views when deciding on the best approach.

Any applicable rights of appeal against enforcement decisions will be made known to affected persons or organisations at the time and in writing. Officers will clearly distinguish between requirements to comply with legal obligations and other recommendations.



Accountability - The Council's [complaints, comments and compliments policy](#) sets out how to complain, express dissatisfaction, comment or compliment the services we provide.

2.3 Reduction of Burden on Business

We recognise that dealing with regulations has a cost to business. We also recognise that businesses wish there to be a level playing field. We will seek to ensure that interventions in businesses are kept to a minimum by:

- a) ensuring that we join up across the authority and with other agencies
- b) utilising national schemes such as primary authority
- c) focusing our enforcement as detailed in this policy

2.4 Involvement of Businesses

We welcome comments from businesses, residents and the public regarding the Councils approach to enforcement. We believe that they have valuable insight that we should take into account when deciding the approach we take. We therefore welcome feedback on the work that we do and comments on our enforcement policy and service standards. These can be made through the Council's complaints, comments and compliments policy.

We believe that part of our role is to help businesses comply with the law. We will therefore, where possible, provide training, information and advice.

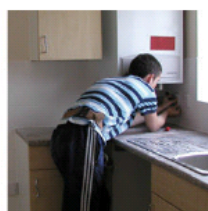
2.5 Customer focus

As part of the Council's commitment to delivering high quality services, we continuously seek to understand the needs of those who live, work invest in or visit the Borough and respond to those needs appropriately in either a proactive or reactive way. We aim to be a Council you can trust, delivering good quality efficient services.

We are committed to communicating with customers (that is businesses, residents and visitors to the Borough) in the most appropriate form.

When revising current or setting new policies or controls we ensure that our proposals are based on sound evidence.

Where we reasonably can, we make provision for the particular needs, interests of consumers, business owners, employers and the general public.



3.0 ENFORCEMENT FOR COMPLIANCE

3.1 Inspection and Intervention Programme

Relevant business activities and/or premises are risk assessed to inform an inspection and/or intervention programme, and the level of risk is reviewed regularly. We will focus our greatest inspection effort on those regulated where risk assessment shows that both:

- A compliance breach or breaches would pose a serious risk to a regulatory outcome or to health or the environment;
- There is high likelihood of non-compliance by those regulated. Inspection and intervention frequency will generally be risk based, but may additionally be determined by set, or prescribed, intervals and additional interventions may take place as part of a local or national campaign.

Visits are also made to businesses for other reasons, such as advice, as a result of an allegation or for a sample or test purchase and will probably be without prior notice.

3.2 Sampling Programme

The purpose of sampling is to protect public health and the environment and to verify standards. This enables officers to provide information and advice to improve business practices.

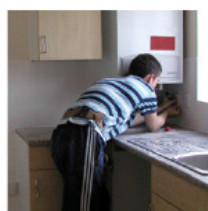
A sampling programme sets out samples, test purchases (e.g. foodstuffs) the collection of materials (e.g. soil, air, water) taken in response to enquiries, as a part of a planned survey/exercise or as a result of officer or national initiatives. The programme sets out planned activities and targets for the year, concentrating efforts into risk-assessed areas of trade or products in order to ensure the most effective use of resources.

3.3 Primary Authority Principle

It is our policy/intention to act as Primary Authority for businesses which have their decision making base within the Borough, where they so desire. Where businesses have a Primary or Home Authority elsewhere, officers will contact other relevant local authorities at the earliest practicable time.

3.4 Statutory Notifications

Where appropriate we will report incidents and enforcement actions to relevant bodies, such as the Department of Trade and Industry, Health and Safety Executive, Food Standards Agency, Environment Agency, DEFRA, DVLA, DWP,
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Trading Standards, Staffordshire County Council, Staffordshire Fire and Rescue, Office of Fair Trading and any other statutory bodies, and respond appropriately to notifications, such as Health and Safety alerts and alerts from the Food Standards Agency. Information will be shared with other regulators where it is appropriate to do so.

Performance will also be reported where required and publicised in the relevant annual corporate plans.

The authority will work alongside partner agencies in pursuit of the objectives of the Serious Organised Crime Strategy which aims to reduce the level of serious and organised crime under the umbrella of the following;

Pursue – prosecute and disrupt people engaged in serious organised criminality

Prevent – prevent people engaging in serious and organised crime

Protect – increase protection against serious and organised crime

Prepare – reduce the impact of this criminality where it takes place.

3.5 Enforcement Visits

When conducting enforcement visits, other than for test purchasing or covert purposes, officers will make their identity known and explain why they are there. Officers may make combined visits with other agencies where there is a shared and/or complimentary enforcement role.

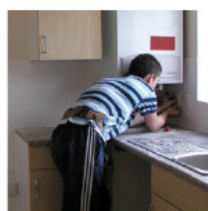
3.6 Evidence Gathering

The authority will record complaints it receives and the action it takes in response. We will encourage those who provide information to supply their contact details and explain how the information they provide may be used. Generally the authority will only be able to take enforcement action if their account can be confirmed in a form admissible to the courts – i.e. witness statement.

Officers may also identify potential non-compliance as part of their routine duties.

We may use search engines, internet listings companies, and review publically shared social media to establish, for example to confirm if businesses operate from within Newcastle-under-Lyme Borough. Where this information suggests there needs to be registered or licenced etc. we will contact them to advise them of their obligation, escalating our actions if they fail to respond promptly.

Officers will only carry out covert surveillance where such action is justified and endeavours to keep such surveillance to a minimum. Any officer intending to acquire data covertly will only do so if the evidence or intelligence sought cannot be obtained by any overt other means. All covert surveillance will be undertaken in



accordance with the Councils 'Policy and Guidance on the use of RIPA'
(Regulation of Investigatory Powers Act 2000 as amended)

3.7 Enforcement in Local Authority Establishments

Officers will carry out enforcement within local authority owned, occupied or operated premises (e.g. crematorium for pollution, prevention and control and leisure centres, fly tipping on Borough Council land) in a manner consistent with any other business. Any serious breaches of law that may be detected in such establishments will be brought to the attention of the responsible Executive Director and Chief Executive without delay.

Contract caterers that operate within Local Authority establishments will be assessed in accordance with the Food Law Code of Practice and be inspected accordingly.

4.0 ENFORCEMENT OF NON-COMPLIANCE

4.1 Levels of enforcement action:

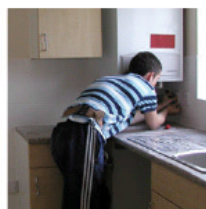
In assessing what enforcement action is necessary and proportionate, consideration will be given to the seriousness of compliance failure; the business's or individual's past performance and its current practice; the risks being controlled; legal, official or professional guidance; and the local priorities of the Council. Where the law has been contravened, there are a range of enforcement options available to seek compliance with the law. Under normal circumstances, a process of escalation will be used, where appropriate, starting with advice and guidance, until compliance is reached. Exceptions to this process of escalation would include:

- public health,
 - safety,
 - community safety
 - the environment (such as fly tipping or air pollution),
 - risk to animal health or welfare, and
 - where the offences have been committed deliberately or negligently
- or**
- involve deception or where there is significant economic detriment
- or**
- continued non-compliance
 - Irreversibility (such as knocking down a building).

The sanctions or penalties that are used will:-

- aim to change the behaviour of the offender;
- aim to eliminate any financial gain or benefit from non-compliance;

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- be responsive and consider what is appropriate for the particular offender and the particular regulatory issue (this can include punishment and the public stigma that should be associated with a criminal conviction);
- be proportionate to the nature of the offence and the harm caused;
- aim to restore the harm caused by regulatory non-compliance, where appropriate; and
- aim to improve non-compliance and deter future non-compliance

There are a large number of potential enforcement options. The level of the action taken varies from no action through to proceedings in Court.

In certain circumstances there may be specific guidance/instruction issued by central government which direct the Council to act in a specific way.

Examples of enforcement actions include the following:-

4.1.1 No Action

In certain circumstances, contraventions of the law may not warrant any action. Consideration will be given to whether the resultant cost of action would outweigh the detrimental impact of the contravention (sometimes referred to as the public interest test). A decision of no action *may* also be taken where formal enforcement is inappropriate in the circumstances. In such cases we will advise the offender of the reasons for taking no action.

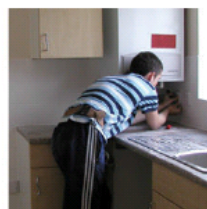
4.1.2 Informal Action and Advice

For minor breaches of the law we may give verbal or written advice. We will clearly identify any contraventions of the law and give advice on how to put them right, including a deadline by which this must be done. The time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance. We will be clear about what are requirements and what are recommendations. Failure to comply could result in an escalation of enforcement action.

4.1.3 Fixed Penalty Notices

Certain offences may be dealt with by fixed penalty notices (FPN) where prescribed by legislation. They are recognised as a low-level enforcement tool and avoid a criminal record for the defendant. Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice we may chose to administer one on a first occasion, without issuing a warning. Such matters may include dog fouling, littering, waste disposal activities, breach of a PSPO (Public Space Protection

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Order), and alcohol consumption in a defined area; however, this list is not exhaustive.

The alleged offender's choice to not cooperate with the officer (e.g. refuse to give a name and address), to dispute or not pay the FPN will result in the case being escalated to the Magistrates Court.

We will only offer a FPN where we have robust evidence that an offence has been committed by the individual. This may be evidence gathered directly by Council Officers, or that passed to officers by partners documented in a form admissible to the courts.

4.1.4 Penalty Charge Notices

Penalty Charge Notices (PCNs) (e.g. parking tickets) are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the enforcer in recognition of the breach. Failure to pay the PCN will result in the offender being pursued in the County Court for non-payment of the debt. A PCN does not create a criminal record and we may choose to issue a PCN without first issuing a warning.

4.1.5 Voluntary Closure, prohibition, surrender or undertaking

A business or individual may in some circumstances, where there is an imminent risk, provide an offer to voluntarily close premises or cease to use any product, equipment, treatment, process or building associated with the imminent risk. In such circumstances the proprietor or individual would be requested to confirm their undertaking in writing. Failure to comply may entail further formal action.

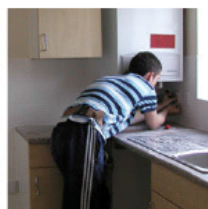
4.1.6 Formal/Statutory Notice

Certain legislation allows notices to be served requiring offenders to take specific actions or cease certain activities. Notices may require activities to cease immediately. In other circumstances they must cease or change within a reasonable time, and take into account the seriousness of the contravention and the implications of the non-compliance.

All Notices issued will include details of any applicable appeals procedures.

4.1.7 Works in Default

Following the service of a notice (section 4.1.6) certain types of notice allow works to be carried out in default. This means that if a notice is not complied with [a



breach of the notice] we may carry out any necessary works to satisfy the requirements of the notice ourselves. Works in default may be carried out where:-

- There is no reasonable prospect of the person responsible carrying out the work, e.g. the person is absent or infirm
- There is an imminent risk to public or the environment, e.g. ringing intruder alarm
- Hazard to health, e.g. electrics
- A prosecution is not appropriate
- A prosecution has been brought and the works have still not been carried out.
- It is appropriate to get the nuisance abated quickly.

Where the law allows, we may then charge the person/business served with the notice for any cost we incur in carrying out the work, including administration. Failure to comply may entail further formal action.

Where the authority is required to undertake works in default it will ensure that the works are appropriate and the costs incurred are not unduly excessive.

4.1.8 Forfeiture Proceedings

This procedure, dealt with through an application in an appropriate court, may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem.

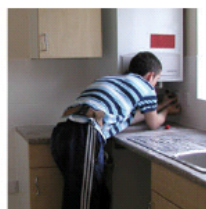
4.1.9 Seizure

Certain legislation enables officers to seize goods, equipment or documents, for example. unsafe food, sound equipment that is being used to cause a statutory noise nuisance, workplace articles and/or substances, unsafe products or any goods that may be required as evidence for possible future court proceedings. When we seize goods we will give a receipt to the person from whom the goods are taken.

Where appropriate we will explain the procedure for their reclaim, and indicate any cost associated with storage, return or where applicable disposal of items. We will ensure that costs incurred are not unduly excessive.

4.1.10 Powers of Entry

In most circumstances the exercising of powers of entry is unnecessary because access is voluntarily given. If access is denied then officers may exercise powers



of entry which may be immediate or may require the Council to provide at least 24hours written notices of its intention to enter a premises.

Where appropriate we will seek to obtain a warrant from the magistrates' court to enter premises where legislation provides for this and the circumstances justify the action.

We will have appropriate regard to the Protection of Freedoms Act 2012 and the associated [Code of Practice on Powers of Entry](#)

4.1.11 Injunctive Actions

In certain circumstances, for example where offenders are repeatedly found guilty of similar offences or where it is considered that injunctive action is the most appropriate course of enforcement, then injunctive actions may be used to deal with repeat offenders or significant potential or actual environmental or customer detriment. Injunctive action includes agreements and formal undertakings to improve compliance which, if breached, may lead to the obtaining of an injunction in the civil law courts.

In situations where the non-compliance under investigation amounts to anti-social behaviour, such as persistent targeting of an individual or a group of individuals in a particular area, then Anti Social Behaviour Orders as appropriate or Criminal Behaviour Orders may be sought to stop the activity.

4.1.12 Simple Caution

A Simple Caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction. For a Simple Caution to be issued there:-

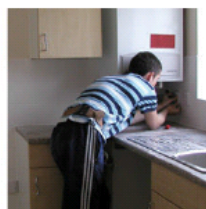
- must be sufficient evidence available to prove the case,
- the offender must admit the offence,
- it must be in the public interest to use a Simple Caution and
- the offender must be 18 years or over.

The offender should not have received a simple caution for a similar offence within the last 2 years.

The Council has opted to follow the guidance issued by the Government in relation to the issuing of Simple Cautions for details on the Ministry of Justice Guidance visit [here](#)

A record of the Caution will be kept on file for 2 years. If the offender commits a further offence, the Caution may influence our decision to take a prosecution. If during the time the Caution is in force the offender pleads guilty to, or is found

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guilty of, committing another offence anywhere in England and Wales, the Caution may be cited in court, and this may influence the severity of the sentence that the court imposes.

Simple Cautions are an alternative to prosecutions in appropriate cases. Simple Cautions can only be issued if the defendant admits the offence, and the circumstances are such the interests of the public and justice would be better served without recourse to legal proceedings in the first instance.

If the caution is not administered, because the suspect refuses to accept it, the facts of the case will be reviewed again, without the option of a Simple Caution, and a prosecution may result.

4.1.13 Benefits Cautions/Sanctions

The benefits legislation provides for additional sanctions, beyond those applicable to other areas of our work. These include administrative penalties. These are also used as an alternative to prosecution. In such cases the Administrative Penalty and any linked caution will be retained on file for five years.

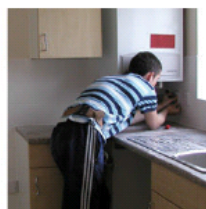
These are issued if the circumstances are such that the interests of the public and justice would be better served without recourse to legal proceedings in the first instance.

4.1.13.1 Administrative Penalty

Under the Social Security Administration Act 1992 an Administrative Penalty may be issued as an alternative to a prosecution in matters relating to Housing and Council Tax Benefit. A minimum penalty of £350 or 50% of the overpayment, whichever is greater (up to a maximum penalty of £2,000) may be offered for offences committed wholly on or after 08/05/12. For offences that are committed prior to, or span, 08/05/12 the Administrative Penalty is calculated at 30% of the determined overpayment.

In determining whether to offer an Administrative Penalty there must be sufficient evidence in which to consider commencing criminal proceedings. The offer of an Administrative penalty is more likely in cases where dishonesty does not form part of the offence, it is the first time the customer had caused a fraudulent overpayment or there was a clear lack of intent on the part of the customer.

An Administrative Penalty cannot be imposed and there is no obligation on the part of any person to accept it. If accepted that person has 14 days to withdraw their agreement to pay the penalty ('cooling off period'). If the penalty is not paid then civil recovery of the debt will be initiated in the County Court.



Where an Administrative Penalty has not been accepted or a person has withdrawn their agreement to pay, then alternative enforcement action will be considered in respect of the original breach. Administrative Penalties are not recorded as a criminal offence.

4.1.14 Refusal, Revocation or Suspension of a Licence

Certain types of businesses, premises and individuals require licenses to operate legally. A refusal, revocation or suspension of a licence will normally ensue when one or more of the following criteria are met:

- Deliberately or persistently breached legal obligations which likely to cause material loss or harm to others.
- Deliberately or persistently ignored written warnings or formal notices
- Endangered the health, safety or well being of people, animals or the environment
- Obstructed an officer
- Non-payment of relevant fee
- Providing false or incomplete information
- Not fit and proper person.
- Qualifying criteria not met

4.1.15 Prosecution

A prosecution will normally ensue where the individual or organisation meets one or more of the following criteria:

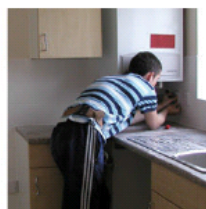
- Deliberately, negligently or persistently breached legal obligations,
- Used an element of deception, theft or fraud
- Made significant gain or caused significant loss
- Deliberately or persistently ignored written advice or formal notices;
- Endangered, to a significant degree, the health, safety or well being of people, animals or the environment;
- Assaulted or obstructed an Officer in the course of their duties.

4.1.16 Proceeds of Crime Applications

Applications may be made under the Proceeds of Crime Act for the confiscation of assets in serious cases. Their purpose is to recover the financial benefit that the offender has obtained from his criminal conduct.

Proceedings are conducted according to the civil standard of proof.

Applications are made after a conviction has been secured. Any proceeds received from the proceeds of crime act action will be used in line with relevant guidelines.



5.0 DETERMINING WHETHER A PROSECUTION OR CAUTION IS APPROPRIATE

5.1 Introduction

We will attempt to administer the requirements of legislation through advice and assistance wherever possible. Occasionally, however, it will be necessary to consider instituting legal proceedings. Each case is unique and must be considered on its own facts and merits. However, we apply the same general principles to every case. When deciding whether to prosecute we will have regard to the evidential test in the Code for Crown Prosecutors on Prosecution Policy. A prosecution will not be started or continued unless there is sufficient admissible and reliable evidence that an offence has been committed by an identifiable person, and unless there is a realistic prospect of a conviction. We will also consider any lines of defence which are plainly open to or indicated by the accused and to the public interest.

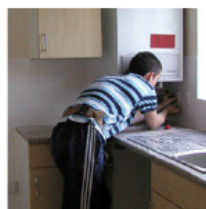
5.2 The Public Interest Test

Factors for and against prosecution will be balanced carefully and fairly. Deciding on the public interest is not simply a matter of adding up the factors on each side but a consideration of how important each factor is in the circumstances of each case and an overall assessment made. The following considerations are taken from the Code and adapted for public protection offences. Factors which are less relevant to public protection offences are not repeated here, but would still be considered if they were to be relevant.

5.2.1 Public Interest Factors in Favour of Prosecution

A prosecution is more likely when:

- A conviction is likely to result in a significant sentence or to result in a confiscation or any other order;
- a weapon was used or violence threatened
- There is evidence that the offence was premeditated;
- The offence although not serious in itself is widespread in the area where it was committed
- There is evidence that the offence was carried out by two or more people acting together;
- The victim of the offence was vulnerable or has been left frightened;
- The offence was motivated by any form of discrimination against the victim's ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics;



- The risk or nuisance presented to individuals, the public, the trade (including unfair competition between traders), the farming community, animal health & welfare, or the environment is significant or widespread.
- The 'defendant' has acted fraudulently/dishonestly, wilfully or negligently or insufficient steps have been taken to prevent the offence.
- The 'defendant' was in a position of authority or trust or the offence was committed in the presence of, or near to, a child.
- The 'defendant's' previous convictions or cautions are relevant to the present offence.
- There are grounds for believing that the alleged offence is likely to be continued or repeated.
- The outcome of the prosecution may serve an important, informative purpose or might establish an important legal precedent or might act as a warning to others or would have a significant positive impact on maintaining community confidence.
- The defendant committed the offence while under an order of the court;

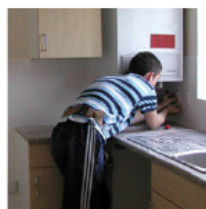
5.2.2 Public Interest Factors Against Prosecution

A prosecution is less likely to be needed if:

- The offence was committed due to a genuine mistake/misunderstanding (this must be balanced against the seriousness of the offence).
- The loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement.
- The 'defendant' has put right the loss or harm that was caused within a reasonable period of time (but 'defendants' cannot avoid prosecution simply because they have offered compensation).
- The defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order.
- The defendant is, or was at the time of the offence, suffering from significant mental or physical ill health and medical evidence has been supplied, unless the offence is serious or there is real possibility that it may be repeated,

5.3 Deaths at Work

Where there has been a breach of the law leading to a work-related death, where we have health & safety enforcement jurisdiction, we will consider whether the circumstances of the case might justify a charge of manslaughter. We will liaise with the Police, Coroners and the Crown Prosecution Service (CPS) and if they find evidence suggesting manslaughter, pass it on to the Police or where appropriate the CPS. If the Police or the CPS decide not to pursue a manslaughter



case, we will bring a health and safety prosecution if that is appropriate. We will take account of "[Work Related Deaths: A Protocol for Liaison](#)"

6.0 APPLICATION OF OUR POLICY STATEMENT

This policy statement applies to officers when making enforcement decisions. The Council is committed to ensuring that all officers are made aware of on this policy and other relevant aspects of enforcement.

Any departure from this policy must be exceptional, capable of justification and be fully considered by the appropriate manager before a final decision is taken. The reason for departure must be recorded. 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 Chief Executive or an Executive Director may suspend all or part of this policy, but only when necessary to achieve effective running of the service and/or where there is a risk of injury or to health of employees or members of the public. At the soonest appropriate time they should record their actions, the information they acted on, and their resultant decisions.

Where it is in the public interests we will take all necessary steps to highlight enforcement action to inform and involve the public in our enforcement activities

7.0 REVIEW

The enforcement policy will be reviewed at not more than three yearly intervals and amendments will be made, as appropriate. Amendments to the policy may also be made at other times as a result of identified improvements which contribute to the main aim of the Service, or where legislative or government policy make changes more expedient.

Comments on the policy may be made at any time.

Review of the enforcement policy will take account of any responses received from affected persons and any other relevant comments. Compliance with this policy will be monitored on an ongoing basis.

