

## HIGHWAYS ENFORCEMENT POLICY

This document is the Highways Enforcement Policy for Rotherham Metropolitan Borough Council. It is based on the principles of transparency, consistency and proportionality and sets out the key principles under which officers will seek to achieve compliance with highways legislation. The policy should be read in conjunction with any applicable service specific policies and procedures.

### **1 Introduction**

Our purpose is the delivery of efficient, targeted and proportionate regulation of activities on the highway network focused by risk assessment to provide a positive approach to stakeholders (residents, businesses highway users) and compliance. A number of outcomes under the Council's headline priority of 'Looking after and improving the environment' are supported by providing protection for the safety of all highway users and reducing disruption and congestion across the highway network enabling businesses to flourish and encouraging investment.

### **2 Safer and Improved Roads**

We will actively contribute to making Rotherham a place where neighbourhoods are safe for everyone.

The potential for disruption to highway users will be a significant factor in deciding the most appropriate approach to be adopted.

### **3 Fairness**

We will consider the impact that our enforcement activities may have on residents and businesses, including consideration of costs, effectiveness and perceptions of fairness. We will endeavour to keep any perceived burdens, including financial, to a minimum.

### **4 Risk Assessment**

We will allocate our resources to where they will be most effective by assessing the risks due to non-compliance with the law. The risk factors will include:

- The potential impact on residents, highway users and business.
- The likelihood of disruption to the network and risk to users arising from non-compliance.

### **5. Advice and Guidance**

We recognise that prevention is better than cure and will actively work with utilities, businesses and residents to provide advice on and assistance with compliance with highway law.

In doing this we will ensure that:

- Legal requirements are made available and communicated promptly upon request.

- The information we provide will be in clear, concise and accessible language and will be confirmed in writing where necessary.
- We will clearly distinguish between legal requirements and guidance aimed at improvements above minimum standards.

### **6 Inspections and Other Visits**

All inspections and other visits to residents and businesses will be undertaken taking into account the level of risk presented by any abuse of the highway, with resources being directed towards those activities that demonstrate the highest risk. Additional intelligence sources will also be used (for example complaints and reports received by the Council) that may trigger a visit / inspection.

- Where we carry out inspections we will give feedback to the resident or business concerned on what the officer has found.
- Random inspection will be undertaken in the normal course of our officers daily activities. Follow-up inspections may also be undertaken to test the effectiveness of any action we have previously taken or improvements we have requested.

### **7 Compliance and Enforcement Actions**

We recognise that most businesses and individuals strive to comply with the law, however firm action will be taken against those who flout the law or act unreasonably or irresponsibly.

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

Formal enforcement action will generally only be considered and taken in the first instance in cases where individuals or businesses are causing an unacceptable risk to public health, safety or welfare, causing a nuisance to highway users, otherwise unnecessarily causing disruption to the use of the highway, or other such situations that are considered to be so serious as to warrant formal action.

Formal enforcement action will also be considered and may be taken where advice from highway officers has been ignored.

Where formal enforcement action is necessary, we will consider the most appropriate course of action (from the range of actions and penalties available) with the intention of:-

- Aiming to secure public safety
- Aiming to change the behaviour of the offender
- Being responsive and considering what is appropriate for the particular offender and issue involved.
- Being proportionate to the nature of the offence and harm caused

- Aiming to restore the harm caused by non-compliance
- Aiming to deter future non-compliance.

Before formal enforcement action is taken:

- Where appropriate there will be an opportunity to discuss the circumstances of the case, unless immediate action is required due to there being an imminent risk to the environment or health and safety.
- Where immediate formal enforcement action is taken, which will usually be the service of a written notice, reasons for such action will be given at the time (if possible) and confirmed in writing within 10 working days.
- Where there are rights of appeal against formal enforcement action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.
- Clear reasons will be given for any formal enforcement action taken, and confirmed in writing.

For the purposes of this policy 'formal enforcement action' includes the serving of statutory notices, the removal of property, carrying out works in default, the seeking of an injunction, direct intervention to remove sources of danger, and the instigation of legal proceedings. Where appropriate we will also take into consideration additional guidance and codes of practice, including service specific policies and procedures.

The decision to instigate legal proceedings will be determined by a number of factors, including:

- 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 to co-operate with officers
- Whether it is in the public interest to prosecute
- The realistic prospect of conviction
- Whether any other action (including other means of formal enforcement action) would be more appropriate or effective
- The views of any complainant and other persons with an interest in prosecution.

These factors are NOT listed in order of significance. The rating of the various factors will vary with each situation under consideration.

## **8 Accountability**

We will be accountable for the efficiency and effectiveness of our activities, while remaining independent in the decisions we take.

- We shall provide utilities, businesses and individuals with effective consultation and opportunities for feedback on our service.
- Officers will be courteous, fair and efficient at all times, and will identify themselves by name.

### **9 Equalities**

We will give consideration to fairness, individual's human rights and to natural justice, in all aspects of our enforcement work.

We believe in openness and equality in the way we provide services to members of Rotherham's community and that every individual is entitled to dignity and respect.

When making enforcement decisions we aim to ensure that there will be no discrimination against any individual regardless of culture, ethnic or national origins, gender, disability, age, sexual orientation, political or religious beliefs, socio-economic status, or previous criminal conviction or caution which is not relevant to the current issue.

We understand that some members of the community may have specific requirements, which will need extra advice and assistance. Careful explanation will be given and if necessary the services of an interpreter may be used. Appropriate translated material will be arranged or practical help provided for people with impaired hearing, vision or other impairment.

### **10 Complaints**

All complaints about the services offered by the council will be dealt with in accordance with the Council's formal complaints procedure. An information leaflet, which explains the process, is available at all Council offices

### **11 Application of our enforcement policy**

All officers will have regard to this document when making enforcement decisions. Any departure from this policy must be exceptional, capable of justification and be fully considered by the head of service 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 any exceptional conditions prevail, the Chief Executive may suspend any part of this policy where necessary to achieve effective running of the service and/or where there is a risk of injury or to health of employees or any members of the public.

### **12 Review**

This document will be subject to an annual review with additional reviews as and when required. Improvements will be made if there are any changes in legislation or in local needs.

If you have any comments please contact the Streetworks and Enforcement Engineer by calling 01709 822962 or by writing to Streetpride Service, Bailey House, Rawmarsh Road, Rotherham, S60 1TD or email to [streetworksenforcement@rotherham.gov.uk](mailto:streetworksenforcement@rotherham.gov.uk)