

# General Enforcement Policy

## 1.0 INTRODUCTION

This General Enforcement Policy is at the core of our commitment to best practice and sets common principles that we will follow in all our enforcement work. Because we need to ensure consistent performance across a broad range of duties, we will produce additional guidance documents or procedures that are linked to this overall policy.

## 2.0 WHAT IS ENFORCEMENT?

Enforcement is designed to make sure that legal requirements are met and it is carried out against a background of rules and powers. It does not just mean taking formal action, such as prosecution, but includes checking to make sure that things are as they should be and giving help or advice.

We recognise that most business owners, their employees and the public want to comply with the law. We will assist and advise wherever possible but will take firm action against those who disregard legal requirements or act irresponsibly.

To carry this out we may –

- Carry out inspections
- Investigate complaints
- Examine goods, documents or notices
- Test equipment or goods
- Take samples or make test purchases
- Watch and listen
- Talk to witnesses
- Ensure development is properly constructed and laid out
- Conduct interviews

In order that we can see things from the point of view of a customer or ordinary member of the public we may carry out informal visits and not introduce ourselves. Where we have to use a young person to carry out work on our behalf, such as in attempting to purchase age restricted products, we will always give consideration to the latest Code of Best Practice. Children will be instructed to answer any questions truthfully including their age.

Where appropriate we will –

- Give verbal or written guidance
- Give written instruction
- Send a cautionary letter or notice
- Serve a formal notice such as an improvement notice or prohibition notice
- Carry out “works in default” and make a charge where a notice has not been complied with for example for building repairs or removal of rubbish
- Seize goods or documents
- Carry out a formal interview
- Issue a formal caution
- Issue fixed penalty fines
- Suspend or revoke a licence
- Prosecute offenders
- Negotiate remediation

### **3.0 ENFORCEMENT CONCORDAT**

We have adopted the Government’s Concordat on Good Enforcement and commit ourselves to the following aims and procedures:

#### **3.1 Standards**

We will consult with business and the public about our Enforcement Policy and the services we provide. We will draw up clear standards setting out the level of service and performance that our customers can expect to receive. We will publish these standards and report on our annual performance against them.

#### **3.2 Openness**

We will provide accessible information and advice, wherever possible in plain language, on the legislation that we enforce. We will be open about how we set about our work, any charges for our services, or why it may be necessary to take enforcement action.

#### **3.3 Helpfulness**

We believe that prevention is better than cure and we will actively work to advise and assist in compliance with the law. Our staff will be courteous and efficient,

identify themselves by name where appropriate, and carry an identity card. We will offer a contact point and telephone number for any further help.

### **3.4 A Balanced Approach**

We will work with our customers to help them meet their legal obligations without unnecessary expense. Advice will be put clearly and simply, confirmed in writing on request, explaining what is necessary, why and over what timescale. Legal requirements will be clearly distinguished from best practice advice. We will ensure that any enforcement action we take or remedial action we require is in reasonable proportion to the problem.

### **3.5 Consistency**

We will carry out our duties in fair and consistent ways. We have arrangements in place to promote consistency, including liaison with other Local Authorities and agencies, particularly where we may share an enforcement role.

### **3.6 Suitable Action**

Every case is unique and must be considered on its own facts and merits. However, when making decisions we take account of the advice set out in the Director of Public Prosecution's, Code for Crown Prosecutors. These are some of the general public interest principles that apply to the way in which we approach each case -

- The seriousness of the alleged offence;
- Relevant past record;
- The willingness to prevent a recurrence of the problem or put right the harm;
- Whether the offence was carried out deliberately or with reckless disregard of the law;
- The views of any complainant and other parties with an interest in the case.

*(Note: These factors are not listed in order of significance and are part of an overall assessment.)*

Before we take formal enforcement action, there will be an opportunity to discuss the circumstances of a case, unless immediate action is required (e.g. to prevent destruction of evidence, or where there is an imminent risk to health and safety or the built or natural environment).

Where immediate action is taken, reasons for such action will be given at the time and confirmed in writing, in most cases within 5 working days and in all cases 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.

### **3.7 Charging for Enforcement Notice.**

Where the responsible person has failed to respond once a breach of legislation has been brought to their attention or the breach is so severe as to present an imminent risk formal action will be initiated. Where legislation allows, and the Council has adopted powers, the responsible person will be charged a fee which reflects the officer time and ancillary costs involved with the preparation of a formal notice.

We will advise the responsible person of the potential of being charged for formal enforcement notices before any charge is incurred, unless the situation is an emergency. In emergency situations officers will make reasonable efforts to contact the responsible person. If the responsible person cannot be contacted or cannot respond quickly enough, formal action will be initiated and a charge made.

Where there are rights of appeal against the charge, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

### **3.8 Human Rights**

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

### **3.9 Equal Opportunities**

We adopt the Stephen Lawrence Inquiry Report definitions of racism, racist incident and institutional racism.

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 difficulties, 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.

### **3.10 Complaints about the standard of our service**

All complaints will follow the Council's formal complaints procedure. An information leaflet, which explains the process, is available at all Council offices.

## **4.0 REVIEW**

As part of our service planning and review process, checks will be carried out at least once each year to make sure that this policy continues to reflect best practice and to see how well we are meeting our commitments. The result will be reported to senior managers, Elected Members and to the public.