

**SUNDERLAND CITY COUNCIL**  
**PUBLIC PROTECTION AND REGULATORY SERVICES**  
**ENFORCEMENT POLICY**

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## **1. INTRODUCTION**

- 1.1 This policy sets out the principles that officers of Sunderland City Council's Public Protection and Regulatory Services (PPRS) will apply when undertaking enforcement activities. We consider that fair and effective enforcement is essential to protect the health, safety and economic interests of all residents and businesses in the City of Sunderland and those of our visitors. We recognise that decisions about enforcement action may be of interest to various groups of people including members of the public and businesses.
- 1.2 In determining this policy we have taken into account the requirements of the Legislative and Regulatory Reform Act 2006 (the "2006 Act") and the Regulators' Code made under that Act.
- 1.3 In accordance with the Regulators' Code, this policy is intended to help to promote effective approaches to regulation without imposing unnecessary burdens. In carrying out their duties our officers will have regard to this policy and the Regulators' Code. In certain instances, we may conclude that a specific provision in the Code is either not applicable or is outweighed by another relevant consideration. We will ensure that any decision not to follow that provision, and our reasoning, will be recorded.

## **2. APPROVAL**

- 2.1 This policy was approved by the Cabinet of Sunderland City Council on 21 March 2018.

## **3. SCOPE**

- 3.1 This policy applies to enforcement activities under Environmental Health, Licensing, and Trading Standards legislation enforced by Public Protection and Regulatory Services.
- 3.2 Enforcement, in the context of this policy, includes action carried out in the exercise of, or against the background of, statutory enforcement. This is not limited to formal enforcement action such as prosecution, and includes, for example, the inspection of premises for the purpose of checking compliance with legislation and the provision of advice to aid compliance.

## **4. COMMENTING ON THIS POLICY, APPEALING AGAINST AN ENFORCEMENT DECISION OR MAKING A COMPLAINT**

- 4.1 This policy is available on the Council's website at:  
[www.sunderland.gov.uk/pprsenforcementpolicy.pdf](http://www.sunderland.gov.uk/pprsenforcementpolicy.pdf)

You can make comments on this policy, appeal against an enforcement decision or make a complaint about our service by telephoning 0191 520 5550, emailing [public.health@sunderland.gov.uk](mailto:public.health@sunderland.gov.uk) or by writing to Public Protection and Regulatory Services, Sunderland City Council, Jack Crawford House, Commercial Road, Sunderland, SR2 8QR.

## 5. GENERAL PRINCIPLES OF REGULATION

5.1 It is the goal of PPRS that we seek to ensure that all businesses and people whose activities we regulate comply with the legislation that we enforce for the good of all people resident or trading within, or visiting the City. In undertaking our activities in pursuit of this goal we intend to act proportionately to the risks associated with actual or potential non-compliance. Where we discover non-compliance we will consider each situation on its own merits. There are, however, general principles that will guide our activity.

5.2 **We will always seek to act a way which supports those persons whose activities we regulate to comply and, in the case of businesses, grow.**

We will seek to impose requirements upon businesses and other people only where necessary for the public good. We will choose proportionate approaches to those persons whose activities we regulate and will seek to encourage compliance through consensual means wherever possible.

5.3 **We will seek to enable those persons whose activities we regulate to engage with us and provide their views**

In responding to non-compliance we will clearly explain its nature, our advice, what actions are necessary, what we have done, and why. Any persons affected may speak to us about our advice, requirements or decisions. However, we may not be able to provide an opportunity for dialogue where we need to act immediately to prevent or respond to a serious breach of the law or where providing such an opportunity would be likely to defeat the purpose of our planned action.

5.4 A person affected by a regulatory decision that we have taken or our alleged failure to comply with the Regulators' Code may make an appeal or complaint to us using the contact details set out at Paragraph 4.1 of this policy.

5.5 **We will seek to base our regulatory activities on risk**

In making decisions we will consider the risk of non-compliance with the law in the light of relevant factors including:

- the compliance record of relevant persons;
- the potential consequences of non-compliance upon the public, businesses or their employees;
- any systems operated by a business;
- the apparent competence of relevant persons;
- the attitude towards compliance of relevant persons; and
- any relevant external verification with regard to the activities of a business.

5.6 **We will seek to share information about compliance and risk**

Where possible, practically and legally, we will share information obtained from the businesses and people whose activities we regulate with other regulators in order to help target resources and minimise duplication.

**5.7 We will seek to ensure that we give clear information, guidance and advice to those persons whose activities we regulate in order to help them to comply with the law**

We will provide advice and guidance in order to help businesses and other people comply with the laws that we enforce. In doing this we will ensure that we will distinguish legal requirements from suggested good practice. The information we provide will be clear, accessible and concise. This information will be provided in writing where we consider it to be necessary. We will provide advice on request and we encourage businesses and other people to contact us without fear of triggering enforcement action.

**5.8 We will seek to ensure that our approach to our regulatory activities is transparent**

We will undertake planned inspections of businesses at frequencies determined by assessments of the risks associated with potential non-compliance. We may undertake subsequent inspections in order to determine whether our earlier interventions, e.g. the provision of advice, have resulted in improvement. We may undertake some inspections in order to inform our risk assessment processes. We also will undertake visits in reaction to events such as the receipt of requests to visit, the receipt of complaints about businesses or other persons or where some other type of information becomes known to us which leads us to determine that a visit may benefit the public.

**6. POSSIBLE ENFORCEMENT ACTIONS**

6.1 Our experience shows that most businesses and people that we encounter will aim to comply with the laws that we enforce. We wish to assist this majority to comply and will seek to help them to do so wherever possible. However, in the interests of justice, it will be necessary for us to take legal action in response to in some cases of non-compliance.

There are a number of options available to us in response to past non-compliance or in anticipation of potential future non-compliance. These options include the taking of no action and certain legal responses as listed below:

- No action;
- Advice;
- Statutory notices;
- Seizure;
- Forfeiture proceedings;
- Injunctive actions and other civil procedures;
- Simple caution;
- Refusal, revocation, suspension or variation of licence or permit;
- Fixed penalty or similar notices;
- Prosecution; and
- Works in default.

6.2 In deciding what action to take in response to non-compliance or in anticipation of potential future non-compliance, consideration will be given to, among other criteria:

- a) Whether any past non-compliance occurred deliberately, recklessly or in the absence of due diligence;
- b) The history known about a particular business or person including complaints previously made by the public and any advice given by us or another regulator;
- c) Any behaviour on the part of the relevant business or person which leads us to be concerned about their compliance in the future; including the extent of their cooperation with us;
- d) Any explanation provided by the business or person responsible for the non-compliance;
- e) The seriousness and/or prevalence of the non-compliance and the potential for our action to deter similar non-compliance on the part of other people; and
- f) The seriousness of the impact, past or potential, of non-compliance upon the health, safety or economic well-being of people, animals or the environment.

These criteria are not exhaustive and are not listed in order of importance.

### 6.3 **NO ACTION**

In some circumstances, non-compliance with the law may not warrant any action. This may be, for example, where a business has ceased trading, the person responsible for non-compliance is vulnerable in some way or where no harmful outcome resulted from an infringement.

### 6.4 **ADVICE**

Where an incidence of non-compliance with the law does not present an imminent risk to the public or is otherwise not of a nature serious enough to require legal action, and the business or person involved has a good history of compliance, we may advise that business or person with regard to their future conduct; either orally or in writing. We will clearly identify the contravention(s), give advice on how to rectify matters and indicate a reasonable timescale within which this must be done. Failure to comply with the advice we give could lead to further enforcement action.

### 6.5 **STATUTORY NOTICES**

We may serve statutory notices in order to require, formally, businesses or people to cease non-complying activities, to rectify a contravention or to avoid future non-compliance. The timescales specified for compliance will be reasonable. Details of the method of appealing against the requirements of a notice will be given with the notice.

Failure to comply with a notice may lead to further enforcement action.

### 6.6 **SEIZURE**

Some legislation enables our officers to seize goods, equipment or documents. In such circumstances we will, where possible, give a receipt to the person from whom the items were taken.

## 6.7 **FORFEITURE PROCEEDINGS**

This procedure may be used where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to commit offences in the future. An application for forfeiture may be made to a Court following a prosecution or separately, as appropriate.

## 6.8 **INJUNCTIVE ACTIONS AND OTHER CIVIL PROCEDURES**

We may use civil procedures in order to encourage persons whose activities frequently appear to breach legal requirements to improve their conduct. We will initially contact the person concerned, in order to seek to bring about compliance quickly. If the non-compliance continues we may then consider the commencement of injunctive proceedings without further delay.

## 6.9 **SIMPLE CAUTION**

Generally, this procedure may be used where a person has admitted a criminal offence but we consider that it is not in the public interest that a prosecution should follow.

A record of the Simple Caution will be kept on file. If the offender commits a further offence, the Simple Caution may influence our decision to bring a prosecution. If, subsequently, the offender is convicted of another offence, the Simple Caution may be cited in court, and this may influence the severity of the sentence that the Court imposes.

## 6.10 **REFUSAL, REVOCATION, SUSPENSION OR VARIATION OF A LICENCE OR PERMIT**

We may refuse, revoke, vary or suspend a licence or permit where we consider it necessary, in the public interest, to do so. The term “licence or permit” refers in this policy to all permissions or authorisations granted or potentially granted by the Council and administered by PPRS. The circumstances where we may take action in respect of licences or permits include:

- A licensee/permit holder, prospective licensee/permit holder or person involved in the management of a House in Multiple Occupation not being considered to be “fit and proper” to hold such a licence/permit/role;
- Failure to pay a fee due to the Council;
- Breach of a licence/permit condition;
- The endangering of the health, safety or economic well-being of people, animals or the environment; or
- In the case of Houses in Multiple Occupation, a house being not reasonably suitable for occupation, a proposed licensee being not the most appropriate person to be the licensee, or the proposed management arrangements not being satisfactory.

## **6.11 FIXED PENALTY OR SIMILAR NOTICES**

Some of the legislation that we enforce allows us to issue fixed penalty notices in response to offending behaviour. We may use such notices, as we consider appropriate, in order to deter future repeated offending.

## **6.12 PROSECUTION**

The commencement of a prosecution is the most serious response to an apparent incidence of non-compliance with the law. In some circumstances a prosecution will be appropriate. In deciding whether to commence a prosecution we will have regard to the Code for Crown Prosecutors. In general terms, this means that we may bring a prosecution when consideration of the evidence suggests that there is a realistic prospect of conviction and that it is in the public interest to do so. In the event that a prosecution secures a conviction the Council will seek to recover our costs associated with the prosecution.

## **6.13 WORKS IN DEFAULT**

Where a person upon whom we have served a statutory notice fails to undertake works required by the notice we may act to complete the works ourselves. In determining whether carrying out works in default is the most appropriate course of action we will consider:

- The effects of not carrying out the work on the health, safety and welfare of relevant persons;
- The reason for the work not being carried out previously by the person responsible; and
- Whether the benefits justify the costs and the action poses the minimum burden necessary to achieve the objective.

Where we undertake works in default we will seek to recover all reasonable costs that we have incurred by any means legally available to us; which may include placing a charge on a property.

## **7.0 LIAISON WITH OTHER REGULATORS**

7.1 We will seek to work collaboratively with other regulators, e.g. the Environment Agency, where appropriate e.g. in order to assist those businesses whose activities are regulated by more than one regulator. We will consider advice given by other regulators and, if there is disagreement about the advice provided, will seek to discuss the matter with the other regulator in order to reach agreement.

## **8.0 REVIEW**

8.1 This policy will be reviewed as and when events and circumstances lead us to consider it appropriate to do so. Any amendments required will be made by means of the Council's usual arrangements for making decisions.