

Public Protection Division

Inspections and Enforcement Policy Statement

The Public Protection Division's inspection and enforcement policy sets out the key principles under which environmental health; community safety and licensing officers will seek to achieve compliance with the legislation enforced by these services. In carrying out their inspections and investigations officers will adhere to the principles of good enforcement and regulation set out in the 'Statutory Code of Practice for Regulators' and all other relevant codes of practice.

INTRODUCTION

It is Harrogate Borough Council's policy to deliver services that protect the public from environmental factors, which may cause harm or affect their health and well being, to improve the condition of the environment of the district and to fulfil mandatory statutory obligations.

We are fully committed to the Hampton Principles and the Governments Regulatory Compliance Code. We will work in partnership with businesses and other stakeholders in order to provide effective, efficient, proportionate, targeted, transparent and accountable regulation and enforcement that is essential in promoting fairness and economic progress but without increasing unnecessary burdens.

Effective and efficient regulation and enforcement depends upon people's willingness to abide by the law and we believe that most businesses and individuals want to do just that. We will adopt a positive and proactive approach towards ensuring compliance by giving advice and encouraging businesses and individuals to understand and meet the requirements of regulation and enforcement.

We will interpret and apply the law and its enforcement requirements consistently and fairly and where needed liaise with other regulatory services or enforcement agencies to provide a coordinated service.

In complying with the Hampton Principles and the Regulatory Compliance Code we are committed to the following;

STANDARDS

Trained, authorised Officers will be fair, courteous and will exercise the principles of, proportionality, consistency and targeting in deciding on the correct regulatory and enforcement approach.

Clear standards setting out the level of service and performance that the public and businesses can expect to receive have been established and are detailed in service specific leaflets and service delivery plans. We will report on our annual performance against them.

Authorised officers will have regard to this policy statement in conjunction with relevant approved guidance when making regulatory and enforcement decisions. Any departure from this policy will be exceptional, capable of justification and be fully considered by a senior manager 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.

PROPORTIONALITY

We will, as far as the law allows and where co-operation is given, work with businesses and individuals so that they can meet their legal obligations without unnecessary expense and burdens.

We will take into account the costs of compliance for businesses and individuals by ensuring that any enforcement action we take or remedial action we require is proportional to the risks and the effect upon the local community and consumers.

CONSISTENCY

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

We recognize that there are situations where there is a shared enforcement role and in those circumstances we will ensure enforcement is effectively and efficiently coordinated to avoid duplication of resources.

TARGETING

Comprehensive and effective risk assessments will be used to focus resources in the areas that need them most. Inspections and investigations and associated regulatory and enforcement interventions will be risk based and targeted primarily towards those activities which give rise to the most serious risks, where the hazards are least well controlled and/or where there is a high likelihood of non-compliance. We will assess the likelihood of compliance by taking in to account;

- The past compliance record
- The existence of good systems for managing risks
- Evidence of external accreditation
- Management competence and willingness to comply

We will use alternative strategies where this gives significant cost benefits to both the Council and low risk compliant activities.

TRANSPARENCY

We will be open about how we work and will provide accessible information and advice, in plain language, on the legislation that we enforce.

We will consult businesses and other interested parties on the services we provide.

ADVICE AND GUIDANCE

We believe that prevention is better than cure and we will actively work with local businesses and individuals to advise on, and assist with, compliance with the law.

We will strive to ensure that wherever possible our activities are effectively coordinated to avoid unnecessary overlaps and delays.

SANCTIONS AND PENALTIES

Before enforcement action is taken, there will be an opportunity to discuss the circumstances of a case, unless immediate action is required.

Where immediate enforcement action is taken, reasons for such action will be given at the time, and confirmed in writing. 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.

For the purpose of this policy sanctions and penalties includes a legal notice (e.g. an improvement, seizure, suspension, prohibition, abatement notice or fixed penalty notice), the issue of a caution, prosecution or apply for an injunction. In cases involving food safety and the issue of legal notices and the voluntary closure of premises we will follow guidance set out in the appropriate Food Standards Agency Codes of Practice. In cases involving health and safety and the issue of legal notices we will follow guidance set out in the appropriate Health and Safety Executive guidance and Approved Codes of Practice.

In applying the above sanctions and penalties we will aim to;

- Change the behaviour of the offender
- Eliminate any financial gain or benefit from non compliance
- Be responsive and consider what is appropriate for the particular offender and enforcement or regulatory matter 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 harm caused
- To restore the harm caused by non-compliance, where appropriate
- To deter future non-compliance

Each case is unique and will be considered on its own facts and merits. When considering formal enforcement action we will, where appropriate discuss the circumstances with those suspected of a breach and take these into account when deciding on the best approach.

WHEN DO WE PROSECUTE?

Prosecution will be considered where there has been a serious or repetitive lack of compliance. Prosecutions will not be taken as a punitive response to minor breaches of the legislation.

After all the relevant evidence in the case has been gathered, which may include an interview under Caution with the potential defendant, the latter will be given the opportunity to make any further representations in writing. Such a representation, should it be made, will be considered in any final decision to prosecute.

Before deciding whether a prosecution shall be taken we will take into account the Code for Crown Prosecutors and any other nationally recognized guidance such as the Enforcement Management Model published by the Health and Safety Executive.

These factors may include the following:

- The seriousness of the alleged offence
- The general record and approach of the offender
- The ability of any important witnesses and their willingness to co-operate
- The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers
- Any explanation offered by the alleged offender
- Whether it is in the public interest to prosecute
- The realistic prospect of conviction
- Whether there is a strong case to show that 'Best Practicable Means' is being employed
- Whether any other action (including simple caution) would be more appropriate or effective
- The views of any complainant and other parties including victims with an interest in a prosecution.

These factors are **NOT** listed in order of significance. The rating of the various factors will vary with each situation under consideration. The decision to prosecute does not preclude injunctions.

ACCOUNTABILITY

This document will be reviewed annually. Improvements will be made if there are any changes in legislation or in local needs. We will consult with our existing business forums and other key stakeholders over this policy and any significant changes.

We provide a well-publicised effective and timely complaints procedure "Help Us to Help You" which is accessible to businesses, the public, employees and consumer groups. A copy of the complaints procedure can be obtained from Department of Community Services, Springfield House, Kings Road, Harrogate, HG1 5NX, telephone 01423 556633 or through our website at www.harrogate.gov.uk

If you have any comments about this document please contact the Head of Public Protection, Department of Community Services, Springfield House, Kings Road, Harrogate HG1 5NX. Telephone 01423 556633
Email environmentalprotection@harrogate.gov.uk

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