
ENFORCEMENT POLICY FOR REGULATORY SERVICES

Responsible Cabinet Member(s) – Councillor Chris McEwan
Economy and Regeneration Portfolio

Responsible Director(s) – Ian Williams, Director of Economic Growth

SUMMARY REPORT

Purpose of the Report

1. To recommend adoption of an Enforcement Policy, attached as **Appendix 1**, to be used by properly authorised officers working in the Regulatory Services Division to enforce legislation on behalf of the Council.

Summary

2. Enforcement Officers working in the Regulatory Services Division have a range of enforcement options available to them when contraventions are identified. The Regulators Compliance Code requires that enforcement actions are transparent, accountable, proportionate and consistent; and targeted. The Enforcement Policy attached as Appendix 1 describes the decision making process that should be followed by those officers and the factors that must be taken into account.

Recommendation

3. It is recommended that Cabinet approve the Enforcement Policy.

Reasons

4. The recommendation is supported by the following reasons :-
 - (a) It will promote consistent enforcement practices by providing a framework to guide the enforcement actions of the Councils authorised enforcement officers.
 - (b) It will allow the policy to be shared with the community it serves.

Ian Williams
Director of Economic Growth

Background Papers

- (i) The Enforcement Concordat
- (ii) Regulators Compliance Code
- (iii) The Legislative and Regulatory Reform Act 2006
- (iv) Police and Criminal Evidence Act (PACE)
- (v) The Home Office Circular 012/2013 PACE CoP
- (vi) Criminal Procedures and Investigation Act (CPIA)
- (vii) Regulation of Investigatory Powers Act (RIPA)
- (viii) Ministry of Justice November 2013 – Simple Cautions for Adult Offender
- (ix) The Code for Crown Prosecutors
- (x) The Human Rights Act
- (xi) Powers of Entry – Code of Practice

Barry Pearson : Extension 6426

S17 Crime and Disorder	The Policy identifies the approach adopted to deliver enforcement activity
Health and Well Being	Enforcement actions contribute to general health and well being
Carbon Impact	There is no direct impact arising from this report
Diversity	No impact
Wards Affected	The Plan affects all wards
Groups Affected	All groups will be affected equally
Budget and Policy Framework	No impact upon budget
Key Decision	No
Urgent Decision	No
One Darlington: Perfectly Placed	Enforcement actions can contribute positively to delivering Safer, Greener, Healthy and Prosperous Darlington
Efficiency	Facilitate efficient operation of the regulatory functions

MAIN REPORT

Information and Analysis

5. Enforcement Officers have to take account of the requirements of the Government's "Enforcement Concordat" and the "Regulators Compliance Code" introduced by The Legislative and Regulatory Reform Act 2006 together with the Powers of Entry – Code of Practice issued under the Protection of Freedoms Act 2012.
6. These require enforcement actions to be transparent, accountable, proportionate and consistent; and targeted.
7. The Powers of Entry Code of Practice came into effect on 6 April 2015. Enforcement Officers must have regard to the Code Issued by the Secretary of State under Section 48 of the Protection of Freedoms Act 2012. The purpose of the code is to ensure greater consistency in the exercise of powers of entry, and

greater clarity for those affected by them, while upholding effective enforcement. The policy makes reference to this code.

8. Within Services for Place the enforcement activities that the policy will relate to are:-
 - (a) Animal Health and Welfare
 - (b) Building Control
 - (c) Car Parks and Residential Parking
 - (d) Environmental Protection and Nuisance control
 - (e) Food Safety
 - (f) Residential Accommodation
 - (g) Health and Safety at Work
 - (h) Licensing (including issue of permits, registrations and consents)
 - (i) Pest Control
 - (j) Trading Standards

9. Enforcement Officers have a range of enforcement options available to them when contraventions are identified. The possible actions, depending upon the legislation, are:-
 - (a) No action
 - (b) Informal action - Verbal/Written warning and advice
 - (c) Statutory notice and fixed penalty notice (where legislation allows)
 - (d) Seizure, forfeiture proceedings, Orders (e.g. ASBO, Enterprise Act and Stop Now Orders) where legislation allows this action.
 - (e) Simple/Conditional caution
 - (f) Conditional grant, refusal to grant, revocation or suspension of a licence, registration or permit
 - (g) Requirement to undertake a specific course of action
 - (h) Prosecution
 - (i) Injunction

10. The Enforcement Policy describes the decision making process that will be followed by officers before taking action. The process does not prevent officers from using their professional judgement and coming to a decision, based upon the information available, that appears to contradict the policy. The decision and the reason(s) are required to be recorded.

11. Reference is made to the Officers and Members Codes of Conduct and also how possible conflicts of interest should be addressed.