



Environment, Health and Consumer Protection

(EHCP) Service

ENFORCEMENT POLICY

July 2015

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Enforcement Policy

Introduction

1. This document is the enforcement policy for Durham County Councils Environment, Health and Consumer Protection (EHCP) service. It sets out the key principles under which officers will seek to achieve compliance with the legislation enforced by these services.
2. It has been prepared having regard to [Section 21 of the Legislative and Regulatory Reform Act 2006](#) and to the [Gov.uk: Regulators' Code](#) produced by the Better Regulation Delivery Office (BRDO).
3. The overall vision of the EHCP service is '*To protect and improve the Health, Safety, Economic Wellbeing and Environment of the Community we serve*'. We recognise that effective and well-targeted regulation is essential in achieving our vision.
4. In carrying out their duties officers will adhere to the principles of good enforcement set out in this document and in the [Gov.uk: Regulators' Code](#)
5. This policy is intended to apply only to regulatory activity carried out by the EHCP service.
6. Additional team specific policy and procedure documents issued under this policy will clearly set out the criteria to be met before enforcement action is taken.

Principles of enforcement

7. We will work to ensure compliance with the law by:
 - Targeting resources and regulatory activities during the service planning process only at cases which need it.
 - Helping and encouraging businesses and individuals to understand their responsibilities by providing the necessary advice and guidance to allow them to comply with the law, and
 - Responding proportionately and fairly to breaches of the law.

Planning regulatory activity and targeting resources

8. The EHCP service is committed to helping businesses grow. We will consider the impact that our regulatory activities may have on businesses and members of the public. We will only adopt a particular approach if the effectiveness and benefits of action taken justify the costs. In doing so will endeavour to help businesses achieve compliance without unnecessary expense.
9. We will allocate our resources where they will be most effective by assessing the risks associated with non-compliance with the law. In determining risk we will consider a range of factors that include:

- The potential impact on residents, employees, consumers and business in failing to meet legal requirements.
 - The likelihood of non-compliance taking into account matters such as past history, the systems the business has in place, management competence and willingness to comply.
10. Planned inspections and other visits will be undertaken after consideration of the risk the business poses if it fails to comply. Reactive visits will be carried out upon request by a business, or where a service request, intelligence or information received suggests that an inspection or visit is appropriate.
11. Where practicable we will co-ordinate inspections or visits with other regulators to minimise the burden on recipients of our services. Random unplanned inspection or unannounced visits will only be undertaken where required by legislation or guidance.
12. Exceptionally, a small amount of random inspection may also be undertaken to test our risk assessments or the effectiveness of any action we have taken.
13. We will only ask for information that is necessary after considering the cost and benefit to obtaining the information. Where possible we will share this information with our partners (taking account of data protection) to prevent the need for providing the information more than once.

Providing advice and guidance

14. We recognise that prevention is better than cure and will actively work with business and residents to provide advice on, and assist with, compliance with the law. In doing this we will ensure that:
- Advice on how to comply with the law is made available and communicated promptly upon request.
 - The information we provide will be clear, concise and accessible
 - Where practicable information will be provided in an appropriate language.
 - Advice provided in writing where necessary.
 - We will clearly distinguish between what is a legal requirement and what is guidance aimed at improvements above minimum legal standards.

Responding proportionately to breaches of the law

15. We recognise that most businesses and individuals wish to comply with the law, however firm action will be taken against those who flout the law or act irresponsibly.
16. 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.

17. We recognise that prevention is better than cure, but where it becomes necessary to take formal enforcement action against a business, or member of the public, we will do so. There is a wide range of tools available to us as an enforcement agency. The actions we may take include:

- No action
- Informal Action and Advice
- Fixed Penalty Notices
- Penalty Charge Notices
- Formal Notice
- Forfeiture Proceedings
- Seizure of goods/equipment
- Injunctive Actions and other Civil Sanctions
- Refusal/Suspension/Revocation of a licence or permit
- Simple Caution
- Prosecution
- Proceeds of Crime Applications.

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

- Aiming to change the behaviour of the offender
- Aiming to eliminate any financial gain or benefit from non-compliance
- Being responsive and considering what is appropriate for the particular offender and issue involved, including punishment and the public stigma that may be associated with a criminal conviction.
- Being proportionate to the nature of the offence, and the potential to cause harm or harm caused
- Aiming to restore the harm caused by non-compliance
- Aiming to deter future non-compliance.

19. If the formal enforcement action being considered is a prosecution we will also consider a number of additional factors in line with the [Code for Crown Prosecutors](#) and any other nationally recognised guidance. These factors may include the following:

- 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 co-operate with officers
- Whether it is in the public interest to prosecute
- Whether any other action (including other means of formal enforcement action) would be more appropriate or effective

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

Application of our enforcement policy

21. All officers will have regard to this policy, and any relevant policy or procedure made under it, when making enforcement decisions.

22. Any departure from this policy must be exceptional, capable of justification and be fully considered by the manager or 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.

23. In cases of emergency or where any exceptional conditions prevail, the Head of Environment Health and Consumer Protection or Head of Legal Services 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

Accountability

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

- We shall provide businesses and individuals with effective mechanisms for consultation and opportunities for feedback on our service.
- Where enforcement action is taken we will inform you of any relevant appeals procedure.
- Officers will be courteous, fair and efficient at all times, and will identify themselves by name and, where appropriate, identity card.
- Any complaints about the way you have been treated will follow Durham County Council's corporate complaints procedure, which is easily accessible to all service users, and explains how to make a complaint and the timescales involved.
- A copy of the complaints procedure can be obtained by calling 03000 261016 or via our website at www.durham.gov.uk