

TEWKESBURY BOROUGH COUNCIL
ENVIRONMENTAL HEALTH ENFORCEMENT POLICY

1. Background

A clear Enforcement Policy which is monitored, regularly reviewed and updated is required to ensure that all those who work and live in Tewkesbury have a clear understanding of the Environmental Health Services enforcement standards.

2. Introduction

Tewkesbury Borough Council's Environmental Health Services delivers a range of services including:

- food safety,
- health & safety at work,
- water supplies,
- infectious disease control,
- animal welfare;
- statutory nuisance;
- industrial installation pollution
- contaminated land,
- air quality,
- housing conditions in the private rented sector
- licensing of taxis, premises and personal licences, gambling and lotteries and other licensing administration.

2.1 Enforcement includes council officers giving advice, carrying out compliance visits and inspections, responding to complaints and service requests, assisting consumers and businesses to comply with statutory duties & licensing requirements and taking formal enforcement action where warranted against those who breach the law.

2.2 The primary aim is to protect the health and safety of the public.

2.3 The enforcement policy outlines how the Environmental Health Service carries out its enforcement role when delivering the various services outlined above and sets out what businesses and others can expect from Enforcement Officers.

2.4 The policy will be reviewed and updated regularly to take into account new legislative requirements, guidance from central government, respective national bodies and best practice.

3. Objectives of the Enforcement Policy

3.1 To ensure protection of the public from unsafe food, residential and non-residential premises, work practices, products, unscrupulous and illegal traders, noise, atmospheric or land pollution and public health pests..

3.2 To stop, control and prevent any untoward practices prejudicial to the health of the public, thereby promoting the health of the public and protecting the welfare of animals in animal licenced establishments.

3.3 To achieve compliance through informal action and through an enabling and supportive relationship with businesses and the public. Formal enforcement procedures, including prosecution, will only be used where in the opinion of the Council or its officers there is a serious or imminent risk of injury to health or personal injury, or a blatant disregard for the law, deliberate intent or negligence, or a history of non-compliance with informal action.

3.4 To ensure a consistent approach with regard to openness, helpfulness and proportionality to the risk posed.

3.5 To promote and maintain a consultative and participatory relationship with businesses, consumers and service users.

3.6 To have a better informed community and thus reduce the need to rely on regulatory intervention for compliance with legislation.

3.7 Environmental Health is committed to implement policies and procedures that subscribe to principles of good enforcement. In forming this policy due consideration as been paid to the Department for Business Innovation & Skills Better Regulation Delivery Office, Regulators' Code which came into effect April 2014 (This code replaced the previously voluntary adopted Enforcement Concordat and Department for Business Enterprise & Regulatory Reform (BERR) Statutory Code of Practice for Regulators published 17 December 2007).

4. The Key Aspects of the Policy

4.1 All enforcement actions and investigations work whether formal or informal will be undertaken in accordance with and are based on applicable legislation and guidance including:

- Relevant Acts of Parliament
- Regulations and Codes of Practice made under the key relevant acts for each enforcement area
- Central & National Guidance from the Food Standards Agency (FSA) and Local Government Regulation (LGR), The Health & Safety Executive, The Local Authority Unit (LAU), The Department of Environment, Food & Rural Affairs (DEFRA), The Environment Agency (EA), The Chartered Institute of Environmental Health (CIEH) and The Better Regulation Delivery Office (BRDO)
- Benchmarking exercises, Best Practice arising from liaison groups and Best Value Reviews.
- The Regulator's Code.

5. Prevention and Promotion

The Council recognises that most businesses, licensees and individuals want to comply with the law and actively seeks to promote awareness about the standards it applies through: -

- routine inspections of premises and practices
- investigatory visits in response to complaints
- persuasion, advice, information and training
- where applicable providing translation where English is not the principal language of communication
- taking firm action against blatant breaches of the law

6. Enforcement Actions

In the event of non-compliance with statutory requirements, a range of enforcement actions are available, these include: -

6.1 Informal Action

Enforcement procedures such as verbal & written advice, providing information leaflets and warning letters.

6.2 Formal Action

6.2.1 Statutory notices, requiring compliance immediately or within a specified time, and prosecutions will normally be confined to serious breaches of the law. For breaches posing a nuisance or considerable risk to the health of the public or specific individuals the Council will serve either an improvement or abatement notice requiring compliance immediately or within a specified time. Where there is imminent risk of serious personal injury, prohibition powers in form of prohibition notices/orders will be used to stop the activity or close down the premises. These powers may involve seizure and detention of the offending equipment where necessary. In addition the proprietor, landlord, business operator or individual responsible can be prosecuted in the Magistrates Court for non-compliance with a notice or other such offence.

6.2.2 Simple Caution where an offence is admitted: -

This procedure is an alternative to taking action in the Courts. Should a further offence be committed, it may be cited in any subsequent Court proceedings. A Simple Caution is a serious matter and it is recorded by the Council and where applicable on the Police National Computer. Cautioning is recognised as an increasingly important way of keeping offenders out of Court and in many circumstances reducing the risk that they will re-offend. In considering and issuing simple cautions we will have regard to the Ministry of Justice Guidance April 2013 – Simple Cautions for Adult Offenders. The caution will be administered by a Senior Officer who has been designated a ‘Cautioning Officer’ (e.g. the Head of Community Services).

6.3 Fixed Penalty Notices / Penalty Charge Notices

Where provided for in legislation (Antisocial Behaviour, Crime and Policing Act 2014) in circumstances where it is appropriate to do so the Council may deal with some offences by way of fixed penalty notices.

6.4 Prosecutions

The decision to prosecute does not preclude the issue of legal notices as well. Prosecutions have a preventative role in drawing attention to the need for compliance and the maintenance of good standards.

We will apply the principles of “Criminal Procedures & Investigations Act 1996” and “Crown Prosecutors” statutory Code of Practice as well as Home Office Guidance, when making decisions on the course of action to be taken in any particular case.

6.4.1 In deciding whether to prosecute or not, we will consider the following matters: -

6.4.1.1 The gravity of the offence/s, for example whether: -

- there has been blatant disregard for the law, deliberate intent or negligence

- there are persistent poor standards and malpractice
- there has been an injury or a case of ill health as a result of a substantial legal contravention
- a particular contravention has caused serious public alarm
- those affected are particularly vulnerable

6.4.1.2 The general record and approach of the offender, for example: -

- repeated breaches of legal requirements or license conditions or various breaches of a multiple concern and, where it appears that an individual or a company is neither willing nor able to deal adequately with these
- failure to comply with statutory notices where matters of significant concern are persistent rather than transitory
- previous convictions or cautions which are relevant to the offence

6.5 Referral of a matter to the Council's Licensing or Regulatory Committee.

Where such a matter warrants referral to one of the above Committees a panel of Councillors will hear the case and take a decision based on this policy (and in the case of licensing the Council's Licensing Policy) and issue such sanctions as are available to them including no action, warnings, suspension or revocation of a licence.

7. Our Standards

7.1 Consistency: We will: -

- carry out our duties in an efficient, fair, courteous and consistent manner
- have in place in-house procedures and arrangements which are reviewed and updated regularly to promote and monitor consistency in the way we deliver the service

- have in place effective arrangements for liaison with other Local Authorities and enforcement bodies such as LGR, Food Standards Agency, Health & Safety Executive, Fire Authority, Police Authority, Environment Agency, etc., particularly where there is a shared enforcement role.
- draw up yearly activities, priorities and targets, setting out the level of service and performance the public and businesses can expect to receive through our Annual Service Plans
- publish our performance against the plans annually

7.2 Openness: We will: -

- provide information and advice in plain language on the rules we apply
- be open about how we set about our work, including the charges that we set
- discuss general issues and specific compliance failings or problems with anyone experiencing difficulties
- provide an opportunity to discuss the circumstances of a case and, if possible, resolve points of difference before enforcement action is taken (unless immediate action is required)
- give an explanation of why immediate action is required
- give advice on the rights of appeal against formal action

7.3 Helpfulness: We will: -

- actively work with individuals, businesses, especially small and medium sized businesses, to advise on and assist with compliance
- provide a courteous and efficient service and our staff will identify themselves by name
- provide a contact point and telephone number for further dealings with us and we will encourage individuals and businesses to seek advice/information from us

- deal with applications for licences, registrations and consents in accordance with service standards
- ensure that wherever practicable our enforcement services are effectively coordinated to minimise unnecessary overlaps and time delays
- have provision to visit a business out of normal office hours at times when the business is available, where it is not otherwise feasible to visit during normal office hours.

7.4 Proportionality: We will: -

- minimise the costs of compliance for individuals and businesses by ensuring that any action reflects the risks involved
- as far as the law allows, take account of the circumstances of the case and the attitude/actions of the individual or organisation when considering action
- take particular care to work with individuals, small businesses, voluntary and community organisations so that they can meet their legal obligations without unnecessary expense
- ensure that information given to a business, landlord or individual, whether written or verbal, will clearly identify those requirements which are mandatory and those which are advisory or are recommendations of best practice

8. Publicity

8.1 The Council will publicise cases of businesses, licensees and individuals it successfully prosecutes for environmental health offences as well as those it rewards for implementing very high standards. Names of companies and individuals convicted of environmental health offences may be published on the Council's website. Cases subject to appeal will not be published, to account for the appeals process a period of 10 weeks will be allowed to elapse following conviction before a case is added. Where the Council is notified of an appeal outside this time period, the case will be removed from the site.

9. Consultation With Customers: We will: -

- endeavour to make residents and those who run a business in Tewkesbury aware of our enforcement standards and policy, and assist them to comply with the law.
- consult businesses, residents and service users for feedback on our service and policies

We want to provide the best service possible. Help us to achieve this by telling us when you are satisfied with our service and when you are not. We welcome any suggestions as to how the service may be improved.

10. Complaints and Appeals

We subscribe to the Council's Corporate Complaints and Appeals Procedure. In addition, the majority of legislation enforced by officers of the Environmental Health Service has an in built appeals procedure prescribed within.

If you do not agree with any action taken by an officer you should contact the Head of Service whose details are given below.

In addition to the Council's complaints procedure there are a number of other independent panel's which can consider appeals such as the Health & Safety Executive Independent Challenge Panel and the Residential Property Tribunal, although generally complaints should be directed through the local authority in the first instance.

If you feel we have given an unsatisfactory service contrary to these criteria, you can complain direct to:

Head of Community Services
Tewkesbury Borough Council
E-mail ehenquiries@tewkesbury.gov.uk
<http://www.tewkesbury.gov.uk/>
Tel. No. 01684 272191

This Enforcement Policy supersedes and replaces all earlier enforcement policies relating to Tewkesbury Borough Council Environmental Health Services.

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