Corporate Enforcement Policy

Appendix 1

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1. INTRODUCTION

1.1 The council is responsible for enforcing a wide range of legislation. This document sets out the council's Enforcement Policy. It is clear that, due to the range of enforcement issues dealt with by the council, there is no one approach, which fits all and therefore where dealing with particular issues, the policy has been separated into service areas.

1.2 This council takes breaches of legislation seriously and always carries out investigations where necessary. Enforcement includes any action taken by officers aimed at ensuring that individuals or businesses comply with the law. The enforcement options will differ where different pieces of legislation are used, but the principles of application should remain constant.

1.3 Any reference within this policy to staff, employees or officers includes individuals employed to carry out duties on behalf of the council. These officers may be contractors, employees of Publica or have joint employment arrangements with the council.

1.4 Enforcement includes visits, verbal and written advice on legal requirements and good practice, assistance with licensing compliance, written warnings, the service of statutory and fixed penalty notices including financial penalties, prohibitions, formal cautions, attachment to earnings (including some benefits and allowances), prosecution, seizure and detention, works in default, injunctions and liaison and cooperation with other enforcement authorities where appropriate.

2. PURPOSE OF THE POLICY

2.1 The purpose of this policy is to set out the guiding principles by which legislation will be enforced by the council to protect public health, safety, amenity and the environment within the council's jurisdiction.

2.2 It provides an enforcement framework in accordance with:

- The Central and Local Government Concordat on Good Enforcement.
- The Legislative and Regulatory Reform Act 2006.
- The Regulators Compliance Code.
- The Crime and Disorder Act 1998.
- The Regulatory Enforcement and Sanctions Act 2008.

2.3 Enforcement plays an important role in enabling the council to achieve a number of key priorities as set out in the council plan.

3 PRINCIPLES AND PROCEDURES FOR GOOD ENFORCEMENT

3.1 The council has adopted the Central and Local Government Concordat on Good Enforcement. The Legislative and Regulatory Reform Act 2006 also places a duty on the council to have regard to the 'Principles of Good Regulation' when exercising specified regulatory functions.

3.2 The 'Principles of Good Regulation', together with the principles set out in the Concordat, are intended to ensure:

- **Standards:** Provide and publish clear standards setting out the level of service and performance provided by the council.
- **Openness:** Provision of information and advice in plain language about how we carry out our work, including consultation with stakeholders.

- **Helpfulness:** Provision of advice and assistance on compliance in a courteous efficient and prompt manner.
- **Proportionality:** When making a decision on appropriate enforcement action, officers will, where discretion is allowed, consider both the circumstances of the case and history of the parties involved and will ensure that the remedial action required is proportionate to the risks and/or disadvantage created by the non-compliance, that it reflects any advice issued by Central Government or other co-ordinating bodies and takes into consideration relevant advice, policy and the aims of the council.
- **Consistency:** Duties to be carried out in a fair, equitable and consistent manner and with arrangements in place to promote consistency.
- **Transparency:** Access to information regarding regulatory procedures and decisions to be freely available.
- **Accountability:** The council will be accountable for the efficiency and effectiveness of its regulatory activities.
- **Targeting:** The council accepts that its enforcement resources are limited and, where appropriate, they should be focused on those persons or companies whose activities give rise to the risks which are most serious or least well controlled on their own premises or public open space. Enforcement is informed through intelligence arising from an investigation or complaints, planned projects, special surveys, enforcement initiatives or as a requirement from a Government department.
- **Confidentiality:** The council will ensure information provided in confidence is treated accordingly.

4 THE REGULATORS' COMPLIANCE CODE

4.1 The council will have regard to the Regulators' Compliance Code with a view to achieving regulatory outcomes without imposing unnecessary burdens on businesses, organisations and other regulated entities by:

- **Supporting economic progress:** To allow and encourage economic progress and choose proportionate approaches to those they regulate based on relevant factors including, for example, business size and capacity.
- **Risk assessment:** To determine the priority risk in the area of responsibility and then allocate resources where they would be most effective in addressing those priority risks.
- **Advice and guidance:** To provide authoritative and accessible advice to businesses.
- **Simple and straightforward ways to engage:** To explain clearly what the non-compliant item or activity is, the advice being given, actions required or decisions taken and the reasons for these.
- **Transparency:** By publishing a clear set of service standards and setting out what those they regulate should expect from them.

5 CONFLICTS OF INTEREST AND UNDUE INFLUENCE

5.1 The enforcement role of the council is an impartial one. However, as with any organisation, there is the possibility of a real or perceived conflict of interest or undue influence arising. It is therefore important to the integrity of the enforcement services of the council that people seeking to use it are not the subject of discrimination, nor are they granted advantageous treatment because of their status.

5.2 Conflict of interest could include where a customer is socially acquainted with or related to the Enforcement Officer. Under these circumstances it may be difficult for the officer to act in an impartial manner.

5.3 Undue influence arises where a party exercises a dominant influence over the mind of another so that person is unable to exercise a free and independent will in the matter. For example, when an employee knows that a client is a Councillor or a more senior member of staff.

5.4 Where an employee believes that there is potential for conflict of interest or undue influence then the matter should be referred to their line manager for appropriate action and advice.

6 FAIRNESS AND EQUALITY

6.1 All enforcement action and investigations will be carried out in a manner which complies with the requirements of legislation and codes of practice governing the collection of evidence and investigatory powers.

6.2 Officers will take care not to take any action which contravenes human rights and anti-discrimination legislation unless it is necessary and proportionate to do so.

7 REFERRALS

7.1 The council regularly consults (and works) with other agencies including:

- Fire and Rescue Services;
- Welsh Water/Severn Trent Water/Thames Water;
- The Police;
- The Environment Agency;
- The Department for Environment, Food and Rural Affairs;
- The Drinking Water Inspectorate;
- The Department for Work and Pensions;
- Health and Safety Executive;
- The County Council;
- Other Councils;
- Other agencies or organisations as appropriate;

7.2 Information of allegations outside the remit of this council may be referred to the appropriate enforcement authority to enable that agency to investigate the allegation.

7.3 The council may also provide data to or obtain data from other enforcing authorities. When data sharing between authorities/agencies occurs this will be done in accordance with all data protection legislation and regulations.

7.4 The information supplied by an individual may be used to commence or support an investigation. However, the council will ensure that the identity of persons contacting the council is not revealed to a third party except:

- Where the law requires.
- Where the case proceeds to Court or Tribunal.
- With the prior written agreement of the person supplying the information.

8 ENFORCEMENT OPTIONS

8.1 The options available (but not limited to) are:

- Informal action and advice – written or oral,
- A range of Statutory Notices generally requiring some remedy within a specified timescale (or possibly immediately),
- Fixed Penalty and Civil Penalty Notices,
- Letter of warning,
- Simple caution,
- Financial penalty,
- Prosecution,
- Prohibition,
- Injunctive restraint,
- Seizure of goods, equipment, articles or records (paper or computer),
- Execution of work in default i.e. works required by a Statutory Notice where the recipient has not complied,
- A range of Statutory Orders,
- Compulsory purchase and enforced sale of properties or land,
- Attachment to earnings,
- County Court Enforcement,
- Bankruptcy and Winding-Up Petitions.
- Proceeds of Crime Applications

9 ENFORCEMENT ACTION

9.1 All enforcement action, whether formal or informal, will be carried out in accordance with the principles set out in this policy.

9.2 In deciding to take formal action and, if so, what type of action to take, officers will consider the following:

- Any individual Enforcement Policy relevant to their practice area;
- The seriousness of the breach or contravention;
- The consequences of non-compliance in terms of risk to people, property, the community or the environment;
- The individual's or company's past history in terms of compliance;
- Confidence in management, level of awareness of statutory responsibilities and willingness to prevent a recurrence;
- The likely effectiveness of the various alternative enforcement options;
- The public interest, protecting public health, public expectation and the importance of the case in setting a precedent;
- The application of any national or local guidance to the matter in question;
- The aims and priorities of the council;

- Information received following liaison with other external enforcing agencies;
- Relevant case law and guidance;
- The likelihood of the contravener being able to establish a defence;
- The information received following liaison with other authorities;
- The reliability of witnesses.

9.3 The most efficient and effective action will be taken to achieve the desired compliance with the law. The decision will be taken in an objective and fair way in accordance with the principles set out in this policy.

10 PROSECUTION

10.1 The council will use discretion in deciding whether to initiate a prosecution. Other approaches to enforcement can sometimes promote compliance with legislation more effectively. However, where the circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may be appropriate.

10.2 Each case will be treated as unique and considered on its own facts and merits with due consideration to the Equalities Act 2010 and the Human Rights Act 1998. All the circumstances surrounding the case will be considered including the social benefits and costs associated with bringing the matter to the attention of the Courts.

10.3 The prosecution of offenders will be used judiciously but, without hesitation, against those businesses or individuals where the law is broken and the health, safety, well-being or amenity of the public, employees and consumers are subject to serious risk.

10.4 Legal advice will be taken to ensure that only those cases presenting a realistic prospect of conviction will be pursued. The council will have due regard to the availability of any defences and to any explanation, apology or other issue referred to by the suspect by way of mitigation.

10.5 The decision to prosecute will take into account the criteria set down in the Code for Crown Prosecutors, issued by the Crown Prosecution Service. Both stages of the 'Full Code Test' as set out in the Code for Crown prosecutors will be applied as set out below:

10.5.1 **<u>The Evidential Test</u>**

10.5.1.1 There must be sufficient evidence to provide a realistic prospect of conviction and the evidence must be admissible and reliable.

10.5.1.2 In determining the sufficiency of evidence, consideration should be given to the following factors:

i) Availability of essential evidence;

ii) Credibility of witnesses – are they likely to be seen as credible witnesses and whether they are likely to be consistent and fail under cross-examination? – are they willing to attend as witnesses? – could they be 'hostile' witnesses?

iii) Where the case depends in part on admissions or confessions, regard should be had to their admissibility;

iv) Where two or more defendants are summonsed together, the sufficiency and admissibility of evidence available against each defendant, in the event that separate trials are ordered.

10.5.1.3 In determining the admissibility of evidence, regard should be given to the requirements of the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996 and associated Codes of Practice.

10.5.2 **The Public Interest Test**

10.5.2.1 When satisfied that sufficient evidence is available, consideration must be given to whether the public interest requires a prosecution.

10.5.2.2 The following considerations should apply:

i) Seriousness of the offence – the degree of detriment or potential detriment to consumers, employees or the environment. Current public attitudes to the particular breach of law should be considered.

ii) The age of the offence – less regard will be paid to this if the length of time could be attributable to the defendant themselves, the complexity of the case or the particular characteristics of the offence that have contributed to the delay in its coming to light.

iii) The age, circumstances or mental state of the offender – less regard to this is given if there is a real possibility of repetition or the offence is of a serious nature. Whether the defendant is likely to be fit enough to attend Court should also be considered.

iv) The willingness of the offender to prevent a recurrence of the problem. If the circumstances that give rise to the offence have subsequently been rectified and there is little likelihood of a recurrence then the case may be dealt with more appropriately by other means.

v) The 'newness' of the legislation transgressed may be a consideration, especially where the offence is of a technical nature, and future compliance may be obtained by less formal means.

vi) Important but uncertain legal points that may have to be tested by way of prosecution.

11 SIMPLE CAUTIONS

11.1 A Simple Caution may be used as an alternative to prosecution. The aim of a Simple Caution is to deal quickly and simply with offences, save Court time and reduce the likelihood of re-offending.

11.2 A decision to offer a Simple Caution must be made having regard to:

- Home Office circular 30/2005 Cautioning of Offenders.
- Guidance to Police Officers and Crown Prosecutors issued by the Director of Public Prosecutions.
- LACORS Guidance on Cautioning of Offenders.

11.3 Following the offer of a Simple Caution, the individual or company concerned will be required to confirm acceptance within 14 days.

11.4 When considering whether to offer a Simple Caution, the following will be taken into account:

- Whether a Simple Caution is appropriate to the offence and the offender;
- Whether a Simple Caution is likely to be effective;
- Public interest considerations;
- The views of the victim and the nature of any harm or loss;
- Whether the offender has made any form of reparation or paid any compensation;
- Any known records of previous convictions or Simple Cautions relating to the offender.

11.5 A Simple Caution cannot be given where the offence is indictable only or where the offender is under 18 years of age. It may only be offered where the offence has been fully admitted by the offender.

11.6 The person administering the Caution will be an appropriate Senior Officer employed within the council.

11.7 If the offender fails to admit the offence or does not agree to the Simple Caution, the case will be considered for prosecution.

12 POWERS OF OFFICERS

12.1 Officers have a range of delegated powers set out within legislation to assist them in undertaking their duties. These can include the power to require answers to questions and the power to enter premises.

12.2 Officers have powers delegated to them, under the relevant schemes of delegation, to undertake duties relating to the council.

12.3 Officers will carry an identity badge and their authorisation card (warrant) with them at all times, where they hold one. Where officers do not have an authorisation card, delegation documentation can be supplied. In the event of any doubt with regard to an officers' powers, confirmation can be obtained by contacting the officer's line manager who can provide any Statutory Notice describing their powers. It is an offence to obstruct an Authorised Officer who is conducting an inspection or investigation which could lead to prosecution.

13 CIVIL CLAIMS

13.1 Officers will not become involved in any negotiations on awarding reparation or compensation to victims following offences being committed.

13.2 Any enforcement action taken by the council is separate and distinct from any civil claims likely to be made by individuals. Enforcement action is not necessarily undertaken in all circumstances where civil claims may be pursued, nor is it undertaken to assist such claims.

13.3 The council may, on request, provide solicitors acting for individuals pursuing a civil claim, a factual report of the investigation. There may be a charge for this report.

14 COMPLAINTS PROCEDURE

14.1 The council aim to provide an efficient and fair enforcement service. In the first instance, most problems can be resolved with the officer dealing with the matter or with their line manager.

14.2 In the event that a person or business is not satisfied with the response received informally, the council has a formal complaints procedure which should be followed.

14.3 The council aims to acknowledge all formal complaints immediately and to provide an initial response within an allotted time as set out in the complaints procedure.

14.4 Please note that a complaint regarding a decision to prosecute cannot be progressed through the formal complaints procedure as this is a matter for the Court.

14.5 If a person is still dissatisfied having exhausted the council's complaints procedure, a complaint can be made to the Local Government and Social Care Ombudsman.

15 IMPLEMENTATION AND REVIEW

15.1 Implementation of the policy is the responsibility of all Enforcement Officers.

15.2 Departures from this policy will not occur without full consideration of all the circumstances and in consultation with the council's Legal Service save in exceptional or unforeseeable circumstances.

15.3 This policy will be reviewed and updated if any changes in legislation, guidance or other circumstances have a significant impact on the enforcement principles set out in this policy.

16 ENFORCEMENT TOOLS AND REMEDIES

16.1 In the vast majority of cases the council will try to resolve matters informally through negotiation and discussion. In some cases informal resolution cannot be achieved, or the matter being enforced is so serious that the informal stage would be inadequate. In these cases the council has a wide range of alternative powers available. Certain breaches of legislation will require urgent and immediate attention, either because the time period for action is limited or because the effect of the activity causes significant harm to the public interest.

16.2 The council has the power to issue a Requisition for Information under section 16 of the Local Government (Miscellaneous Provisions) Act 1976, section 330 of the Town and Country Planning Act 1990 and section 85 of the Private Water Supply Regulations 2016. This notice requires the recipient to provide information in respect of land/property in which they are suspected to have an interest. Not returning the form duly completed is an offence which can be prosecuted in the Magistrates' Court and lead to a fine of up to £5,000. For breaches of planning control the council also has the power to issue a Planning Contravention Notice which carries a similar penalty for failing to comply.

16.3 The council can use civil remedies to recover any property or debts and any costs incurred, but the council also has the power to prosecute a wide range of offences under section 223 of the Local Government Act 1972. Where there is enforcement action in a criminal court the council can use Proceeds of Crime Act 2002 legislation to recover money.

16.4 There are three areas under the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 that have to be considered by a local authority when conducting investigations. These are:

- Directed Surveillance.
- Covert Human Intelligence Sources (CHIS).
- Acquisition of Communications Data.

16.5 The council has separate policies and procedural guides relating to the use of RIPA and any officer considering the use of it should follow these.

16.6 Where the council uses CCTV it does so in line with the appropriate regulatory guidance and legislation. The council has a separate policy which officers must adhere to.

17 THE SCOPE OF EACH SERVICE

17.1 Planning

17.1.1 The Planning Enforcement Team is empowered to investigate breaches of planning control and conditions. The team's role is to resolve such breaches by informal methods wherever possible and expedient, but, if necessary, through legal notices and court

proceedings. Officers cannot intervene in non-planning matters such as boundary disputes and blocking off rights of way or matters controlled by other legislation such as building regulations or public nuisance.

17.1.2 Generally enforcement action can only be pursued where works have taken place without the benefit of planning permission, or where a development with the benefit of planning permission has not been undertaken in accordance with the approved plans/details or a condition attached to it.

17.1.3 Some development including domestic extensions, regardless of impact on neighbours, may either be immune from planning enforcement action due to elapse of time or if the works fall within permitted development rights will not be a breach of planning control. Enforcement notices cannot be issued in respect of anticipated breaches however the use of injunctions is possible where there is strong evidence that such breaches will occur and an injunction is necessary, for example that unauthorised development would cause irreparable damage to protected assets or serious harm to the public. Otherwise, action for breaches can only be taken once an unauthorised development has commenced.

17.1.4 In addition to building works, planning enforcement can also apply to demolition in certain circumstances, material changes of use, alterations to listed buildings, advertisement signs and hoardings, and trees subject to Tree Preservation Orders or in a conservation area. Although technically not breaches of planning control, remedial action may also be taken against untidy land and buildings.

17.1.5 Complainants should note that, whilst the council, as the Local Planning Authority (LPA), does have a duty to investigate allegations of planning breaches, enforcement powers are discretionary and it is therefore foreseeable that some complainants will be disappointed with the outcomes where it is not considered expedient to take action. The planning system is designed to achieve a balance between competing demands in the public interest and enforcement of planning control reflects this by focusing on proportionate resolution rather than punishing those who have undertaken unauthorised work.

17.1.6 There are many different types of action available to the planning service when dealing with breaches of planning control. These may include:

- Informal Remedy.
- Service of Statutory Notices, such as an Enforcement Notice, Breach of Condition Notice or Stop Notice.
- Simple Caution.
- Injunction.
- Prosecution.
- No further action.
- Invite and application/regularisation.

17.1.7 The Council's Planning Enforcement Plan and more details on the tools and powers available to the planning service can be found on the council's website www.tewkesbury.gov.uk.

17.1.8 Priority Cases - Urgent and Immediate

- Complaints of serious irreparable harm to Listed Buildings or scheduled ancient monuments,
- Demolition works in a conservation area,
- Works to trees in conservation areas,
- Removal of ancient hedgerows,

- Adverse impacts on wildlife habitats,
- Works to trees with preservation orders,
- Cases where the time-limit for enforcement action will expire imminently,
- Complaints of development taking place which are causing serious harm to amenity or safety,
- Non-compliance with effective notices,
- Complaints where an urgent response is likely to prevent serious harm to amenity or shorten the time taken to resolve the issue.
- Cases of unauthorised occupation of council land.
- Concerns (backed up by strong evidence) that a breach of control may occur in the future and a proactive response is required to prevent this happening,
- The council has signed up to the Gloucestershire Protocol for Managing Unauthorised Encampments. Where the council is identified as the lead authority, the council will take appropriate action in partnership with the police and other agencies.

17.1.9 Other Cases

- A risk based approach will be adopted in relation to scale, impact, number of people affected, harm caused and effect on LPA's reputation. It should be noted that, where an investigation reveals additional breaches of planning control, the status of the complaint may be varied.

17.2 **Building Control**

17.2.1 The council has a statutory obligation to enforce Building Regulations and to be responsible for the building control function within its boundaries. The purpose of building regulations is to safeguard the health and safety of people in or around buildings. They also deal with energy conservation and with access and facilities for people in and around buildings.

17.2.2 The Building Control Services within the council enforcement role encompasses the following:

- Enforcing Building Regulations through a process of plan checking and site inspection.
- Ensuring that those responsible for the condition of buildings/structures maintain them in a safe condition.
- Ensuring that those responsible for the demolition of buildings observe conditions relating to health and safety.
- Responding to complaints.
- Providing advice.
- Arranging for works in default to be carried out where necessary.
- Initiating legal intervention, where necessary.

17.2.3 In the majority of cases the inspecting Building Control Surveyor will try and solve any problem informally with the customer or their representative e.g. builder or architect. This will usually involve having any incorrect work already done altered or, if the Council has not been given the requisite notice to carry out an inspection, the work will need to be opened for inspection.

17.2.4 If these informal methods are unsuccessful, the inspecting Building Control Surveyor may issue an Informal Notice detailing the offending items and giving a time period for

compliance. If the Informal Notice is not complied with the Building Control Surveyor may issue a Statutory Notice. Failure to comply with this could result in a prosecution.

17.2.5 The Building Control Surveyor may also issue Statutory Notices for dangerous structures. These are given priority, followed by breaches of building regulations where the impact on the area or risk to the public is greatest.

17.3 **Housing**

17.3.1 Tewkesbury Borough Council – transferred its housing stock to Severn Vale Housing, now Merlin Housing Society which is a subsidiary of Bromford Group (Bromford).

17.3.2 The council has a statutory duty with regard to provision of accommodation for homeless people that falls within categories prescribed by legislation. The investigation of applications made through the council's Housing Options Team may also be subject to enforcement action. This could include civil remedies to recover property, but also criminal action such as a Simple Caution or prosecution.

17.3.3 Whilst the council no longer owns any social housing properties, as a prosecuting body it can act on behalf of Registered Social Landlords to take action and obtain information, under the Prevention of Social Housing Fraud Act 2013.

17.4 **Environmental Services**

17.4.1 The aim of the council's Environmental Health service is to maintain and improve the health of local communities through the provision of cost effective advisory, investigation, inspection, monitoring or enforcement services for a range of issues. This will involve enforcing legal requirements in areas including:

- Environmental protection, including noise, nuisance and anti-social behaviour, air quality, contaminated land and private water supplies.
- Private Sector Housing; the team works to make sure that private rented properties are safe, and are well maintained and healthy places to live. They provide advice and assistance to both tenants and landlords to make sure a property meets the correct standards and complies with the relevant legislation and, where standards are not maintained, the team has powers of enforcement to ensure that works are carried out.
- Food safety, including food poisoning, unfit food and private water supplies.
- Health and safety at work.
- Licensing, including the sale of alcohol, entertainment, animal licensing, caravan sites, houses in multiple occupation, hackney carriage and private hire vehicles, gaming machines, lotteries, street/house to house collections and street trading.
- Public health and pest control regulation.
- Waste, including fly-tipping and environmental crime.

17.4.2 The service is consulted on planning and licensing applications and where appropriate conditions are recommended.

17.4.3 The relevant policies referred to in connection with enforcement issues for Environmental and Regulatory Services can be found on the council's website at www.tewkesbury.gov.uk. The responsibilities for decisions are also detailed therein.

17.5 **Land and Property**

17.5.1 The council will deal with enforcement in relation to land drainage matters. In most cases the owner of land next to a watercourse is the "Riparian Owner". The legal responsibility for maintaining watercourses rests with the Riparian Owner. Where a watercourse passes over someone's land, the Riparian Owner has to keep it clear to allow water to

flow freely through it. Further, it is usually the landowner's responsibility to maintain a watercourse that forms a boundary with a public highway.

17.5.2 Where the Flood Engineering Service investigates and gathers evidence which identifies that the Riparian Owner has failed to fulfil his/her duty, the council has the power to serve a notice under section 25 of the Land Drainage Act 1991. The Notice will include the nature of the works to be carried out and the period within which they are to be carried out.

17.5.3 If, following service of the Notice, the Riparian Owner fails to carry out the required works, the council can carry out the work and charge the owner for the costs incurred. The council can also take a prosecution in the Magistrates' Court under Section 25(6)b, in addition to carrying out the work.

17.5.4 The council has signed up to the Gloucestershire Land Drainage Protocol. This sets out in more details the council's powers and the procedure that will be used for land drainage enforcement.

17.5.5 Problems will be categorised as urgent or non-urgent. If a problem is categorised as urgent, attendance will be arranged as soon as possible. Examples of matters requiring urgent action may include blockages to a watercourse causing immediate or imminent flooding of property.

17.5.6 In the event that immediate urgent action is deemed necessary, arrangements will be made to send appropriate services to the scene without delay. If the situation appears to be life-threatening or dangerous, the public emergency services will be contacted.

17.6 **Revenues and Benefits**

17.6.1 Responsibility for investigating and prosecuting cases of housing benefit fraud has transferred to the Department for Work and Pensions. The Council administers housing benefit and still has the power to impose civil penalties (or fines) in relation to overpayments of housing benefit. In respect of Council Tax and the Council Tax Reduction Scheme (formerly Council Tax Benefit) the council has the ability to impose civil penalties as well as take criminal action, to include cautions, penalties and prosecution. The council's policy in relation to the application of both civil and criminal sanctions can be found on the council's website www.tewkesbury.gov.uk

17.6.2 In relation to National Non Domestic Rates, the council may commence civil or criminal proceedings where appropriate.

17.7 **Counter Fraud Unit**

17.7.1 The Counter Fraud Unit (CFU) is a support service offering investigation and assistance with enforcement and criminal action across the council. The CFU has a specific responsibility to investigate all allegations of fraud received whether perpetrated by internal or external parties. The CFU will work to support other enforcement teams within the Council where appropriate and will take action to include offering cautions, imposing fines /penalties and commencing prosecution proceedings as applicable.

17.7.2 The remit of the CFU encompasses investigating issues such as internal or employee fraud, theft, procurement or contract fraud, tenancy and housing fraud, and any other area as requested.

17.7.3 The CFU will consider criminal proceedings in all cases where offending contrary to any of the following has occurred, although the list is not exhaustive:

- Theft Acts 1968 and 1978.
- Forgery and Counterfeiting Act 1987.
- Computer Misuse Act 1990.

- Social Security Administrative Act 1992.
- Local Government Finance Act 1992.
- Data Protection Regulations / Legislation.
- Identity Card Act 2006.
- Fraud Act 2006.
- The Bribery Act 2010.
- Welfare Reform Act 2012.
- The Prevention of Social Housing Fraud Act 2013.
- Council Tax Reduction Scheme (Detection of Fraud and Enforcement) (England) Regulations 2013.

17.8 **Parking Services**

17.8.1 Parking Enforcement is carried out under the Traffic Management Act 2004.

17.8.2 Civil Enforcement Officers are employed to enforce on and off street parking for the Boroughs, Districts and County Council. This service may be contracted out or conducted by an in house service.

17.8.3 A Penalty Charge Notice can be issued if a vehicle is parked in contravention of the restrictions which are in force.

17.9 **Liaison with other Agencies**

17.9.1 The council will maintain effective mechanisms for communication and liaison with all its services and other agencies and may have a joint enforcement role where appropriate.

17.9.2 If another agency is better able to provide a service in any particular case, the council will either;

(a) pass on the relevant details to that agency and, where appropriate, advise the complainant and contravener accordingly or
(b) give contact details of the other agency to the complainant in order for them to make direct contact.

17.10 **Publicity**

17.10.1 The council may actively inform the media of impending prosecutions, with the aim of drawing their attention to the court case. After the case the council may publicise any conviction which could serve to draw attention to the need to comply with legislation or deter anyone tempted to break the law.