



# **Corporate Enforcement Policy**

## **October 2022**

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### 1. Introduction

The Legislative and Regulatory Reform Act 2006 (2006 Act) requires Local Authorities to have regard to the Principles of Good Regulation when exercising a specified regulatory function.

A new Regulators' Code came into force in April 2014 and Regulators must have regard to the Code when developing policies and operational procedures that guide their regulatory activities. If a regulator concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision but should record that decision and the reasons for it.

The Council fully supports the principles set out in the 2006 Act and the Regulators Code and has set out within this Enforcement Policy the procedures to be adopted by all services and officers exercising any enforcement functions. The Council is committed to services which are courteous and helpful and seeks to work with individuals and businesses, wherever possible, to help them comply with the law.

The Council, nevertheless, acknowledges the need for firm action against those who flout the law and put consumers and others at risk. The Council expects all officers taking enforcement decisions to take this Policy as a guide when making their decision. Every case must be decided on its own individual facts. Officers must ensure that, if they depart from the Policy when they make their decision, they can provide reasons for doing so.

This document represents the Council’s Corporate Enforcement Policy, and supersedes any previous corporate policy statements on enforcement. It may be supplemented in some cases, by more specific and detailed service policies.

## 2. Enforcement activity

The Council has a duty and a power to take action to enforce a wide range of statutes relating to:

- public health and safety,
- quality of life,
- preservation of public and residential amenity
- maintenance of the environment and
- protection of public funds.

All of these activities will be carried out having regard to the general principles of good enforcement practice outlined in this Policy. Although not exhaustive the service areas falling within the scope of this policy include:

<b>Service area</b>	<b>Responsibility</b>
Shared Building Control Service (3C)  <a href="#">Current Shared Building Control Service (3C) standards</a>	Building Regulations and related advice  Dangerous Structures  Demolitions  Safety at Sports Grounds and Temporary Stands  Street Naming and Numbering  Street Nameplates  Administration of 3 <sup>rd</sup> party notifications CPS, AIs etc.
Environmental Health  <a href="#">Current Environmental Health Services Standards</a>	Statutory Nuisance  Food Safety  Health and Safety  Environmental Protection  Private Sector Housing

	<p>Illegal evictions and Harassment</p> <p>Licensing</p> <p>Animal Welfare</p> <p>Public Health</p>
<p>Shared Planning Services</p> <p><a href="#">Current Shared Planning Service Standards</a></p>	<p>Development and Use of Land -Planning</p> <p>Listed Buildings</p> <p>Conservation Areas</p> <p>Advertising</p> <p>Trees Preservation</p>
<p>Streets and Open Spaces</p> <p><a href="#">Current Streets and Open Spaces Service Standards</a></p>	<p>Public Realm Enforcement</p> <p>Street Trading</p> <p>Market Trading</p> <p>Illegal Encampments</p> <p>Moorings</p>
<p>Revenue and Benefits</p> <p><a href="#">Current Revenue and Benefits Service Standards</a></p>	<p>Revenue Recovery</p> <p>Council Tax and National non-domestic rate fraud</p>
<p>Community Safety</p> <p><a href="#">Antisocial behaviour (ASB) - Cambridge City Council</a></p> <p><a href="#">Community safety - Cambridge City Council</a></p>	<p>Antisocial Behaviour</p> <p>Community Safety</p>
<p>Housing Services</p>	<p>Environmental Crime</p>

### **3. Delegation of authority**

The Council's Scheme of Delegations specifies the extent to which enforcement powers are delegated to officers. Whilst delegation is mainly to officers, in some specific circumstances the decision to take enforcement action lies with the relevant Council Committee.

### **4. Objective**

The approach adopted by services when carrying out the Council's duty to apply or enforce a wide range of legislation is intended to:

- Assist businesses and others in meeting their legal obligations without unnecessary expense
- Focus on prevention rather than cure
- Ensure that we enforce the law in a fair, equitable and consistent manner
- Take firm action when it is necessary and appropriate to do so.
- Carry out enforcement that is risk-based, consistent, proportionate and effective.

### **5. Principles of enforcement**

Although primary responsibility for compliance with the law rests with individuals and businesses, the Council will provide information and advice to help them understand their legal obligations and will seek to raise awareness about the need to comply.

#### **5.1. Overview**

The Council believes in the principles of good enforcement, as set out in the 2006 Act, which must be adopted by the Council's services. The principles covered are:

- Courtesy and Helpfulness
- Openness
- Clear Standards and Practices
- Proportionality
- Consistency
- Training of Staff

The Council will employ the provisions of the [Regulators' Code](#) ('RC'). We will observe any requirements of national bodies and, where practicable, national good practice guidance. Where appropriate, services will provide enforcement advice and information in accessible formats such as minority languages, large print, Braille and face to face.

We will adhere to the principles of the RC, as follows:

- Regulators should carry out their activities in a way that supports those they regulate to comply and grow
- Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views
- Regulators should base their regulatory activities on risk
- Regulators should share information about compliance and risk
- Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- Regulators should ensure that their approach to their regulatory activities is transparent

## **5.2. Specific Commitments**

### **5.2.1 Regulators should carry out their activities in a way that supports those they regulate to comply and grow**

Effective and well-targeted regulation is essential in promoting fairness and protection from harm. We will ensure that our enforcement is proportionate and flexible enough to allow and encourage economic progress, and provide help and encouragement to businesses in order that they can meet regulatory requirements more easily. We will keep under review our regulatory activities and interventions to ensure that we do not impose unnecessary burdens, paying particular attention to the impact we may have on smaller businesses. In this connection, we will consider the impact our regulatory interventions may have on such businesses to ensure that our interventions are fair and proportionate (by giving consideration to their size and the nature of their activities).

### **5.2.2 Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views**

We will create effective consultation and feedback opportunities to enable continuing cooperative relationships with businesses and other interested parties. We will ensure that our employees provide a courteous and efficient service to businesses and seek the comments and views of regulated businesses. The Council has established and published a comprehensive [complaints procedure](#) which is available to any aggrieved party.

In response to non-compliance that we have identified we will clearly explain what the non – compliant item or activity is, the advice being given and the action required or decision taken, and the reasons for these. We will provide an

opportunity to discuss any such actions that need to be taken and any appeal process available.

### **5.2.3 Regulators should base their regulatory activities on risk**

Risk assessment will underpin our approach to planned regulatory activity (comprising inspections, data collection, advice and support, and enforcement and sanctions). We will target our efforts and resources where they would be most effective and rate risks to regulatory outcomes. We will base our risk assessment on all available and good-quality data and consider the combined effect of:

- the potential impact of non-compliance on regulatory outcomes; and
- the likelihood of non-compliance (where we will take into account past compliance and potential future risks and willingness to comply)

### **5.2.4 Regulators should share information about compliance and risk**

We follow the principle of “collect once, use many times” when requesting information from businesses. To help target resources and activities and minimise duplication we will share wherever possible information with other enforcement agencies.

### **5.2.5 Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply**

Ensure that businesses are provided with, or signposted to, clear and accessible information on legal requirements relating to their operations. Targeted and practical information will be provided through a variety of means including on-site visits, telephone advice lines and online guidance (both national and local guidance). We will endeavour to distinguish between legal requirements and advice or guidance which seeks to improve the basic level of practice. The response to a request for advice will be to provide such advice and to help secure compliance rather than directly triggering enforcement action.

### **5.2.6 Regulators should ensure that their approach to their regulatory activities is transparent**

In consultation with business and all other relevant interested parties, we will draw up clear standards setting out the level of service and performance that the public and businesses can expect from our enforcement services, our approach to check on compliance, this enforcement policy, the fees and charges, if any and how they are calculated. We will publish these standards within individual service areas and also our annual performance as measured against them. We will justify our choice of enforcement action to relevant interested parties, follow up enforcement actions where appropriate and enforce in a transparent, fair and consistent manner following the Code for Crown Prosecutors.

The information published will be easily accessible through single point on the Councils website which will be clearly signposted and kept up to date

### 5.2.7 Other Considerations

- The Council will consider the desirability of using formal enforcement in the case of a person who is elderly or is, or was at the relevant time, suffering from significant mental or physical ill health. It will balance this with the need to safeguard others, taking into account the public interest.
- The Council will consider its Safeguarding for Children and Vulnerable Adults Policy when determining what enforcement action we are considering. We are committed to safeguarding and promoting the welfare of children, young people and vulnerable adults. We take our responsibilities seriously and expect all of our staff to share this commitment.
- The Council will consider its [Equality and Diversity Policies and Plans](#) when determining what enforcement action we are considering and how we communicate the message. We believe in the dignity of all people and their right to respect and equality of opportunity. We value the strength that comes with difference and the positive contribution that diversity brings to our city.
- The Council operates a closed circuit television (CCTV) in the city. The code of practice for its operation can be found at this address: [HDC CCTV System Code of Practice \(huntingdonshire.gov.uk\)](http://huntingdonshire.gov.uk)
- The Council will have regard to the Crown Prosecution Service public policy statements on dealing with cases which involve victims and witnesses who have a learning disability and victims and witnesses who have mental health issues.
- The Council's approach to the collection of Local Taxes [Council Tax & Business Rates] and in the recovery of overpaid Housing & Council Tax Benefit is one which seeks to strike a balance between the need to maximise income to the Council and the desire not to cause further hardship to the poorest within the community
- The Council will apply the principles of the Regulation of Investigatory Powers Act 2000 (RIPA) to all activities where covert surveillance, covert human intelligence sources, or communications data are used. In doing so, the Council will also take into account its duties under other legislation, in particular the Protection of Freedoms Act 2012; Human Rights Act 1998; and Data Protection Act 1998, and its common law obligations.
- The use of Body Cams must be in line with [Cambridge City Councils Body-Worn CCTV cameras Code of Practice](#).



## **6. Enforcement options**

The Council recognises the importance of achieving and maintaining consistency in its approach to enforcement. For many areas of our enforcement activity government guidance already exists in the form of Codes of Practice, Planning Policy Guidance, and Government Circulars etc. There may also be local or regional Codes of Practice such as the Charter and Code of Practice for the collection of debts, which have been produced locally to promote consistency in our enforcement activity. When making enforcement decisions officers must have regard to any relevant national or local guidance as well as the provisions of the Human Rights Act 1998, Equalities Act 2010 and this Enforcement Policy.

### **6.1 Prevention**

We believe that the first step in enforcement is to promote good practice, ensure policy compliance and prevent contravention of the law by raising awareness and promoting good practice.

This approach will be applied when we are not aware of any specific contraventions of the law.

### **6.2 Approvals, Consents and Licences**

We provide a range of approvals consents and licences as specified by individual pieces of legislation. Most of these are compulsory, such as planning applications, licensing applications and building regulation approvals, but a few are optional. These are an important part of the preventative aspect of our work.

We will work with applicants to help them to understand what is required to gain approval through pre-application advice, published guidelines, and post-application discussion.

Applications may be approved as they are submitted, varied by agreement and then approved, approved subject to conditions, or rejected. Applicants, or their agents, will always be notified, in writing, of the outcome of their application, including the reasons if rejected. Details of any rights of appeal will be provided at the time the decision is notified.

Any rejection notice will inform the applicant, or their agent, of the reasons for refusal and any right of appeal.

### **6.3 Informal Action**

Where practicable we would prefer to avoid unnecessary costs for the customer, preferring their time and money to be invested in solutions rather than legal procedures. We will therefore use our best efforts to resolve

situations where the law may have been broken without issuing formal notices, or taking other kinds of formal action.

Informal action will involve offering advice, mediation where appropriate, requests for action, or warnings, or seeking and monitoring the delivery of undertakings or timetabled schedules of action. Informal action will be supported throughout by contact between the customer and Council officers.

This approach may be applied provided that the consequences of non-compliance are considered acceptable.

## **6.4 Formal Action**

In most situations before formal action is taken, we will provide an opportunity to discuss matters and, hopefully, resolve points of difference. The extent of this will depend on the seriousness of the contravention, and may not be possible where immediate action is considered necessary, e.g. where there is an immediate risk to health, safety or the environment, or where the formal action takes the form of a fixed penalty notice.

Circumstances where formal action will be considered include (but are not restricted to):

- There is a significant contravention of legislation
- The wording of legislation requires the Council to take a specified action
- An informal approach has failed
- There is a history of non-compliance with informal action
- There is a lack of confidence in the successful outcome of an informal approach
- Standards are generally poor, suggesting a low level of awareness of, and compliance with, statutory responsibilities
- The consequences of non-compliance, for health, safety, the environment, or other Council priorities, are unacceptable and/or immediate
- There is demonstrable harm to the amenity of the area
- Effective action needs to be taken quickly in order to remedy conditions which are deteriorating
- Formal action is expected to achieve the desired outcome without incurring expense or inconvenience that is disproportionate to the risks
- Legal requirements, relevant formal guidance, or other Council policies or strategies require formal action to be taken
- A charge applied by a Fixed Penalty Notice has not been paid

Formal action can take any form that the Council is empowered by legislation to take. The following will be the most commonly used.

### **6.4.1 Statutory Notices**

Many of the various pieces of legislation that we enforce provide for the service of 'statutory notices' on individuals, businesses and other organisations requiring them to meet specific legal obligations.

Where a 'statutory notice' is served, the method of appealing against the notice and the timescale for doing so will be provided in writing at the same time. The notice will explain what is wrong, what is required to put things right and what the likely consequences are if the notice is not complied with. In some cases a 'statutory notice' can be served to prevent the occurrence or recurrence of a problem e.g. a noise nuisance. In most cases, failure to comply with a 'statutory notice' will result in more severe formal action being taken.

In some cases such as Housing Notices there will be a charge for when the notice has been served.

## **6.4.2 Financial penalties**

Government guidance on the issuing of fixed penalty notices can be found in the Code of Practice for Litter and Refuse: Part 1A - effective enforcement ([publishing.service.gov.uk](http://publishing.service.gov.uk)). Government guidance for the issuing of civil penalties can be found in the [Civil penalties under the Housing and Planning Act 2016 - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

### **6.4.2.1 Fixed penalty notices:**

The Council has powers to issue fixed penalty notices in respect of some breaches. A fixed penalty notice is not a criminal fine and does not appear on an individual's criminal record. If a fixed penalty is not paid, the Council may commence criminal proceedings or take other enforcement action in respect of the breach

If a fixed penalty is paid within the specified timescale in respect of a breach the Council will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

The Council is only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their issue is at the Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a civil/fixed penalty notice.

### **6.4.2.2 Civil penalties:**

The Council has powers to issue civil notices in respect of some breaches. If a civil penalty is not paid, the Council may commence proceedings or take other enforcement action in respect of the breach

If a civil penalty is paid within the specified timescale in respect of a breach the Council will not take any further enforcement action in respect of that breach. Payment of a civil penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

The Council is only able to issue civil penalties where it has specific powers to do so. If civil penalties are available, their issue is at the Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that proceedings are more appropriate than the issue of a civil penalty.

#### **6.4.3 Work In Default**

In general, it is the responsibility of others to achieve compliance with the law. In certain cases the Council may undertake work to achieve compliance on behalf of others, and may seek a warrant to gain entry to land or premises to do so. This may occur if the responsible person fails to comply, cannot comply by virtue of genuine hardship, or is unable to comply by virtue of being absent. In these cases the Council's costs will be recovered from the responsible person. If the costs cannot be recovered, they will usually be placed as a charge against the property, to be recovered at a later date.

#### **6.4.4 Cautions**

A simple caution (previously known as a formal caution) may be issued as an alternative to a prosecution and will be considered during any decision to prosecute.

A caution is a serious matter, which will influence any future decision should the company or individual offend again. It can be referred to in any subsequent court proceedings, but this will not apply if the caution was issued more than 3 years before. Where the offer of a caution is refused, a prosecution will generally be pursued.

No pressure will be applied to a person to accept a caution.

The Council maintains a central register of cautions administered.

#### **6.4.5 Prosecution**

The Council recognises that the decision to prosecute is significant and would be a last resort and could have far reaching consequences on the offender. The decision to undertake a prosecution will normally be taken by the relevant /Head of Service or Senior Manager i, as outlined in the Scheme of Delegation

All relevant evidence and information will be considered before deciding upon a prosecution in order to enable a consistent, fair and objective decision to be made. The Council will have regard to the Attorney General's Code for Crown Prosecutors ([The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk)), which means that the following criteria will be considered:

- Whether the standard of evidence is sufficient for there to be a realistic prospect of conviction;
- Whether the prosecution is in the public interest;

The public interest test will be considered in each case where there is enough evidence to provide a realistic prospect of conviction. The Council will consider whether there are public interest factors tending against prosecution which clearly outweigh those tending in favour, or it appears more appropriate in all the circumstances to divert the person from prosecution.

In deciding on the public interest the Council will make an overall assessment based on the circumstances of each case.

Where there has been a breach of the law leading to a work-related death, the Council will liaise with the police, coroner and the Crown Prosecution Service (CPS) and, if there is evidence of manslaughter, we will pass the case to the police or, where appropriate, to the CPS and /or the Health & Safety Executive (HSE).

## **6.5 Restorative Justice**

Where appropriate and available, the Council will consider the use of Restorative Justice. Restorative Justice is a process through which parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future.

## **6.6 Proceeds of Crime**

Where appropriate the Council will consider the use of the Proceeds of Crime Act 2002. The Proceeds of Crime Act allows Local Authorities to recover assets that have been accrued through criminal activity.

## **6.7 The Rent Repayment Orders and Financial Penalties (Amounts Recovered) (England) Regulations 2017**

Where appropriate the Council must consider the use of rent repayment orders where a relevant offence has been committed. The Council must serve a notice of intended proceedings containing the following

- informing the landlord that the authority is proposing to apply for a rent repayment order and explain why,
- state the amount that the authority seeks to recover, and
- Invite the landlord to make representations within a period of not less than 28 days.

## **7. Training and appointment of officers**

All officers undertaking enforcement duties will be suitably trained and qualified so as to ensure that they are fully competent to undertake their enforcement activities.

Officers may have a variety of delegated powers to assist them in carrying out investigations. For example, this can include the power to require answers to questions and the power to enter premises, usually during reasonable hours e.g. normal opening times. Officers will carry an identity card and their authorisation with them at all times. We will not insist on entry into a person's home without giving 24 hours notice or producing a Court Order. In the event of any doubt as to an officer's powers, confirmation can be obtained from any Council notice describing their powers, or by contacting the Council. It is an offence to obstruct an authorised officer who is conducting an inspection or investigation. Obstruction may lead to prosecution.

## **8. Shared Regulatory Roles**

Where the Council has a complementary regulatory role or is required to inform an outside regulatory agency of an incident or occurrence it will do so. Such external agencies include (but are not restricted to):

- Police
- Fire Authority
- Health and Safety Executive
- County Council services
- Other Council services
- Environment Agency
- Utility Providers
- Other Councils

Officers will attempt to co-ordinate visits and actions with other agencies to achieve the most efficient and effective outcomes and to minimise inconvenience for those who are being visited, inspected, or subject to other enforcement action.

Wherever possible, in situations where there is a shared enforcement role, the most appropriate authority will, by mutual agreement, carry out the enforcement action.

Exchange of information with other enforcement teams within the Council will take place wherever applicable. Liaison will also take place between relevant services and Members within the Council to avoid potential conflicts of interest.

## **9. What You Can Expect From Us**

- We will be objective to ensure that our decisions are not influenced by gender, ethnic origin, religious or political beliefs, disability or sexual orientation
- We will enter into discussion and offer advice to anyone to try to ensure that they do not unnecessarily expose themselves to the possibility of formal action through a lack of understanding or information
- We will be consistent in our approach by following the criteria and guidance set down in relevant legislation, codes of practice, and our own written procedures and work instructions
- We will ensure that before deciding to offer a caution, or take a prosecution, the case will be subject to independent review by a senior manager
- We will provide a courteous and efficient service and our staff will identify themselves by name when they visit you, or speak to you on the telephone
- We will respect confidentiality subject to any legal requirements to disclose information (for example disclosure to support a prosecution)

## **10. How To Complain**

If you are dissatisfied with the service you have received, please let us know. We are committed to providing quality services and your suggestions and criticisms about any aspect of our service will help us to do this. Most problems can be resolved with the Council employee who has been dealing with the matter, or you may wish to speak to their supervisor.

We will respect confidentiality subject to any requirement to disclose information (for example if it is necessary to do so in order to investigate the complaint, or to provide information to the Local Government Ombudsman). We will not normally investigate anonymous service complaints.

If you are still not happy, you can make a formal complaint using the Council's Complaints Procedure. Once we receive a formal complaint we will acknowledge receipt, in writing, immediately. A manager will investigate the complaint and will normally reply to you, in writing, within 10 working days, either giving a full answer or an indication of the likely time scale for the provision of a full answer. You will also be advised of what further action you can take if you are still dissatisfied. The Complaints Procedure can be viewed on the Council's web site at: [Compliments, complaints and suggestions - Cambridge City Council](#)

## **11. How To Contact Us**

Please visit the [Cambridge City Council Website](#).

## **12. Review of Enforcement Policy**

This policy document will be reviewed every 3 years or sooner should legislation change

This document was first published in October 2014, reviewed October 2017,  
second review October 2022.