

OADBY AND WIGSTON BOROUGH COUNCIL

ENFORCEMENT POLICY

One of Oadby and Wigston Borough Council's principal duties is the regulation of a number of activities, the purpose of which is to secure adequate protection of the public and the environment.

We do this by applying laws which we have either the power or a duty to enforce.

It is our intention to apply these laws in a fair and consistent way.

To help us do so, this enforcement policy is adopted as our commitment to the principles of good enforcement.

1. Introduction

1.1 This policy sets out what businesses and others who are regulated by Oadby and Wigston Borough Council can expect from our enforcement service. It commits us to –

- Protecting the public, the environment and groups such as consumers and workers
- Equitable and consistent enforcement actions
- Allowing and encouraging economic progress in our borough
- Taking care to help businesses and others meet their legal obligations
- Reducing unnecessary burdens on businesses
- Responding proportionately to regulatory breaches, including those of criminal behaviour which would have a damaging effect on legitimate business
- Taking firm action, including prosecution where appropriate, against those who persistently flout the law or act irresponsibly

1.2 By delivering these commitments, we believe we shall help to maintain a fair and safe trading environment and to promote the local economy.

1.3 We recognise that most businesses want to comply with the law and it is our commitment to help and encourage them to do so.

1.4 The policy is supported by appendices in which we have set out additional measures that will be adopted to enforce certain legislation, where specific guidance applies. This includes legislation relating to health and safety at work and food safety.

1.5 The policy and its appendices are based on advice and guidance from government departments (including the statutory Regulators' Compliance Code and the Enforcement Concordat), the Health and Safety Executive and its local authority unit, the Local Authorities Co-ordinators on Regulatory Services (LACORS), the Chartered Institute of Environmental Health, the Code for Crown Prosecutors and current best practice.

2. Aim and Application of this Policy

2.1 The aim of this policy is to ensure that all enforcement action we take is **proportionate, consistent, transparent, targeted and accountable.**

2.2 In applying this policy we will –

- Enforce only within our areas of responsibility
- Work with employers, businesses and/or proprietors to achieve compliance with the law through education, the provision of advice and information and inspection
- Apply a risk based approach that is proportionate, targeted and flexible
- Adopt the principles of good enforcement (see Appendix A)
- Set clear guidance for officers to follow
- Provide adequate resources to enable the policy to be carried out

3. Action under this policy

3.1 The Council recognises and will use a variety of actions to carry out its enforcement policy. These include –

- Informal action, i.e. advice, assistance and education
- Issuing of a statutory notice – the type of statutory notice will be specified by individual laws. For the purposes of this policy, a statutory notice includes a fixed penalty notices
- Issuing of a formal caution
- Prosecution

3.2 Supporting guidance will be developed to identify officers who have sufficient training, knowledge and experience to make enforcement decisions (i.e. to determine which action is most appropriate).

3.3 When making enforcement decisions all officers who are authorised under this policy will abide by its requirements, its appendices and all supporting guidance.

3.4 Any departure from the policy will be exceptional, capable of justification and fully considered by the senior manager of the service before any decision is taken, unless it is considered that delaying the decision will cause significant and unacceptable risk to the public or the environment.

4. Competency of Enforcement Officers

4.1 The council recognises that only appropriately authorised officers may carry out enforcement work and that authorised officers must have a competency level that is appropriate to the level at which they expected to enforce.

We therefore undertake to authorise officers both in accordance with our Constitution and the requirements of any specific legislation and guidance that may apply.

4.2 We will set guidelines to ensure that only officers with an appropriate level of competency are authorised, and that authorisation of an individual will reflect their level of competency.

4.3 We believe that competency may be demonstrated by a mix of training, qualification and experience and in order to maintain, develop and improve the competency of our enforcement officers, we will support the continuing professional development that is necessary to enable them to deliver this policy within the law and guidance that applies.

4.4 It is the responsibility of individual officers to keep a record of their own training and professional development, which will form part of the authority's record of ongoing training.

4.5 All authorised officers will be made aware of the requirements of this policy, where they are relevant to their operational duties. Initial training on recruitment and periodic refresher training of officers will be undertaken as necessary and their activities will be monitored to ensure compliance with this policy. This will be through regular management supervision.

5. Working with others

5.1 The council recognises that many enforcement activities require an inter agency approach. In cases where this is necessary and appropriate, enforcement officers shall ensure that liaison is made with other interested bodies, in accordance with national and local guidelines.

6. Indemnification

6.1 The council will indemnify officers that it has authorised against the whole of any damages or costs which may be involved, if it is satisfied that the officer honestly believed that the act or omission complained of was within their powers, that their duty as an officer entitled them to do it and that their action was appropriate given the information they had available at the time their decision was made.

6.2 Indemnification does not include any officer acting wilfully against instructions

6.3 Officers will be fully acquainted with the requirements of this policy and the procedures to carry it out and will carry out their duties at all times in support of and in compliance with this policy.

7. Review of Policy

7.1 The policy will be reviewed regularly and developed to reflect changes in legislation or guidance. Reviews will also take into account improvements to the service and the particular interest in our authority of business owners and others that we regulate, their employees and the public.

7.2 In particular we will review the regulatory activity and interventions we carry out under this policy and consider the degree to which we may remove or reduce the regulatory burdens they impose.

7.3 Examples of when review will be undertaken include a change in legislation or guidance, a significant enforcement enquiry or dispute and as a result of feedback or consultation from businesses.

7.4 The next major review of this policy will be no later than 30th June 2011.

8. Complaints Procedure

8.1 The council is committed to providing an easy way for anyone wishing to challenge or complain about our enforcement action. Any complaints about this policy or its application will be dealt with in accordance with our formal complaints procedure, a copy of which is available on request.

This policy was approved by Oadby and Wigston Borough Council's Services Committee on 10th June 2008.