

## **1.0 ENFORCEMENT POLICY**

- 1.1 It is the aim of the Council to protect the environment and enhance the quality of life of all residents, workers and visitors to the Borough. This will be achieved by education, providing advice, regulating and enforcing the activities of others.
- 1.2 The policy sets out the approach and general principles which the Council intends to follow when taking enforcement action with regards to fly-tipped waste. The policy commits the Council to good enforcement policies and practices. However, the Council views prosecution as a last resort and if possible will generally seek to offer information and advice.

## **2.0 Purpose**

- 2.1 The purpose of enforcement action is to ensure that preventative or remedial action is taken to protect the public and the environment and / or to secure compliance with a regulatory system. The need for enforcement may stem from failure to comply with statutory obligations and / or the likely risk to health or the environment.

## **3.0 Responsibility & Authorisation**

- 3.1 Responsibility for the implementation of the Policy rests with the relevant Head/s of Service. Authorised officers within the various service area/s will carry out day to day enforcement activities in accordance with relevant Codes of Practice or National Guidance. Such officers will have been given specific delegated authority by their relevant Chief Officer in respect of the extent of their statutory enforcement powers.
- 3.2 The level of action will be down to individual enforcement officers on a case by case basis depending on the severity and circumstances.
- 3.3 The issue of a Formal Caution and any decision to prosecute will only be administered or approved by a Head of Service after taking appropriate legal advice.

## **4.0 Principle of Enforcement**

- 4.1 The Council will adopt a firm but fair approach to regulation. The principles underlying firm but fair regulation include;

- Proportionality in the application of the law and in securing compliance.
- Consistency of approach between enforcement officers.
- Transparency and openness.
- Targeting of enforcement action.

### **4.2 Proportionality**

The enforcement action taken by the Council will be proportionate to the risks posed to the public or environment and the seriousness of any breach of law and the likely effectiveness of the various enforcement options.

#### 4.3 Consistency

We aim to adopt a similar approach in similar circumstances to achieve similar results. Whilst enforcement officers exercise discretion, they will endeavour to ensure that enforcement decisions are consistent, balanced and fair.

Officers will retain the flexibility to take a different approach if there are exceptional circumstances that justify this. Variables will be taken into account when making decisions. These will include the seriousness of the offence, past history, the consequences of non-compliance, evidence of remorse etc.

#### 4.4 Transparency and openness

This means helping the public to understand what is expected of them and what they should expect from the Council. It also means making clear why an officer intends to, or has, taken enforcement action.

#### 4.5 Targeting

Targeting means making sure that the Council's resources are directed primarily towards those areas or behaviours which are the most problematic within the Borough.

### **5.0 Levels of Enforcement Action**

5.1 There are a number of levels of enforcement action available to the Council.

#### 5.2 Prevention

The Council will seek to prevent contravention of the law by raising awareness and promoting good practice by education and advice within the Borough.

#### 5.3 Informal action

Informal action may be appropriate where there is a minor breach of the law and enforcement officers are confident that appropriate remedial action will be taken and there will be no future re-occurrence.

#### 5.4 Warning letters

A warning is a written notification that, in the Council's opinion, an offence has been committed. It will be recorded and may be referred to in subsequent proceedings and / or if there are similar re-occurrences.

#### 5.5 Formal Caution

A caution is the written acceptance by an offender that they have committed an offence and may only be used where a prosecution could properly have been brought. It will be brought to the Court's attention if the offender is convicted of a subsequent offence.

#### 5.6 Formal Action

The Council will take immediate action under certain situations following approval from the necessary regulating authorities i.e. Abandoned Vehicles.

#### 5.7 Statutory Notices

Formal Notices may be served requiring residents or businesses to meet specific legal requirements. The notice will explain what is wrong, what is required to put things right, and the likely consequences if the notice is not complied with.

#### 5.8 Fixed Penalty Notices

These can be served for offences such as littering or not providing documentation for a commercial waste agreement i.e. Duty of Care. This option may be offered by enforcement officers as an alternative to prosecution. Appendix 1 highlights the majority of offences, (but not exclusive) officers will be dealing with and relevant level of penalty.

The Notice requires the payment of a fixed penalty to the value set by legislation or the Council, within 28 days or face prosecution.

#### 5.9 Administrative Penalty

In certain circumstances and at the sole discretion of the enforcement officer, the Council may offer the offender the option to pay an Administrative Penalty as a settlement to the clean-up and investigation costs. The value of the penalty will be agreed by the Council taking into account the incident and time taken in investigation, removal and correct disposal of the waste.

If paid, the Council would agree to drop all other criminal proceedings against the offender.

#### 5.10 Prosecution

In cases involving multiple incidents, or where the incident is considered to be sufficiently serious, the Council will take offenders to court. As part of the prosecution, the Council will seek to recover all staff and removal / disposal costs associated with the incident.

#### 6.0 Other Enforcement measures

Where work is carried out by the Council in default, for example where works are required under a notice but have not been carried out; the Council will seek to recover the full costs, including Council costs, of those works from those responsible.

#### 7.0 Review

The Council will be at liberty to amend / alter this policy with immediate effect in light of legislative changes.

**Depositing of Litter - £75**

Power to issue notice under the Environmental Protection Act (EPA) 1990

**Flyposting or Graffiti - £75**

Power to issue notice under the Anti-Social Behaviour Act 2003

**Offences connected with waste receptacles - £100**

Power to issue notice under the EPA 1990

**Failure to comply with a Community Protection Notice - £100**

Power to issue notice under the Anti-Social Behaviour, Crime and Policing Act 2014

**Vehicles for sale on a road - £100**

Clean Neighbourhoods and Environment Act 2005

**Abandoning a vehicle in a public space - £200**

Power to issue notice under Refuse Disposal Amenity Act 1978

**Failure to produce waste transfer notes - £300**

Power to issue notice under the EPA 1990

**Failure to produce waste carriers licence - £300**

Power to issue notice under Control of Pollution (Amendment) Act 1989

**NOTE**

The level of penalty is set by legislation and therefore may change accordingly. These figures are correct at August 2015.