

Trafford Council

Enforcement Policy

Introduction

Trafford Council carries out a wide range of regulatory roles in meeting its many statutory duties of protecting the public, individuals and the environment. These duties are mainly met by carrying out programmed inspections of premises, responding to complaints, issuing licenses and offering advice. This Policy outlines the approach we take when considering enforcement action. This policy is an overarching policy that applies to all the Council's Services with enforcement duties, although it should be noted that various additional service-specific enforcement requirements apply in certain services, i.e. Health and Safety, Food Safety.

Purpose

The Council's aim is to protect the public, the environment, consumers and workers. It is committed to these objectives in its approach to enforcement action which is intended to:-

- Ensure that we enforce the law in a fair, equitable and consistent manner
- Assist business and others in meeting their legal obligations without unnecessary expense
- Focus on prevention rather than cure
- Take firm action against those who flout the law or act irresponsibly
- Respect individuals Human Rights

Principles of Enforcement

The Council has formally adopted the central and local government Concordat on Good Enforcement. This enforcement policy is also in accordance with the Regulator's Compliance Code, the Statutory Code of Practice for Regulators. This means that we will be open, helpful, fair and careful to ensure that any action we require is proportionate to the risks. This approach is intended to provide better information to businesses and the community and, by doing so, lend support to our efforts to deliver best value services.

Council services will work with and consult other agencies, and other service areas within the Council, as necessary where there is a shared or complimentary enforcement role. Where we can we will endeavor to make provision for the particular interests of stakeholders. For example, we may make visits out of normal office hours at times when the business is open, or we may arrange for interpreters/translators to be available if particular groups of duty holders do not have English as a first language.

Levels of Enforcement Action

Compliance

A range of activities will be undertaken to ensure compliance with legislation. Advice and guidance will be provided; proportionate, programmed and intelligence led inspections will be undertaken and, where necessary, investigations will be undertaken in response to complaints from third parties.

Prevention

We believe that the first step in enforcement is to help prevent contravention of the law by raising awareness and promoting good practice. Methods of achieving this include giving advice, undertaking pro-active education programmes, the production of written guidance, and opportunities presented by day-to-day contact with businesses and other customers.

Informal Action

Where appropriate, in most cases we will use our best efforts to resolve any situations where the law may have been broken without issuing formal notices, or referring the matter to the courts. This will be our first option when the circumstances indicate that a minor offence may have been committed and we are confident that appropriate corrective action will be taken. We will confirm the situation in writing in a clear manner and explain why any recommended remedial work is necessary and over what time scale it should be completed. When we write to you, we will make sure that legal requirements are clearly distinguished from recommendations.

Legal Notice

Many of the various pieces of legislation that we enforce provide for the service of formal notices or instructions to individuals, businesses and other organisations requiring them to meet specific legal requirements.

Where a formal notice or instruction is served the method of appealing against the notice and the time scale for doing so will be provided in writing at the same time. The notice or instruction will explain what is wrong, what is required to put things right and what the likely consequences are if it is not complied with.

In most situations before formal action is taken, we will provide an opportunity to discuss matters and hopefully resolve points of difference. However, this may not be possible where immediate action is considered necessary, e.g. in the interests of health, safety, to combat fraud or to protect the environment.

Fixed Penalty Notices (FPNs) and Civil Parking Notices (CPNs) are normally issued as soon as an offence has been committed. An appeal process is in place for FPNs and CPNs and details of this procedure can be found on the notice.

Simple Caution

The use of a simple caution offers an alternative to prosecution and will be considered during any decision to prosecute. Before issuing a caution, the following conditions must be satisfied:

- There must be evidence of guilt sufficient to give a realistic prospect of conviction if the case were to be taken to prosecution
- The offender must understand the significance of the formal caution and give an informed consent to being cautioned
- The offender must admit the alleged offence

A simple caution is a serious matter, which will influence any future decision should a 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 simple caution is refused, a prosecution will generally be pursued.

Prosecution

Where the circumstances warrant it and the alternative actions mentioned previously in this policy are considered inappropriate, then prosecution may result. Any decision to prosecute will have regard to the evidential and public interest tests set down in England and Wales by the Director of Public Prosecutions in the Code for Crown Prosecutors. We will consider the following factors when deciding whether or not to prosecute:

- The seriousness and effect of the offence
- The foreseeability of the offence, or the circumstances leading to it
- The intent of the offender
- The history of offending
- The attitude of the offender
- The deterrent effect of a prosecution, on the offender and others
- Whether there is enough evidence to prove the offence

What you can expect from us

We will be objective to ensure that our decisions are not influenced by the gender, age, disability, race, colour, ethnicity or national origin, religious or political beliefs, or sexual orientation of any alleged offender. We will respect your Human Rights.

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 the written procedures and work instructions that our Services have developed.

We will ensure that before deciding to offer a simple caution, or take a prosecution, the case will be subject to independent review by a senior manager.

Complaints concerning the application of this enforcement policy are dealt with in accordance with the Council's Corporate Complaints procedure. Details of this procedure are available on the Council's website.

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.

Trafford Council
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