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GENERAL STATEMENT OF ENFORCEMENT POLICY

Introduction & Context

North East Lincolnshire Council's priorities are clear:

'Stronger economy and stronger communities'

To achieve this vision we need to work in new ways with partners in the public and private sectors, the voluntary and community sector, and with individuals, families and communities. We must address the issues we face with creativity and innovation if we are to secure the outcomes we desire.

We want North East Lincolnshire to be a place where people are proud to live, work, invest and visit. We know that we have significant and exciting opportunities for investment and growth in North East Lincolnshire.

The Council's stronger economy / stronger communities priorities are underpinned by a key strategic framework comprising the following:

- health and wellbeing strategy
- economic strategy
- prevention and early intervention strategy
- financial strategy
- safeguarding

Our [outcomes framework](#) is the means by which our priorities will be translated into action and delivered, developed and achieved in conjunction with our partners across sectors. This is intended to drive a culture of evidence-based decision-making that will enable elected members to take informed key decisions, knowing the risks and the opportunities for citizens, communities and businesses. Our commissioning plan will ensure and foster clear links between the outcomes framework and the resources available to achieve them.

The framework, sets out the five high level outcomes that we and our partners aspire to achieve to ensure prosperity and wellbeing for the residents of North East Lincolnshire.

The five outcomes are that all people in North East Lincolnshire will:

- Reach their full potential through skills and learning
- Benefit from a green economy and a high-quality environment
- Enjoy good health and well being
- Benefit from a strong local economy
- Live in a safe environment, can have their say about things that are important to them and participate fully in their communities

1.0 Objectives

The objectives of this General Statement of Enforcement Policy are to ensure that:

- the council considers a full range of sanctions including criminal proceedings, in a just and consistent manner
- sanctions are applied in an effective and cost efficient way
- the decision to prosecute is robust and transparent.

2.0 Introduction

This Policy is at the core of our commitment to the provision of excellent services and the adoption of best practice in everything that we do. It sets out common principles that we will follow in all our enforcement work. It links to the Outcomes Framework, in particular that all people in North East Lincolnshire live in a safe environment, and the early intervention and prevention strategies.

The Council has a key role to play in supporting local economic prosperity, and community and individual well-being. Fair and effective enforcement is essential to this and ensures that we protect the health, safety and quality of life of all those who live, visit and work in North East Lincolnshire as well as ensuring that our businesses are robust and legally compliant and that the Borough's environment is adequately protected.

This policy applies to all enforcement activity undertaken by or on behalf the Council that affects members of the public, the business community and the environment. For many of our enforcement services, detailed policies and procedures relating specifically to that service area are also in place, which complement the ethos of this policy statement.

Often a decision about enforcement action has implications for many people, either directly or indirectly. We want all our stakeholders to fully understand the actions that we take and see that we are consistent, transparent, accountable, proportionate and targeted in our approach.

In addition, the Council is now bound by the Regulators Code, which was given legal effect by the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, as amended in 2009, 2010 and 2014, and came into statutory effect on 6th April 2014 under the Legislative and Regulatory Reform Act 2006. It provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate and promotes efficient and effective approaches to its regulatory enforcement functions and improvement to the outcome of regulation without imposing unnecessary burdens.

The Regulatory Enforcement and Sanctions Act 2008 established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a Primary Authority and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

It is recognised that this policy will be adapted as required to meet the changing circumstances caused by national emergencies, such as Covid-19, and latest government guidance. Action and decisions will continue to be appropriate, pragmatic and risk based.

3.0 What is Enforcement?

Enforcement is action taken to make sure that legal requirements are adhered to and it is carried out against a background of a wide range of rules and powers for which the Council has responsibility. Areas covered by these rules and powers include:- Anti-Social Behaviour, Council tax recovery, Education Welfare, Environmental & Port Health, Fraud, Housing, Licensing, Planning and Building Control, and Trading Standards.

Enforcement does not just mean taking formal action, such as prosecution, but includes checking to make sure that things are as they should be and giving help, advice and support to businesses and individuals so that they can meet relevant rules and regulations.

We recognise that most members of the public, business owners, and their employees want to abide by the law. We will assist and advise wherever possible. However we will take firm action against those who disregard legal requirements or act irresponsibly.

Our enforcement activities will be a targeted program and may include:

- Investigating issues and complaints
- Watching, listening and monitoring
- Examining documents, goods and other materials
- Intelligence gathering
- Talking to witnesses
- Conducting interviews
- Checking buildings and land
- Carrying out inspections
- Testing equipment or goods
- Taking samples and making test purchases

- The use of data matching and analytical tools to identify fraud and error
- Multi-agency engagement and operations

Wherever possible we arrange our activities at dates and times to meet the needs of our customers

In order that we can check things from the point of view of a customer or member of the public, we may sometimes carry out informal visits and not introduce ourselves.

Any covert surveillance and covert human intelligence will be conducted in line with the Regulation of Investigatory Powers Act 2000 (RIPA), the Councils' RIPA policy, and as authorised by the Court. The acquisition and retention of any communications data will be conducted in line with the Investigatory Powers Act 2016 (IPA). The utilisation of social media platforms for investigative purposes will also be in line with RIPA and the Council's social media policy.

4.0 Our Approach

4.1 Standards

We consult with the public and businesses about the services we provide and our enforcement approach in relation to these services. We set out clearly the levels of service and performance that our customers can expect to receive. We publish our Service Standards, including plans and policies, on our website, which are available in the major ethnic languages.

4.2 Openness

We provide accessible information and advice, wherever possible in plain language, on legislation that we enforce. We will be open about how we set about our work, any charges for our services, and explain in a timely manner when it is necessary to take enforcement action.

4.3 Helpfulness

We believe that prevention is better than cure and we will actively work to advise and assist in compliance with the law. Our staff will be courteous and efficient, will identify themselves by name where appropriate, and will show identification. We will offer a contact point, email address and telephone number for any further help.

4.4 A Balanced Approach

We will work with our customers to help them meet their legal obligations without unnecessary expense. Advice will be put clearly and simply, include any time scales and will be confirmed in writing. Legal requirements will be clearly distinguished from best practice advice. We will ensure that enforcement action we take or remedial action we require is reasonably proportionate to the problem.

4.5 Consistency

We will carry out our duties in a fair and consistent way. We have arrangements in place to promote consistency, including liaison with other Local Authorities and other agencies, particularly where we may share an enforcement role.

5.0 Enforcement Principles

The Council will ensure that enforcement decisions are always accountable, consistent, proportionate, targeted and transparent. We will apply sanctions and penalties according to the following principles which:

- Aim to change the behaviour of the offender
- Aim to eliminate financial gain or benefit from non-compliance
- Aim to change attitudes and behaviours in society to offences which may not be serious in themselves, but which are widespread
- Be responsive and consider what is appropriate for the particular offender and offence
- Be proportionate to the nature of the offence and the harm caused
- Aim to restore the harm done by the offence where appropriate
- Aim to deter/prevent future non-compliance

Every case is unique and must be considered on its own facts and merits. All enforcement decisions will be fair, justifiable and objective. Such decisions will not be affected by improper or undue pressure from any source.

When making decisions we take account of the advice set out in the Director of Public Prosecution's Code for Crown Prosecutors, including the evidential and public interest tests. These are some of the general public interest principles that apply to the way in which we approach each case:

- The seriousness of the alleged offence
- Relevant past record
- The willingness to prevent a recurrence of the problem or put right harm
- Whether the offence was carried out deliberately or with reckless disregard of the law
- The circumstances of and the harm caused to any victim
- The impact on the local community

Having considered all relevant information, there is a range of enforcement options available to deal with legislative failings:

- No Action
- Informal Action
- Formal Warning
- Restorative Approach
- Disciplinary Action
- Statutory Notice
- Seizure
- Prohibition
- Warrants
- Simple Caution
- Financial Penalty, as alternative to prosecution
- Withdrawal of benefit, or entitlement, previously granted
- Prosecution
- Refusal, suspension or revocation of a licence
- Works in Default
- Injunctions, Orders or other Formal Action
- Committee Review Hearings
- Civil Penalties &/or Proceedings
- Referrals to other agencies for sanctions, i.e. HMRC track and trace
- Ancillary Orders

In some cases more than one type of enforcement action may be taken.

More detailed information on options relevant for specific offences, including in relation to juveniles (those aged 10-17), is provided in relevant service specific enforcement policies, which are available on the website.

Before we take formal enforcement action, there will be an opportunity to discuss the circumstances of a case, usually with the Investigating Officer, unless immediate action is required (e.g. to prevent destruction of evidence, or where there is an imminent risk to health and safety or the built or natural environment). This may be in the form of an Interview Under Caution.

Where immediate action is taken, reasons for such action will be given at the time and then confirmed in writing, in most cases within 5 working days, and in all cases within 10 working days.

Where there are rights of appeal against enforcement action, notification of the appeal mechanism will be clearly set out in writing.

We fully acknowledge and endorse the rights and freedoms of individuals and will ensure that all enforcement action takes place in strict accordance with the Police & Criminal Evidence Act 1984 (as amended), the Criminal Procedure and Investigations Act 1996, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, the Equality Act 2010 and other relevant legislation and guidance.

Where there is a shared enforcement function (e.g. with the Environment Agency, Natural England, Fire and Rescue Service), officers will notify the relevant enforcement agency of any breach for which that agency is responsible. Depending on the circumstances, we may direct a person reporting an incident to the other agency due to that person being in a position to be able to report first-hand details.

Where the Council and another enforcement agency each have powers of enforcement, we will liaise with that other agency to ensure effective co-ordination, having regard to the respective legislation, to avoid inconsistencies, and to ensure that the most appropriate action is taken to resolve any breach.

6.0 Decision Making - Authorisation

The Council will ensure that its officers who are authorised to initiate enforcement action are competent to do so, are suitably qualified and trained, have relevant and adequate experience in enforcement and are appropriately warranted.

All authorised officers will abide by this policy when making enforcement decisions. Any departure from the policy must be exceptional, capable of justification and be fully considered by relevant managers before the decision is taken, unless it is considered that there is significant risk to the public in delaying.

The recommendation to prosecute is made by the relevant department manager. The ultimate decision to prosecute will rest with legal services. A decision on whether to prosecute will be made after full consideration of all of the evidence. Prosecution will only be authorised if both the evidential and public interest tests are satisfied.

7.0 Assistance from the Public or Other Organisations

Assistance of others is often crucial to the success of enforcement action by the Council. Where information is given to assist the Council's enforcement, we will treat such information with confidence unless it is necessary to use it in court or at an appeal when the information will be made public. In such a case, we will seek the individual's consent before making it public. All information collected will follow UK General Data Protection Regulations (GDPR), underpinned by the Data Protection Act 2018.

8.0 Equality and Diversity

We believe in equality of opportunity for all people, reinforced by the Equality Act 2010 and the Public Sector Equality Duty. When making enforcement decisions we will ensure that there is no discrimination against any individual(s) on the grounds of age, race, ethnic or national origin, nationality, religion and belief, gender, marital status, employment status, disability, sexual orientation, social class, responsibility for children or dependents, trade union membership, unrelated criminal convictions or any ground that cannot be justified.

Particular attention will be given to the human rights aspect in cases where either the perpetrator or victim is considered to be vulnerable. We will ensure that whilst undertaking enforcement we will not adopt practices which discriminate directly or indirectly, as defined.

The Council will make sure that its services, facilities and resources are accessible and responsive to the people and communities of the Borough.

We understand that some members of the community may have specific difficulties, which will need extra advice and assistance. Careful explanation will be given and if necessary the services of an interpreter may be used. We will work in accordance with the Councils' Race Equality Scheme. If requested, we will ensure that appropriate materials and documents are translated into the principal black and minority ethnic languages and asylum seeker languages. Practical help is provided for people with impaired hearing, vision or other impairment.

9.0 Publicity

We publicise our enforcement actions, when appropriate and proportionate, as part of our work helping consumers and businesses avoid similar problems. Factors considered when considering publicity include:

- any legal restrictions on disclosure of information
- public accountability
- monitoring future conduct and facilitating complaints about further breaches
- deterring others from engaging in similar conduct
- warning consumers regarding detrimental practices
- increasing consumer awareness of their rights

10.0 Complaints

All complaints will be dealt with in accordance with the Council's Corporate Complaints procedure. An information leaflet which explains the process is available from the Council's Customer Services Centres and from our website.

11.0 Review

A review will take place in light of experience and in light of any relevant legislative changes, to make sure that this policy continues to reflect best practice and see how well we are meeting our commitments. A review will take place once every two years as a minimum.

12.0 Further Information

Further information regarding service specific enforcement policies and procedures can be obtained from individual service areas or from the Council's website.

The Code for Crown Prosecutors is available online:

https://www.cps.gov.uk/publications/code_for_crown_prosecutors/