

## Environmental Health and Licensing Enforcement Policy

### 1. Background

A clear Enforcement Policy which is monitored, regularly reviewed and updated is required to ensure that all those who work and live in Reigate & Banstead have a clear understanding of the Environmental Health and Licensing Services enforcement standards.

Enforcement of housing issues will further be undertaken in accordance with the separate Housing Enforcement Policy, which covers in greater depth the issues and options available for enforcing housing legislation, than is appropriate for the general service policy regarding enforcement. For all housing matters, the Housing Enforcement Policy will take precedence over this more general policy.

### 2. Introduction

Reigate & Banstead Borough Council's Environmental Health and Licensing Services deliver a range of services including:

- food safety,
- health and safety at work,
- private water supplies,
- infectious disease control,
- statutory nuisance;
- industrial installation pollution
- contaminated land,
- air quality,
- housing conditions in the private rented sector,
- animal welfare
- licensing of taxis, private hire vehicles, premises and personal licences, gambling, animal boarding and other licensing functions.

- 2.1 Enforcement includes council officers giving advice, carrying out compliance visits and inspections, responding to complaints and service requests, assisting consumers and businesses to comply with statutory duties and licensing requirements and taking formal enforcement action where warranted against those who breach the law.
- 2.2 The primary aim is to protect the health and safety of the public and to promote animal welfare where appropriate.
- 2.3 This enforcement policy outlines how the Environmental Health & Licensing Service carries out its enforcement role when delivering the various services outlined above and sets out what businesses and others can expect from enforcement officers.

- 2.4 The policy will be reviewed and updated periodically to take into account new legislative requirements, guidance from central government, relevant national bodies and best practice.

### **3. Objectives of the Enforcement Policy**

- 3.1 To protect the public from poor standards relating to unsafe food, residential and non-residential premises, work practices, products, unscrupulous and illegal traders, noise, atmospheric or land pollution and public health pests, that may occur as a result of non-compliance with legislative requirements.
- 3.2 To stop, control and prevent any practices which are prejudicial to the health or safety of the public, thereby promoting the health and safety of the public and protecting the welfare of animals in licenced animal establishments.
- 3.3 To achieve compliance through informal action, where appropriate, and through an enabling and supportive relationship with businesses and the public. Formal enforcement procedures, including prosecution, will be used where in the opinion of the Council or its officers there is a serious or imminent risk of injury to health or personal injury, or a blatant disregard for the law, deliberate intent or negligence, or a history of non-compliance with informal action.
- 3.4 To ensure a consistent approach with regard to openness, helpfulness and proportionality to the risk posed.
- 3.5 To promote and maintain a consultative and participatory relationship with businesses, consumers and service users.
- 3.6 To have a better informed community, which reduces the need to rely on regulatory intervention for compliance with legislation.
- 3.7 Environmental Health and Licensing is committed to implement policies and procedures that subscribe to principles of good enforcement. In forming this policy due consideration as been paid to the Office for Product Safety and Standards Regulators' Code.

### **4. The Key Aspects of the Policy**

All enforcement actions and investigations, whether formal or informal, will be undertaken in accordance with and based on applicable legislation and guidance including:

- Relevant Acts of Parliament
- Regulations and Codes of Practice made under the key relevant acts for each enforcement area

- Central and national guidance from government departments and organisations such as the Food Standards Agency (FSA), The Health & Safety Executive (HSE), The Department of Environment, Food & Rural Affairs (DEFRA), The Environment Agency (EA), and The Chartered Institute of Environmental Health (CIEH)
- Central and Local Government Enforcement Concordat

## **5. Prevention and Promotion**

The Council recognises that most businesses, licensees, permit holders and individuals want to comply with the law and seeks to promote awareness about the standards it applies through: -

- routine inspections of premises and practices
- investigatory visits in response to complaints
- persuasion, advice, information and training
- taking firm action against blatant or serious breaches of the law

## **6. Enforcement Actions**

In the event of non-compliance with statutory requirements, a range of enforcement actions are available, these include: -

### **6.1 Informal Action**

Enforcement procedures such as the provision of verbal and written advice, providing information and issuing warning letters.

### **6.2 Formal Action**

Statutory notices, requiring compliance immediately or within a specified time, and prosecutions will normally be confined to serious, repeated or cumulative breaches of the law. For breaches posing a statutory nuisance or considerable risk to the health of the public or specific individuals, the Council will serve formal enforcement notices, such as Improvement or Abatement Notices, requiring compliance immediately or within a specified time.

Depending on the issue, it may be appropriate to take formal enforcement action immediately, without an informal stage.

The provisions of section 33 of the Deregulation Act 2015, which seeks to prevent retaliatory eviction of tenants, are relevant in certain housing situations. This applies where tenants have made complaints about their accommodation to the landlord and the landlord has made an inadequate response or failed to respond. If the tenants then make a complaint about the same deficiency to the Council, which results in the Council identifying Category 1 or 2 hazards in the property, it

is appropriate that formal enforcement notices are served. This is set out in more detail in the Housing Enforcement Policy.

Where there is an imminent or serious risk of personal injury, prohibition powers in the form of prohibition notices or orders may be used to stop the activity or close down the premises or property. These powers may involve seizure and detention of the offending equipment where necessary.

In addition the proprietor, landlord, business operator or individual responsible can be prosecuted in the Magistrates Court for non-compliance with a notice or other such offence.

### **6.3 Simple Caution where an offence is admitted**

This procedure is an alternative to taking action in the Courts. Should a further offence be committed, it may be cited in any subsequent Court proceedings. A Simple Caution is a serious matter and it is recorded by the Council and where applicable on the Police National Computer. Cautioning is recognised as an important way of keeping offenders out of Court and in many circumstances reducing the risk that they will re-offend.

In considering and issuing simple cautions we will have regard to the Ministry of Justice Guidance April 2015 – ‘Simple Cautions for Adult Offenders’, as well as the Environmental Health Enforcement Decision Matrix, a copy of which is attached as Appendix A to this Enforcement Policy.

The caution will be administered by a Senior Officer who has been designated a ‘Cautioning Officer’ (e.g. the Environmental Health Manager).

### **6.4 Community Protection Notices**

Community Protection Notices under the Anti-social Behaviour, Crime and Policing Act 2014 may be served in circumstances where appropriate to do so. Non-compliance may lead to prosecution.

### **6.5 Fixed Penalty and Penalty Charge Notices**

Where provided for in legislation, such as in the Clean Neighbourhoods and Environmental Act 2005, in circumstances where it is appropriate to do so, the Council may deal with some offences by way of fixed penalty notices.

Penalty Charge Notices may also be served under certain housing legislation. The Housing Enforcement Policy sets out the detail of how and when such charges will apply.

## **6.5 Works in Default**

In certain circumstances it may be necessary and appropriate for the Council to undertake works in default. This is where there is a strong public health imperative to complete works to resolve a serious legal contravention. This is generally likely to be limited to scenarios involving filthy and verminous properties. It is not the Council's policy to undertake works in default action in respect of housing disrepair matters, but all works in default will be considered on a case by case basis.

Works in default can only be carried out where the contravention still exists following non compliance with a correctly served formal enforcement notice. It will be necessary to obtain quotations for the works required, and to serve a further notice on the duty holder, stating that works in default will be undertaken by the Council, when they will start and the cost.

Works in Default costs will be fully recoverable, including the Council's full administrative costs. The charges levied for the works and the associated costs will become a legal charge on the property until it is paid in full. In most cases, interest is also charged on the unpaid charges. The debt will be pursued, potentially via the civil courts, in addition to registering it as a legal charge on the property. An enforced sale of the property may be considered should this be deemed appropriate.

Carrying out works in default does not preclude the taking of further enforcement action against the duty holder, for example, prosecution, but this will be considered on a case by case basis.

## **6.6 Civil Financial Penalties**

The Housing and Planning Act 2016 allows local housing authorities to impose a civil financial penalty on an individual or organisation as an alternative to prosecution for certain offences under the Housing Act 2004. Civil penalties may be imposed up to £30,000 for the following offences:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of Houses in Multiple Occupation (section 72);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- Offences of contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234).

The Housing Enforcement Policy governs how and when civil financial penalties will be applied, including their application to other relevant housing legislation.

## **6.7 Prosecutions**

The decision to prosecute does not preclude the issue of legal notices as well. Prosecutions have a preventative role in drawing attention to the need for compliance and the maintenance of good standards.

When making decisions on the course of action to be taken in any particular case we will apply the principles of the Criminal Procedures and Investigations Act 1996 and its associated statutory Code of Practice, as well as Home Office Guidance.

**In deciding whether to prosecute or not, we will consider the following matters: -**

**The gravity of the offence/s**, for example whether: -

- there has been blatant disregard for the law, deliberate intent or negligence
- there are persistent poor standards and malpractice
- there has been an injury or a case of ill health as a result of a substantial legal contravention
- a particular contravention has caused serious public alarm
- those affected are particularly vulnerable

**The general record and approach of the offender**, for example: -

- repeated breaches of legal requirements or license conditions or various breaches of a multiple concern and, where it appears that an individual or a company is neither willing nor able to deal adequately with these
- failure to comply with statutory notices where matters of significant concern are persistent rather than transitory
- previous convictions or cautions which are relevant to the offence.

In cases where consideration is being given to prosecution, the Environmental Health Enforcement Decision Matrix will be used to help reach a conclusion. A copy of this is attached as Appendix A to this Enforcement Policy.

## **6.8 Referral of a matter to the Council's Licensing & Regulatory Committee.**

Where such a matter warrants referral to one of the above Committees, a panel of Councillor's will hear the case and make a decision, based on the evidence presented to them, and in conjunction with this policy. They can issue such sanctions as are available to them, including taking no action, issuing warnings, suspension or revocation of a licence.

## **6.9 Suspension, Revocation or Refusal of Licence**

This may take place when an individual or organisation has:

- Engaged in fraudulent activity
- Deliberately or persistently breached legal obligations
- Deliberately or persistently ignored warnings or formal notices
- Endangered the health, safety or wellbeing of people, animals or the environment
- Obstructed an officer whilst undertaking their duties
- Deliberately or persistently failed to comply with Licence Conditions

With licences under the Licensing Act 2003, where an individual or organisation has deliberately or persistently failed to promote the Licensing Objectives, a licence may be cancelled or conditions varied following a hearing to consider an application to vary or review the licence, or a successful prosecution.

Where a taxi or private hire driver licence is refused, revoked or suspended, the licence holder name and other relevant information will be uploaded to the National Anti-Fraud Network NR3S Database.

## **6.10 Other enforcement options**

Other enforcement options may also be available, particularly under housing legislation, for example the use of Rent Repayment Orders, Banning Orders etc. The details of when such measures may be used and the considerations that apply to these are set out in the Housing Enforcement Policy.

## **7. Our Standards**

### **7.1 Consistency: We will: -**

- carry out our duties in an efficient, fair, courteous and consistent manner
- have in place procedures and arrangements which are reviewed and updated regularly to promote and monitor consistency in the way we deliver the service
- have in place effective arrangements for liaison with other Local Authorities and enforcement bodies such as the Food Standards Agency, Health & Safety Executive, Fire Authority, Police, Environment Agency, etc, particularly where there is a shared enforcement role.

### **7.2 Openness: We will: -**

- provide information and advice in plain language relating to the legislation we enforce
- be open about how we set about our work, including the charges that we set

- discuss general issues and specific compliance failings or problems with anyone experiencing difficulties
- provide an opportunity to discuss the circumstances of a case and, if possible, resolve points of difference before enforcement action is taken (unless immediate action is required)
- give an explanation of why immediate action is required
- give advice on the rights of appeal against formal action

### **7.3 Helpfulness: We will: -**

- work with individuals and businesses, especially small and medium sized businesses, to advise on and assist with compliance
- provide a courteous and efficient service. Our staff will always identify themselves by name
- provide a contact point and telephone number for further dealings with us. We will encourage individuals and businesses to seek advice and information from us
- deal with applications for licences, registrations and consents in accordance with service standards
- ensure that wherever practicable our enforcement services are effectively coordinated to minimise unnecessary overlaps and time delays
- have provision to visit a business out of normal office hours at times when the business is available, where it is not otherwise feasible to visit during normal office hours.

### **7.4 Proportionality: We will: -**

- minimise the costs of compliance for individuals and businesses by ensuring that any action reflects the risks involved
- as far as the law allows, take account of the circumstances of the case and the attitude and actions of the individual or organisation when considering action
- take particular care to work with individuals, small businesses, voluntary and community organisations so that they can meet their legal obligations without unnecessary expense
- ensure that information given to a business, landlord or individual, whether written or verbal, will clearly identify those requirements which are mandatory and those which are advisory or are recommendations for best practice

## **8. Recovering the Cost of Enforcement Action**

Wherever possible the Council will seek to recover the full costs of enforcement action from those who were responsible for the contravention. This will include seeking to recover full costs following prosecutions, but will also include making a charge for the service of formal enforcement notices, where legislation exists to facilitate this.



This will include making a charge for notices served under the Housing Act 2004 and Mobile Homes Act 2013 . The Housing Enforcement Policy sets out the details of such charges. Notice charges are based on officer time needed to take enforcement action, and are calculated on a cost recovery basis, as is the default in the Council's Policy on Fees and Charges.

Other examples include charging businesses for rescore revisits requested under the Food Hygiene Rating Scheme, in accordance with powers under the Localism Act 2011.

Enforcement charges will be reviewed annually as per the Council's fees and charges setting process, and will be published as part of the Council's fees and charges webpages.

In certain cases, a financial investigation may be undertaken by the Council's Accredited Financial Investigator, to determine if action under the Proceeds of Crime Act 2002 is appropriate.

## **9 Publicity**

The Council may publicise successful enforcement outcomes against businesses, licensees and individuals for environmental health and licencing offences. Names of companies and individuals convicted of offences may be published on the Council's website. Cases subject to appeal will not be published, and to account for the appeals process a period of 10 weeks will be allowed to elapse following conviction before a case is added. Where the Council is notified of an appeal outside this time period, the case will be removed from the site.

Names of companies and individuals subject to a Civil Financial Penalty will not be released, as this information is not in the public domain in the same way that convictions are. However, details of the enforcement action taken, including the location of the property concerned may be published.

## **10 Review of the Policy**

This enforcement policy will be regularly reviewed either annually, or as necessary due to changes in legislation or new guidance from the Government, the Council or appropriate professional bodies.

## **11 Complaints and Appeals**

We subscribe to the Council's Corporate Complaints and Appeals Procedure. In addition, statutory rights of appeal exist where Notices are served or charges levied and these are set out in the legislation.

If you do not agree with any action taken by an officer you should contact the case officer to discuss this informally in the first instance.

If you feel we have given an unsatisfactory service contrary to these criteria, you can also contact:

**Environmental Health Manager  
Reigate & Banstead Borough Council  
Town Hall, Castlefield Road,  
Reigate, Surrey RH2 0SH**

**Email: [Katie.jackson@reigate-banstead.gov.uk](mailto:Katie.jackson@reigate-banstead.gov.uk)**

**Website: [www.reigate-banstead.gov.uk](http://www.reigate-banstead.gov.uk)**

**Telephone: 01737 276309**

**This Enforcement Policy supersedes and replaces all earlier enforcement policies relating to Reigate & Banstead Borough Council Environmental Health Services.**

**2025**