

PRINCIPLES OF GOOD ENFORCEMENT

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1. OBJECTIVE

The objectives of this Policy are to:

- 1) Carry out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving local economy; and
- 2) Ensure efficient and effective local government service delivery that meets our community's expectations.

2. PRINCIPLES

The effectiveness of legislation in achieving its protective function depends crucially on the compliance of those regulated. We recognise that most businesses and individuals want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All members of the community will reap the benefits of this policy through better service, information, choice, safety and a more pleasant environment.

We have therefore adopted these Principles of Good Enforcement. Included in the term 'enforcement' are advisory visits and assisting with compliance as well as licensing and formal enforcement action such as the service of Notices and prosecution action. By adopting this policy we commit ourselves to the following best practice policies and procedures and will provide information to show that we are observing them.

3. POLICY PROVISIONS

3.1 Standards

- We will draw up clear standards setting out the level of service and performance the public and business people can expect to receive.
- We will publish these standards and our annual performance against them.
- The standards will be made available to business and others who are regulated.

3.2 Openness

- We will provide information and advice in plain language on the legislation that we apply and will disseminate this as widely as possible within the City.
- We will be open about how we set about our work, including any charges that we set, and allow for open consultation with affected parties.
- We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

3.3 Helpfulness

- We will be proactive. We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance.
- We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealing with us and we will encourage business to seek advice/information from us.
- Applications for approval of establishments, licenses, registrations etc. will be dealt with efficiently and promptly.
- We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

3.4 Complaints about service

- We will provide well-publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups.
- In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

3.5 Proportionality

- We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.
- We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

3.6 Consistency

We will carry out our duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases, we will have internal procedures and policies in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies.

3.7 Safety

- We will carry out our duties in a safe manner and will comply with the safety rules and policies applicable to premises or places in which we carry out those duties.
- Action we take and advice that we give will be undertaken with due consideration to detrimental effects they may have on the environment or human health.

4. PROCEDURES

4.1 Simple Advice

Advice from an officer will be put clearly and simply, and will be confirmed in writing on request, explaining why any improvements to activities, procedures or premises may be advisable from a best practice perspective.

4.2 Discussion

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed).

4.3 Formal Advice

- The statutory basis for all formal requirements will be clearly outlined in each case.
- Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within 5 working days and, in all cases, within 10 working days.
- As a rule, formal advice will follow the discussion or verbal advice, confirming the requirement for any remedial work or improvements to activities of procedures and the time-scale within which they should be achieved. In keeping with our positive compliance policy, we will allow for further discussions for information sharing and advice, providing a willingness to progress is demonstrated.
- Our approach to enforcement of statutory requirements will in all cases be fair and considered, while based on the degree of risk to public health and amenity.

4.4 Appeal Information

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

4.5 Enforcement – “Three Strikes”

This section aims to set out clear policy on deciding which enforcement option is applicable. It has been designed to be transparent and equitable. Enforcement options (dependant on legislation) include:- no action; informal action; formal letters; statutory notices (including improvement notices and prohibition notices), seizure of goods, infringement notices; and prosecution. Where a blatant/intentional non-compliance has occurred, the Chief Executive Officer will be consulted before the matter can be referred to the City’s legal representatives for immediate commencement of prosecution action.

Strike 1

Assessment and report completed with a follow up date provided on report for works to be completed by. Should proprietor be unable to complete works within the allotted time scale, the proprietor is advised to make application in writing to the City’s Environmental Health Services requesting an extension of this time scale.

Strike 2

1st follow up conducted on the set date by the Enforcement Officer. If items remain outstanding, a standard first warning letter is sent to the proprietor stating that should the works not be completed by an assigned date, legal action may be commenced against the proprietor for breach of the legislation. Again, should proprietor be unable to complete works within the allotted time scale, they are to be informed that application should be made in writing to the City’s Environmental Health Service requesting an extension of the time scale,

Strike 3

2nd follow up conducted on the set date by the Enforcement Officer and Manager Regulatory Services. If items remain outstanding, the Enforcement Officer should collect photographic evidence of non-compliances, and inform the proprietor that the matter will be referred to the Chief Executive Officer for the commencement of legal action. Letter to be sent to the proprietor requesting they contact the Manager Regulatory Services as soon as possible to prevent legal action if appropriate.

In all instances, where a premises complies with the works or order given, then they return to a no (0) strike status.

The commence of legal action is at the direction of the Chief Executive Officer on advisement of the Manager Regulatory Services, based on the risk to public health, and is to be used only where proactive measures have failed.

5. CONSEQUENCES

This policy represents the formal policy and expected standards of the Council. Appropriate approvals need to be obtained prior to any deviation from the policy. It is imperative that Councillors and Officers retain appropriate documentation to substantiate their expenditure. Elected Members and Employees are reminded of their obligations under the Council's Code of Conduct to give full effect to the lawful policies, decisions and practices of the Council.

6. REFERENCES TO RELATED DOCUMENTS

- *Health Act 1911* and subsidiary legislation
- *Food Act 2008* and subsidiary legislation
- *Environmental Protection Act 1986* and subsidiary legislation
- *Local Government Act 1995* and subsidiary legislation
- *Caravan Parks and Camping Grounds Act 1985* and subsidiary legislation

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This Policy takes effect from the date of adoption by Council and shall remain valid until it is amended or deleted.