



Lichfield
District Council

Regulation & Enforcement Service

Enforcement Policy

2024

Version 1.1

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1. Introduction

- 1.1 The Regulation & Enforcement Service ('the Service') exists to protect the public, the natural and built environments, consumers, employees, tenants and animals from harm. The Service also supports the maintenance of a fair trading environment and sets the conditions to generate growth and economic prosperity.
- 1.2 The Service includes environmental health (including functions relating to food safety, workplace health & safety, pollution control, public health, housing, animal welfare and environmental crime), planning enforcement, and licensing. This policy applies to officers employed in any of those teams.
- 1.3 This policy replaces the previous policy, dated September 2020, and provides guidance to stakeholders on the range of options available to officers of the Service in the execution of their duties.
- 1.4 Throughout this policy, 'stakeholder' refers to officers, councillors, licence holders, business operators, employers, employees, other law enforcement agencies, voluntary groups, and the general public.
- 1.5 In terms of regulating businesses, the primary objective of the Service is to secure compliance, and officers will seek to do this predominantly through advice and education, although enforcement action will be taken where it is reasonable and proportionate to do so.
- 1.6 In terms of law enforcement, there are a range of offences that the Service is charged with investigating where the level of culpability and harm indicates that enforcement action is almost always reasonable and proportionate.
- 1.7 This policy outlines the objectives and methods for achieving compliance and the criteria considered when taking enforcement action where an offence is committed.
- 1.8 Enforcement decisions will have regard to statutory guidance and codes, and particularly the [Regulators' Code](#) and the [Code for Crown Prosecutors](#).

2. Legal status of this policy

- 2.1 The Council approved this policy on 16 December 2024 and amendments to it may be made by the Regulation & Enforcement Manager or the Director of Finance, Regulation & Enforcement.
- 2.2 This policy is intended to provide a handrail for stakeholders and does not provide a 'one size fits all' approach across the range of functions delivered by the Service. It does not affect or fetter the discretion of the Council, or its officers, to take legal proceedings, or any other course of action, where it is in the public interest to do so.

3. Scope and meaning of enforcement

- 3.1 This policy applies to all legislation that the Service is responsible for enforcing.
- 3.2 'Enforcement' includes all action taken by officers to regulate businesses and enforce the law. This is not limited to formal enforcement action, such as prosecution, but includes a range of interventions starting with verbal advice.
- 3.3 Where appropriate, officers will seek to improve awareness, increase compliance, and raise the deterrent effect by publicising the work of the Service, particular interventions, or recent activity. The outcome of prosecutions will usually be published, and this will include the details of anyone convicted of an offence. Where a notice is served that is included in a public register, the details may also be published.

4. Copies of this policy and comments about this policy

- 4.1 This policy is available on the Council’s website [here](#). You can request a paper copy of the policy, or make comments or complaints in relation to this policy by:
- Email: enquiries@lichfielddc.gov.uk
 - Phone: 01543 308000
 - Post: Lichfield District Council, Regulation & Enforcement Service, District Council House, Frog Lane, Lichfield, WS13 6YY

5. General principles

- 5.1 When interacting with businesses, officers will predominantly rely on education and advice in order to secure compliance providing it is reasonable and proportionate to do so.
- 5.2 Where officers consider that formal enforcement action is necessary, each case will be considered on its own merits. However, there are general principles that apply to the way each case will be approached. These are set out in this policy, in overarching statutory codes such as the [Regulators’ Code](#) and, where applicable, official guidance that is specific to a particular function.
- 5.3 Enforcement decisions will be fair, proportionate, transparent, independent, and objective and will not be influenced by factors such as ethnicity, nationality, gender, disability, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender.
- 5.4 Where the subject of the enforcement action is either a juvenile or is known to have additional needs as a result of a learning disability or other vulnerability, advice will be sought from appropriate agencies as required.
- 5.5 The Council is a public authority for the purposes of the Human Rights Act 1998. The Service will have regard to the [Human Rights Act 1998](#) when taking enforcement action.
- 5.6 This policy helps to promote efficient and effective approaches to regulation and enforcement in order to improve outcomes without imposing unnecessary burdens.
- 5.7 Officers will have regard to the [Regulators’ Code](#) when undertaking regulatory activities and should:
- Carry out regulatory activities in a way that supports business to comply and grow
 - Provide simple and straightforward ways to engage with those regulated and hear their views
 - Base regulatory activities on risk
 - Share information about compliance and risk
 - Ensure clear information, guidance and advice is available to those regulated to meet their responsibilities to comply
 - Ensure the approach to regulatory activities is transparent
- 5.8 The Council is not bound to follow the [Regulators’ Code](#) where officers determine that a specific provision of the code is either not applicable or is outweighed by another relevant consideration.

6. Notifying suspects

- 6.1 If the Service receives information that may lead to enforcement action against a business, officers will notify that business as soon as is practicable of any intended enforcement action, unless doing so could prejudice an investigation, present risk to an individual such as an informant or witness, or because the need for action is such that there should be no delay.
- 6.2 Where the enforcement action takes the form of a prosecution, in some cases suspects will only learn of the enforcement action once they receive a summons to appear in court.

- 6.3 Confidentiality will be maintained and personal information about individuals will only be released to a court or other agency when necessary. GDPR does not apply to the Service in terms of its law enforcement functions, and instead Part 3 of the Data Protection Act 2018 applies.

7. Determining what action is appropriate

- 7.1 There is a scale of regulatory and enforcement actions that officers can resort to, from taking no action to prosecution. Not all options are available in all cases, and some actions are specific to particular legislation.
- 7.2 In no particular order, examples of the most common actions include:
- No action
 - Verbal advice or direction
 - Written advice or direction
 - Fixed penalty notice or penalty notice
 - Formal notice or order
 - Seizure of property
 - Refusal, variation, suspension or revocation of a licence
 - Simple caution
 - Prosecution
 - Civil penalty or penalty charge notices
 - Injunctive relief applications
 - Orders on conviction application (eg, deprivation, forfeiture, proceeds of crime)
 - First-tier tribunal application (eg, rent repayment orders, banning orders)
- 7.3 In assessing what action is reasonable and proportionate, consideration will be given to:
- The gravity of the offence, including the maximum penalty upon conviction
 - The level of harm or potential harm
 - The level of culpability
 - Scale of offending
 - Any history of compliance or non-compliance
 - Confidence in the business, and any steps taken by the business since the commission of the offence
 - Relevant guidance
 - Aggravating factors such as obstruction of officers
 - Local priorities of the Council
- 7.4 Actions will often start at a low level and escalate until compliance is reached. Exceptions would be where there is a risk to people, the environment or animals, or the offences have been committed deliberately, repeatedly or involve deception.
- 7.5 In its law enforcement role, the Service investigates many offences that are not regulatory, such as fly tipping, tenant harassment, or animal cruelty. In many of these cases, the starting point will be prosecution.
- 7.6 **No action.** In some cases, the circumstances may not warrant any action. Some examples of where this might apply include that the business has ceased to trade, that the level of harm and culpability is so low that taking action would be disproportionate, or that the concern is minor, and the officer has confidence that it will be corrected.
- 7.7 **Verbal or written advice or direction.** For minor regulatory offences or concerns officers may give verbal or written advice or direction. Officers will clearly identify the offence and provide advice on how to remedy it and a date by which this must be done. The time provided will be reasonable and take into account the implications of ongoing non-compliance. Sometimes officers will provide advice on 'best

practice', and they will clearly distinguish between what must be done to comply with the law and what is advice only. Failure to comply could result in an escalation of action.

- 7.8 **Fixed penalty notices and penalty notices.** Certain offences may be dealt with by a fixed penalty notice (FPN) or penalty notice (PN). The amount of an FPN is either set in law, or by the Council within parameters set in law, whereas the amount of a PN is set by officers based on a range of factors including the offence and levels of harm and culpability in a particular case. Both provide the suspect with the opportunity to discharge liability to conviction by payment of a penalty. For some offences the starting point will usually be a FPN or PN. Repeat offences will usually result in prosecution.
- 7.9 **Formal notice or order.** Some legislation allows for a notice or order to be served requiring specific steps to be taken, or to cease certain behaviour. In some circumstances, these can require immediate action, whereas in others the time provided will be reasonable and take into account the implications of ongoing non-compliance. Examples of notices and orders include improvement notices, prohibition notices, closure orders, community protection notices, enforcement notices, slum clearance declarations, and abatement notices. In some cases, a charge will be made where a notice or order is served. Where required, notices issued will include details of any applicable appeals procedures. Where a notice or order is not complied with, the law often allows for the Council to carry out the works in default. This may be instead of or in addition to prosecuting for failing to comply with the notice or order. The costs involved in doing this will usually be recovered from the person the notice or order was served on. In some cases, a charge will be registered against a property meaning it cannot be sold without the debt being paid.
- 7.10 **Seizure of property.** Officers have powers to seize property that is evidence of an offence, and in certain other circumstances. Examples include seizing unsafe food, dangerous equipment, equipment involved in causing a nuisance, vehicles that have been connected to waste offences, and animals that are suffering.
- 7.11 **Refusal, variation, suspension and revocation of a licence.** In some cases licences may be refused, varied, suspended or revoked. Examples include taxi drivers, operators or vehicles, animal activities, gambling, scrap metal, and houses in multiple occupation. In some circumstances, the decision to do so will be made by officers, and in others by the Regulatory & Licensing Sub-Committee. Other sanctions may apply depending on the type of licence.
- 7.12 **Simple caution.** A simple caution is a means by which the Council can deal quickly and simply with less serious offences, both reducing the burden on His Majesty's Courts & Tribunals Service and reducing the likelihood of repeat offences. A simple caution is an admission of guilt, but is not a form of sentence, nor is it a criminal conviction, though a record may be made of the simple caution. The Ministry of Justice [Guidance on Simple Cautions for Adult Offenders](#) contains more information about simple cautions. For a simple caution to be administered a number of criteria must be satisfied:
- Sufficient evidence must be available to prove the case
 - The person must admit the offence
 - It must be in the public interest to use a simple caution
 - The person must be 18 years or older
 - A simple caution should not have been received for a like offence in the previous 3 years
- The final decision on whether or not to administer a simple caution will be made in accordance with the Service's scheme of delegations. The offender will usually be expected to attend District Council House for the caution to be administered. A record of the caution will be kept on file for three years. If the offender commits a further offence, the caution may influence a decision to pursue a prosecution.
- 7.13 **Prosecution.** In deciding whether to take a prosecution, the Council will consider all relevant circumstances, having regard to the public interest criteria. This may include:
- The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the suspect
 - There has been a reckless disregard for regulatory requirements

- There have been repeated breaches giving rise to significant risk, or persistent and significant poor compliance
- The level of culpability of the suspect
- There has been a failure to honour voluntary undertakings or comply with statutory notices
- There has been a repetition of an offence that was subject to a simple caution
- False information has been supplied wilfully or negligently, or there has been an intent to deceive
- Officers have been obstructed in the lawful execution of their duties.

This is not an exhaustive list. Where officers consider that formal enforcement action is necessary each case will be considered on its own merits.

7.14 **Injunctive relief application.** In some circumstances, the Council may pursue a civil or criminal injunction. Examples of where this may be applicable are in cases involving repeat offenders, or to prevent serious harm where the Council's powers are otherwise limited.

7.15 **First-tier tribunal application.** Certain housing related offences may be dealt with via management and rent repayment orders, banning orders and rogue landlord database entries.

8. Determining when a prosecution or simple caution is reasonable and proportionate

8.1 Officers apply the 'Full Code Test' to determine whether a prosecution or caution is appropriate and proportionate. This test, described in the [Code for Crown Prosecutors](#), consists of two stages: the evidential stage; followed by the public interest stage. A caution or prosecution will only be progressed when the case has passed both the evidential test and the public interest test.

8.2 **Evidential Stage.** Officers and prosecutors must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge. They must consider what the defence case may be, and how it is likely to affect the prospects of conviction. A case which does not pass the evidential stage must not proceed, no matter how serious or sensitive it may be.

8.3 **Public Interest Stage.** In every case where there is sufficient evidence to justify a prosecution, officers and prosecutors must go on to consider whether a prosecution is required in the public interest. A prosecution will usually take place unless the officer or prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases, the officer or prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.

9. Enforcement decisions

9.1 Decisions about the most appropriate enforcement action to be taken are based upon the particular offence, the officer's professional judgment, official guidance, statutory guidance, and Council or government priorities.

9.2 In the majority of cases, the officer in charge of the case will determine or recommend the most appropriate course of action in accordance with the Service's scheme of delegations.

9.3 Final decisions about the instigation of legal proceedings will involve consultation between and/or approval from:

- Investigating officers
- Officer in charge of the case
- Service manager
- Head of service
- Council solicitor

- 9.4 Any decision to prosecute will be documented and signed in accordance with the Service's scheme of delegations.
- 9.5 Where enforcement decisions relate to licensing matters, these will be taken by officers in accordance with the Service's scheme of delegations, or by the Regulatory & Licensing Committee or Sub-Committee.

10. Liaison with other regulators and law enforcement agencies

- 10.1 Where appropriate, enforcement activity undertaken by the Service will be coordinated with those of other regulators and law enforcement organisations to maximise the effectiveness of any enforcement.
- 10.2 Where an enforcement matter affects a wide geographical area beyond the Council's boundaries or involves enforcement by one or more other Council's or organisations all relevant parties will, where appropriate, be informed of the matter as soon as practicable and all enforcement activity coordinated with them.
- 10.3 The Service will share intelligence relating to regulatory and law enforcement matters with other regulators and law enforcement organisations, including:
- Police
 - Government agencies (for example, HSE, Environment Agency, Border Force, UKHSA, Food Standards Agency, HMRC, DWP)
 - Fire and rescue authorities
 - Other local authorities
 - Statutory undertakers
- 10.4 Convictions secured by the Council for recordable offences will be entered onto the Police National Computer (PNC) either automatically or via form NPA03. A recordable offence is usually one that is indictable or triable either way. Details of such convictions are therefore shared with police forces across the UK, and other organisations that have access to the PNC, and will be disclosed on Disclosure and Barring Service checks in accordance with the relevant Regulations.

11. Consideration of the views of people affected by offending

- 11.1 The Service undertakes enforcement on behalf of the public at large and not just in the interests of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will, where appropriate, be taken into account when making an enforcement decision.
- 11.2 The Council may, where appropriate, prepare a [community impact statement](#) for the court as part of a prosecution. The purpose of a community impact statement is to make the court aware of particular crime trends in the local area and the impact of these on the local community.

12. Protection of human rights

- 12.1 This policy and all associated enforcement decisions take account of the provisions of the [Human Rights Act 1998](#). In particular, due regard is had to the following:
- Right to a fair trial
 - Right to respect for private and family life, home and correspondence

13. Identification of officers

- 13.1 Officers will carry their warrant card at all times when undertaking regulatory or enforcement activities. When engaging with someone for the first time, and at any time when asked to, the officer will introduce themselves and show the person their warrant card. A QR code on the warrant card is linked to a page on the Council's website which includes officers names, photographs, and the legislation that they are authorised to enforce.

14. Obstruction of and assaults on officers

- 14.1 The Council will take zero tolerance in cases where officers are obstructed or assaulted in the execution of their duties. The starting point for such offences will be prosecution. In relation to assault, in cases where the police or CPS decide not to prosecute, the Council will consider taking its own prosecution.

15. Enhanced enforcement powers

- 15.1 Officers have enhanced powers when investigating certain offences, including those relating to health & safety or the environment. These powers include the ability to require someone to answer questions and sign a declaration as to the truth of those answers, to require people to afford them assistance, to leave an area undisturbed, and to force entry without warrant. These powers will only be used if the officer is satisfied that it is reasonable and proportionate to do so.

16. Review of this policy

- 16.1 This policy will be reviewed annually or following significant changes to relevant legislation or government guidance.

Signed: (signed electronically)

James Johnson
Regulation & Enforcement Manager

The council is committed to developing and delivering services in a way that ensures it treats people fairly and promotes equality of opportunity and social cohesion within the wider community.

This policy aims to give the fairest outcomes to everyone regardless of race, gender reassignment, age, disability, pregnancy and maternity, religion or belief, sex or sexual orientation, marital or civil partnerships status and/or disability.

This policy has been subject to an Equality Impact Assessment to ensure that there is no discrimination in the way that it has been designed, developed or how it will be delivered and that, wherever possible, equality is promoted.