

Streetscene Enforcement Policy

INTRODUCTION

Burnley Borough Council wants to make the Borough a place where the streets and open spaces are clean, safe and well, maintained. Sustainable lifestyles will be promoted which emphasise waste minimisation, recycling and respect for the environment.

It is the aim of the Council to protect the public and the environment and promote health, safety and welfare and enhance the quality of life of all residents, workers and visitors to the Borough. This will be achieved by education, providing advice and by regulating the activities of others. Enforcement action will play an important role in helping the Council to secure compliance with regulatory requirements.

The Council will work with other regulators, such as the Environment Agency and Central Government to ensure co-ordinated and cohesive regulation. The Council will seek to share good practise and local intelligence with appropriate enforcing bodies. The Council will also work with community and voluntary groups in order to achieve common goals.

The Council views prosecution as a last resort and will seek to prevent rather than remediate. The Council will offer information, advice and education in order to secure co-operation, avoiding bureaucracy or excessive cost.

The policy will set out what residents, businesses and the community can expect from Streetscene Enforcement Officers. It sets out the general principles, which the Council intends to follow when taking enforcement action. More detailed, operational guidance may be developed for staff in respect of specific functions. The policy commits the Council to good enforcement policies and practises.

PURPOSE

The purpose of enforcement action is to ensure that preventative or remedial action is taken to protect the public and the environment or to secure compliance with a regulatory system. The need for enforcement may stem from failure to comply with Statutory obligations and the likely risk to health.

RESPONSIBILITY & AUTHORISATION

Responsibility for the implementation of the Policy rests with the Head of Streetscene. Authorised Officers within the Unit carry out day to day enforcement activities. Officers, authorised in accordance with relevant Codes of Practise or National Guidance carry out inspections, complaints, investigation, deal with requests for service and where necessary offer advice or training. The Unit Head is responsible for the planning, organisation and subsequent monitoring of all aspects of the Policy.

All Officers are authorised in accordance with their qualifications, experience and competency. Such Officers are authorised in writing by the Head of Streetscene specifying which legal provisions they are entitled to exercise.

Statutory Notices may only be prepared and signed by Officers designated as competent by the Head of Streetscene.

The issued of a Formal Caution and any decision to prosecute will only be administered or approved by the Head of Streetscene or one of the Unit Heads after taking appropriate legal advice.

PRINCIPLES OF ENFORCEMENT

Streetscene will adopt firm but fair regulation. The principles underlying firm but fair regulation include;

- Proportionality in the application of the law and in securing compliance.
- Consistency of approach.
- Transparency and openness about how the Streetscene unit operates and;
- Targeting of enforcement action.

Proportionality

The concept of proportionality is described as a balance of action to protect the public or the environment against the risks and costs. Any enforcement action taken or remedial action taken must be proportionate to the risks. The enforcement action taken by Burnley Borough Council will be proportionate to the risks posed to the public or environment and the seriousness of any breach of law.

Consistency

Consistency means taking a similar approach in similar circumstances to achieve similar results. Whilst Officers exercise discretion, the Unit will endeavour to ensure that enforcement decisions are consistent, balanced and fair and relate to common standards. Variables taken into account when making enforcement decisions include the seriousness of the offence, past history, confidence in management, the consequences of non compliance, evidence of remorse, consideration of the offender and the likely effectiveness of the various enforcement options.

Transparency and openness

Transparency is vitally important in maintaining public confidence in the ability to regulate. It means helping those regulated and others to understand what is expected of them and what they should expect from Streetscene. It also means making clear why an Officer intends to or has taken enforcement action.

Information and advice will be provided in plain language without abbreviations or jargon and is widely distributed as possible.

The Enforcement Policy will be published and will be made available on the Council's intranet and website.

Targeting

Targeting means making sure that regulatory effort is directed primarily towards those whose activities give rise to the most serious risks or where the hazards are poorly controlled or against deliberate or organised crime. Action will be primarily

focused on those that break the law or those directly responsible for the risk and who are best placed to control it as set out in the appropriate legislation.

LEVELS OF ENFORCEMENT ACTION

There are a number of levels of enforcement action available to the Council.

Prevention The Council will seek to prevent contravention of the law by raising awareness and promoting good practise by education and advice.

Informal action

Informal action may be appropriate where a minor breach of the law is broken and there is confidence that appropriate remedial action will be taken.

Warning letters

A warning is a written notification that in the Council's opinion an offence has been committed. It will be recorded and may be referred to in subsequent proceedings.

Statutory Notices

Formal Notices may be served requiring residents or businesses to meet specific legal requirements. The Notice will explain what is wrong, what is required to put things right and the likely consequences if the notice is not complied with.

Fixed Penalty Notices

Can be served for offences such as littering. The Notice requires the payment of a fixed penalty....

Formal Caution

A Caution is the written acceptance by an Offender that they have committed an Offence and may only be used where a prosecution could properly have been brought. It will be brought to the Court's attention if the Offender is convicted of a subsequent offence.

Prosecution

Where the circumstances warrant and the alternative actions previously mentioned are considered inappropriate, then prosecution may result. Before deciding whether a prosecution will be taken consideration will be given to a number of factors including Central Government guidance and the Code for Crown Prosecutors. These factors will include

- The seriousness and the effect of the offence
- The foreseeability of the offence
- The intent of the offender
- The history of the offender
- The attitude of the offender to prevent a recurrence of the problem
- The deterrent effect of a prosecution on the offender and others
- Personal circumstances of the offender

Other enforcement measures

Where work is carried out by Council, in default, for example where works required in a notice have not been carried out; the Council will seek to recover the full costs, including Council costs, of those works from those responsible.

PUBLICITY

Burnley Borough Council will where possible following a successful prosecution, name companies and individuals that have been convicted. Media attention will where appropriate to be drawn to comply with specific legal requirements, or deter others from breaching legal requirements.

DEPARTURE FROM THE ENFORCEMENT POLICY

Any departure from this policy must be exceptional, capable of justification and be fully considered by the Streetscene Manager of a designated alternative officer before a final decision is taken.

ACKNOWLEDGEMENTS

The following policies were reviewed and used to prepare this policy
The Environment Agency Enforcement and Prosecution Policy
Hyndburn Borough Council Environmental Health Services Enforcement Policy
Elmbridge Borough Council Environmental Health Division Enforcement Policy
Mansfield District Council Enforcement Policy Protocol.

FOR FURTHER INFORMATION
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