

# Enforcement and Prosecution Policy

*London Borough of Barnet*

2016

## Document Control

<b>POLICY NAME</b>	Enforcement and Prosecution Policy – Barnet Council		
<b>Document Description</b>	This document summarises the Council's approach to ensure compliance with regulatory requirements and applies to all service areas. This policy will be supported by more detailed service specific enforcement policies and procedures which will be in line with the approach set out in this document.		
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## Version Control

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## **Appendices**

1. Regulators Code introduced in 2014

## **1. Introduction**

- 1.1 Barnet Council shares the Government's view that effective and well-targeted regulation is essential in promoting fairness and protection from harm and that as regulators we should adopt a positive and proactive approach towards ensuring compliance by:
- helping and encouraging regulated entities to understand and meet regulatory requirements more easily; and
  - responding proportionately to regulatory breaches
- 1.2 Barnet Council will take a more collaborative approach to those who comply with regulatory requirements and those who work with us to achieve compliance. However, we will not hesitate to take all necessary enforcement action against those who, e.g. commit serious and/or persistent breaches, refuse to work with us to seek compliance and commit offences.
- 1.3 This enforcement and prosecution policy will apply to all service areas of the Council and will be supported by additional service-specific policies/or procedures— for example trading standards, licensing, planning, health and safety, food safety, highways, environmental health, planning, building control registration housing, and social services.
- 1.4 The appropriate use of the full range of enforcement powers, including prosecution, is important, both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures to safeguard health, safety and welfare or breach of regulations enforced by the Council.

1.5 Information on these service specific policies and procedures can be obtained from the relevant delivery units or Regional Enterprise (Re).

1.6 The key principles of the council's Enforcement and Prosecution Policy will be openness, helpfulness consistency, proportionality, agreed standards of service and access to complaints processes. None of these principles detract from the ability or need of Barnet Council to take firm enforcement action against those who flout the law.

1.7 Barnet Council's Corporate Plan sets out the following objectives that are underpinned by the principles of Fairness, Responsibility and Opportunity:

*'The council, working with local, regional and national partners, will strive to ensure that Barnet is a place:*

1. of **opportunity**, where people can further their quality of life
2. where people are helped to help themselves, recognising that **prevention** is better than cure
3. where **responsibility** is shared **fairly**
4. where services are delivered **efficiently** to get **value for money** for the tax payer
5. with improved Customer Services and increased transparency'

1.8 However, we also recognise that our local businesses and individual residents have a role to play in helping us achieve the vision set out above.

1.9 Ultimately it is the responsibility of the individuals and businesses to comply with the law to:

- Reduce the negative impact their behaviour may have on the wider community and Barnet's environment.
- Reduce the unnecessary demand on public services.
- Prevent escalating costs to the council and the tax payer as a result of addressing non-compliance.

- 1.10 This policy support's Barnet's vision as being a transparent and open council, in that it sets out publicly the Council's intended approach to bring about compliance with regulatory requirements. This policy also supports Barnet's vision where responsibility is shared fairly. In doing so, the Council will adhere to fair, practical and consistent enforcement policy and practice across the full range of the Council's regulatory activity.

## **2. Purpose of the policy**

- 2.1 One of the functions of the Council is to act as a regulator and an enforcement agency for a large range of legal duties and powers applied by Statutes and the Regulations and Orders made under them (including various byelaws). This policy sets out standards that will be applied across the Council when acting in its role as regulator and enforcement agency and what residents, businesses, consumers and workers can expect from Barnet Council.
- 2.2 This policy sets out the approach to be followed by authorised officers when making decisions in respect of the Council's compliance and enforcement activities. The Council is committed to ensuring that all authorised officers will act in accordance with this policy.

## **3. Policy Aims**

- 3.1 The aims of this policy are to:
- Provide clear guidance to all enforcement officers;
  - To set out clearly what is expected from the Community in terms of compliance
  - Ensure consistent enforcement that is proportionate to the risks involved
  - Provide an element of flexibility to recognise officer judgment through not being over prescriptive;

- Provide equal treatment for all.
- Enforcing the law, protecting the community
- To reduce unnecessary demand on and costs to Council services resulting from Council services having to address repeat offending and breaches

#### **4. Enforcing the Law and protecting the community**

- 4.1 The primary function of Barnet Council's enforcement work is to protect the public, the environment and groups such as consumers and workers.
- 4.2 We recognise that most businesses and members of our community want to comply with the law. We will therefore take care to help businesses and others to meet their legal obligations without unnecessary expense, whilst taking firm action, including prosecution where appropriate, against those who flout the law or where their behaviour amounts to anti-social behaviour for which there are provisions. All citizens will reap the benefits of this policy through better information, choice and safety.
- 4.3 We have therefore adopted the Cabinet Office Enforcement Concordat which commits the council to good enforcement policies and procedures and will show due regard to the Statutory Regulators Code introduced in 2014. In carrying out enforcement the Council will have due regard to the Data Protection Act 1998, the Human Rights Act 1998, the Equality Act 2010.
- 4.4 Included in the term 'enforcement' are advisory visits and assisting with compliance as well as licensing and formal enforcement action.
- 4.5 Enforcement actions are taken within the context of a legal and policy framework.
- 4.6 The Council will have regard to the Statutory Regulators Code (2014) when developing policies and operational procedures that guide the council's regulatory activities. If a regulator concludes, on the basis of material

evidence, that the specific provision of the Code is not applicable or it is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record the decisions and reasons for it. The full code can be found in appendix 1 of this policy.

4.7 In summary the Code sets out that Regulators should:

- carry out their activities in a way that supports those they regulate to comply and grow
- provide simple and straightforward ways to engage with those they regulate and hear their views
- base their regulatory activities on risk
- share information about compliance and risk
- ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
- ensure that their approach to their regulatory activities is transparent

4.8 The Council has also adopted the Cabinet Office Enforcement Concordat which lays out the principles of good enforcement. These are:-

- To draw up clear standards, setting out the level of service and performance the public and business can expect to receive.
- To deal with the public and business in an open and honest way.
- To provide a courteous, efficient and helpful service.
- To respond promptly and positively to complaints about the service.
- To ensure that enforcement action is proportionate to the risk.
- To carry out our duties in a fair, equitable and consistent manner

4.9 Where a decision to prosecute is made, this decision will be taken in accordance with the Code for Crown Prosecutors, which details the considerations to be taken into account when bringing proceedings.

4.10 In the public interest, matters concerning non-compliance will be shared, where appropriate, with other enforcement agencies. Where this takes place,

due regard will be paid to the provisions of the Data Protection Act and Section 115 of the Crime and Disorder Act 1998.

## **5. Principles of Barnet's Enforcement and Prosecution Policy**

### **5.1 Principle One: Standards**

In consultation with business and other relevant interested parties, including technical experts where appropriate, 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 businesses and others who are regulated.

### **5.2 Principle Two: Openness**

We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

We will provide an annual performance report on the implementation of this policy to the Community Leadership Committee.

### **5.3 Principle Three: Helpfulness**

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 dealings 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.

#### **5.4 Principle Four: 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.

#### **5.5 Principle Five: 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.

#### **5.6 Principle Six: Consistency**

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

through schemes such as those operated by the Local Authorities Co-ordinating Body on Food and Trading Standards (LACOTS) and the Local Authority National Type Approval Confederation (LANTAC).

## **6. Minimum Standards of Council Enforcement Procedures**

- 6.1 Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what time-scale and making sure legal requirements are clearly distinguished from best practice advice.
- 6.2 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).
- 6.3 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).

## **7. Compliance and Non-compliance**

- 7.1 A range of activities will be undertaken to ensure compliance with legislation. Advice and guidance will be provided; proportionate, programmed and intelligence led inspections will be undertaken and where necessary, inspections will be undertaken in response to complaints from third parties. Some enforcement services will also have officers patrolling the streets.
- 7.2 Where non-compliance is discovered, options to promote/seek compliance will include:
  - undertaking pro-active education programmes

- explaining legal requirements and, where appropriate, the means to achieve compliance
- providing an opportunity to discuss points in issue where appropriate consideration of alternative means and reasonable timescales and to achieve compliance
- service of advisory letters, warnings, statutory notices or prohibitions detailing non-compliance
- enforcement actions including, but not limited to, formal caution, seizure of documents or goods, closure of premises, caution, prosecution and/or injunction

7.3 Immediate, without notice, enforcement action may be taken, but only where deemed necessary, reasonable and proportionate.

7.4 Officers investigate potential breaches of legislation and they are responsible for managing investigations and making decisions on enforcement action. As part of this process, they must consult with colleagues and managers in determining the best and most appropriate course of action. Officers have the power to use a variety of legislation in the course of their duties, and these have been delegated to them by the Chief and Deputy Officers. The Council's Scheme of Delegation can be found in the Council's Constitution document online via the following link:

<http://barnet.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD341&ID=341&RPID=546941826&sch=doc&cat=13581&path=13581>

In relation to prosecutions, where relevant, officers' cases are reviewed by a manager in line with this policy before submitting to the Council's Solicitors for consideration for prosecution.

7.5 In some instances, the Council may have shared responsibilities or a complementary role with another enforcement agency. In these circumstances, officers will liaise with that other agency to ensure effective Co-ordination, to avoid inconsistencies and to ensure that any proceedings taken are proportionate and appropriate.

7.6 The Council will be fair, objective and consistent in its approach to enforcement by following the criteria and guidance set down in relevant legislation and codes of practice. The Council's Corporate Equality and Diversity Policy can be found online via the following link: <https://www.barnet.gov.uk/citizen-home/council-and-democracy/policy-and-performance/equality-and-diversity.html> .

7.7 The Council may publicise information about enforcement action that is taken in line with the relevant Government guidance on publishing sentencing outcomes (<http://www.justice.gov.uk/information-access-rights/sentencing-outcomes>). This is usually once an investigation has been brought to a conclusion via a successful prosecution at Court. Any news releases of this nature will be sent to the Council's Corporate Communications Team electronically who will review and authorise issue for broadcast. This information can also be publicised on the Council's website and via other social media.

## **8. Taking enforcement action – Factors taken into consideration**

8.1 The decision to use enforcement action will be taken on a case by case basis and, to ensure consistency of approach, in accordance with this and any other more specific policies which may be applicable. The action taken, which may be immediate, will be proportionate to the gravity and nature of the non-compliance. Factors that will be taken into consideration include, but are not limited to:

- the risk that the non-compliance poses to the safety, health or economic welfare of the public at large or to individuals
- evidence that suggests that there was pre-meditation in the commission of an offence the
- alleged offence involved a failure to comply in full or in part with the requirements of a statutory notice or order
- there is a history of previous warnings or the commission of similar offences

- aggravated circumstances such as obstruction of an officer or aggressive behaviour towards the public
- the offence, although not serious itself, is widespread in the area where it is committed
- death or serious injury was a result of a breach of legislation
- the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm
- the general record and approach of the offender
- there has been reckless disregard of health and safety requirements
- there has been a repetition of a breach that was subject to a formal caution
- false information has been supplied willfully, or there has been an intent to deceive

## **9. How action taken is determined**

- 9.1 Where evidence is found that a business or other regulated person is showing disregard for the law by deliberately or persistently failing to comply with advice or requests made by the Council, it may be deemed that providing information alone is not sufficient. Under these circumstances enforcement action may be escalated directly to prosecution.
- 9.2 Where there is specific Legislative Guidance and Regulations which set out the enforcement requirements these will be followed.
- 9.3 Where a business or other regulated person contacts the Council to ask for advice and it transpires that a breach of legislation is present at the premises, the most appropriate course of action will be determined based on the factors outlined in section 8.1 of this policy.
- 9.4 If it is clear that the business or regulated person is keen to resolve the non-compliance quickly, taking on board and completing the steps recommended by the Council, an informal approach is likely to be taken as opposed to triggering enforcement action. However, if there is a serious breach and/or

there is an imminent risk to public health or safety, enforcement action may still have to be taken but the Council will seek to work with the business or regulated person to resolve the problem as quickly as possible.

## **10. Conduct of investigations**

10.1 Enforcement action may result in either civil or criminal proceedings being instituted by the Council. The process that will be followed by officers in the investigation of alleged breaches of the law will depend on whether civil or criminal proceedings are considered r. As the enforcing authority in any proceedings it instigates, the burden of proof falls to the Council.

10.2 Investigations will be carried out in compliance with the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Barnet Council:

- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998
- the Police and Criminal Evidence Act 1984

10.3 These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

10.4 The authorised officers of the Council will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

## **11. Authorisation of Officers and their powers**

- 11.1 Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action. Officers will also have sufficient training and understanding of this enforcement policy to ensure a consistent approach to their duties.
- 11.2 There are numerous pieces of legislation which the Council as a local authority either has a duty to enforce or adopts or chooses to enforce. The powers available to officers under these different pieces of legislation vary considerably and it is not the purpose of this document to provide an exhaustive list of those powers.
- 11.3 If officers come across situations where they believe they are being obstructed in carrying out their duties they will always explain the provisions of the relevant legislation in order to resolve the issue.
- 11.4 In some cases powers of seizure are used for safety and evidence gathering purposes. Where articles are removed for any of these purposes a receipt or notice will be given at the time of the inspection or as soon as is practicably possible afterwards.
- 11.5 Officers do not have the power of arrest; however joint working is undertaken with the Police and other agencies. Instances may arise where the Police or other agencies consider that an arrest should be made in connection with an authorised officer's investigation.
- 11.6 Officers will carry out formal interviews in line with this policy and the Police and Criminal Evidence Act 1984.
- 11.7 In relevant cases where either criminal or civil proceedings are intended to be brought by the Council a report will be prepared containing all relevant evidence that has been gathered during an investigation. This report will be

reviewed by a manager and will also be reviewed by the Council's solicitor before any proceedings are instigated.

## **12. Progress of Investigations**

- 12.1 Officers conducting investigations, if appropriate, will keep victims and witnesses informed about the progress of any investigation.

## **13. Decision on Enforcement Action**

### **13.1 The Range of Actions Available as set out in Legislation**

There are a range of actions that are available to the Council as set out in the different legislation the Council enforces. Examples of the main types of actions which may be considered are set out below.

#### **a) Compliance Advice, Guidance and Support**

The Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter (sometimes called an 'informal caution') will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. The warning letter, though not a caution or conviction may be presented at Court in evidence.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, the Council recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.



## **b) Voluntary Undertakings**

The Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. The Council will take any failure to honor voluntary undertakings very seriously and enforcement action is likely to result.

## **c) Statutory (Legal) Notices**

The Council has powers to issue statutory notices in respect of many breaches.

These include: 'Stop Notices', 'Prohibition Notices', 'Emergency Prohibition Notices', and 'Improvement Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

## **d) Financial penalties**

The Council has powers to issue fixed penalty notices or penalty charge notices in respect of some breaches. A fixed penalty notice or penalty charge notice is not a criminal fine, and does not appear on an individual's criminal record. If a fixed penalty/penalty charge notice is not paid, the Council may commence criminal proceedings in respect of the breach or take civil

enforcement action to recover the penalty charge subject to the provisions of the relevant legislation.

If a fixed penalty/ penalty charge notice is paid in respect of a breach the Council will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

The Council is only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their issue is at the Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a fixed penalty notice.

#### **e) Injunctive Actions, Enforcement Orders etc.**

In some circumstances the Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

#### **(f) Simple Caution**

The Council has the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, the Council is likely to consider prosecution.

A simple caution will appear on the offender's criminal record. It is likely to influence how the Council and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.

### **(g) Prosecution**

The Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute the Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

Prosecution will only be considered where the Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

If the evidential test is satisfied a prosecution will usually take place unless there are public interest factors tending against prosecution which outweigh those tending in favour. The more serious the offence or the offender's record of breaches/ criminal behaviour, the more likely it is that prosecution will be required in the public interest.

Assessing the public interest is not merely a matter of adding up the number of factors on each side and seeing which has the greater number. The public interest must be decided on the merits of each individual case and making an overall assessment. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction.

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors

#### **h) Proceeds of Crime (POCA)**

POCA sets out the asset recovery scheme which aims to deny criminals the use of their assets, recover the proceeds of crime and disrupt and deter criminality. The most commonly used power is criminal confiscation where confiscation occurs after a conviction has taken place. Other means of recovering proceeds of crime which do not require a criminal conviction are provided for in the Act, namely civil recovery.

The Act also provides for a number of investigative powers which are also used by the Local Authority (Corporate Anti-Fraud Team - CAFT Team). For example search and seizure powers, and powers to apply for production orders and disclosure orders and allows for the 'restraint' or 'freezing' of assets to prevent dissipation of assets prior to a confiscation order being made.

The CAFT has an established Financial Investigation Team within, consisting of qualified Financial Investigation Officers and an approved Senior Authorising Officer, accredited and authorised by the National Crime Agency NCA. In accordance with the Council's Financial Regulations they are the only authorised Council service to conduct Financial Investigations under the Proceeds of Crime Act 2002 on behalf of all Council Services (and subsidiary holdings and contractual partners) and to further investigate individuals who are prosecuted by the Council.

Referrals must be made to the CAFT by the service conducting an enforcement investigation / prosecution for consideration of suitability for a

POCA investigation. The decision whether or not to instigate a POCA investigation lies with CAFT Financial Investigators on assessment of each case and legal advice where required.

The Proceeds of Crime Act 2002 provides for the confiscation or civil recovery of the financial benefit that a convicted person has obtained through their criminal conduct. A confiscation order assesses the amount of financial benefit a person has derived from their criminal behaviour.

This financial benefit is then redistributed to the Government, the Courts Service, the financial investigator and the prosecuting authority in the form of 'incentivisation payments.' The Government receives 50% of all monies confiscated. The other 50% is split into thirds between - the Magistrates Courts, the financial investigator; and the prosecuting authority. Under this arrangement the Council would receive 37.5% of the confiscated amount.

Although not "ring-fenced" councils receiving incentivisation payments are expected to use them to promote work under PoCA, or for the prevention and detection of crime. Unless agreed CAFT retain any confiscation (after costs/compensation) for use in the prevention / detection of crime.

#### **i) Refusal/Suspension/Revocation of Licences**

The Council issues a number of different Licences, Consents, Registrations and Permits. They are applied for by submission of an application, the form and content of which is sometimes specified in law. Applications are generally granted for a limited defined period and will be required to be renewed annually unless otherwise specified.

The Council may be permitted to ask supplementary questions on an application form in order to assist it in reaching a decision on whether the applicant is a fit and proper person to hold such a Licence.

In some cases applications are subject to either a public or interested party consultation process and any application that attracts adverse comment or

objection or does not meet Council policy requirements will be referred to an internal civil hearing forum to determine the application.

Most Licences and other permissions have conditions attached which can be standard conditions or specific conditions or a combination of both. These conditions form part of the Licence and lay down requirements that a business or individual must have regard to when trading. Breach of a condition may be a civil or criminal matter.

When considering applications information supplied with the application together with any previous enforcement action and compliance record can be taken into account when reaching a decision.

### 13.2 Explanation of how decisions are made on Enforcement Action

In assessing what enforcement action is necessary and proportionate consideration will be given to, the following principles for enforcement set out in the Macrory Review:

- 1) aim to change the behaviour of the offender;
- 2) aim to eliminate any financial gain or benefit from non-compliance;
- 3) be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- 4) be proportionate to the nature of the offence and the harm caused;
- 5) aim to restore the harm caused by regulatory non-compliance, where appropriate; and,
- 6) aim to deter future non-compliance

Where appropriate decisions about what enforcement action is to be taken may involve consultation between:

- (a) Investigating Officer(s)

(b) Senior Managers

(c) Solicitors

The decision to prosecute a case will be taken by those with authority to do so in accordance with the Council's Scheme of Delegations.

### 13.3 Explanation of how decisions are communicated to those affected


The Council will provide a timely explanation in writing of any rights to representation or appeal and information on the process involved.

## **14. Review of this policy**

This policy will be reviewed periodically or in line with changes in relevant legislation, or Regulators Code.

## **15. Comments and Complaints**

### Details of processes for complaints and appeals

-  ○ All appeals in relation to enforcement action taken should be via the statutory appeals process outlined in the relevant legislation.
- Complaints about the conduct of officers should be made via the Council corporate complaints procedure

## **16. Policy Status and Review**

- 16.1 This policy was endorsed and adopted by the Councils Policy and Resources Committee on **x Date**.