



# ENFORCEMENT POLICY

CONTENTS	Page No.
Introduction .....	2
1. Policy Statement .....	2
2. Background Documents	
2.1 The Enforcement Concordat .....	3
2.2 The Code for Crown Prosecutors .....	3
2.3 Regulators' Compliance Code .....	3
3. Enforcement Principles	
3.1 The Council Commitment .....	4
3.2 Measures to Ensure Compliance .....	4
3.3 Measures to deal with Non Compliance .....	4
4. Enforcement Considerations	
4.1 Procedures .....	5
4.2 Transparency .....	5
4.3 Helpfulness .....	5
4.4 Complaints .....	5
4.5 Proportionality .....	5
4.6 Consistency .....	5
5. Enforcement Actions	
5.1 Prosecution .....	6
5.2 Simple Caution .....	9
5.3 Notices .....	9
5.4 Works in Default .....	10
5.5 Revocation or Suspension.....	10
5.6 Fixed Penalty Notices .....	10
5.7 Seizure of Goods, Items or Documents .....	11
5.8 Written Warnings .....	11
5.9 Anti-Social Behaviour Sanctions .....	11
5.10 Injunctions .....	12
5.11 Revisits .....	12
5.12 No Action .....	12
6. General	
6.1 Formal Interviews .....	13
6.2 The interests of the Borough's stakeholders .....	13
6.3 Other Relevant Authorities .....	13
6.4 Undue Influence on Enforcement Decisions .....	13
6.5 Enforcement Policy Implementation .....	13
6.6 Policy Review Period .....	13

## Comments, Compliments or Complaints

We welcome any feedback on our services or the contents of this Enforcement Policy. You can contact us in the following ways:-

- Telephone 0845 907 2244
- Write to Erewash Borough Council, Town Hall, Derby Road, Long Eaton. NG10 1HU.
- Email the [contactcentre@erewash.gov.uk](mailto:contactcentre@erewash.gov.uk)
- Fill our comments, compliments and complaints form at [www.erewash.gov.uk](http://www.erewash.gov.uk)

## **INTRODUCTION**

The Council's enforcement decisions will be made in accordance with this Enforcement Policy. The aim is to ensure clear and consistent enforcement which takes account of national guidance and good practice. It will be used alongside additional guidance covering specific areas of work.

Officers are required to regulate activities across a wide range of business and in their professional dealings with every type of individual. Officers seek to find solutions without the need for formal enforcement. However, the aim of the Council's efforts is the protection of people at work, the general public and the environment from harm caused by failure to comply with the safeguards provided for in law. There will therefore be circumstances in which enforcement is unavoidable. If necessary and appropriate the Council will use the enforcement powers available to ensure legal compliance.

### **1. POLICY STATEMENT**

- 1.1** This statement outlines the enforcement policy of Erewash Borough Council. Our enforcement policy is based on clear standard setting, transparency, proportionality, helpfulness, accountability and consistency. Where it is necessary, enforcement will be undertaken without fear or favour and without consideration of the race, ethnic background, religion, social status, colour, sex or sexual orientation of any persons involved.
- 1.2** Wherever practicable, the level of enforcement taken will be the minimum at which a satisfactory and timely solution is thought to be achievable. Wherever possible and appropriate, officers will seek to find solutions, which are arrived at by agreement and co-operation. Officers will have regard to the different abilities which may be encountered, and to the role which education and help can play in achieving compliance. Where appropriate to do so, officers will also provide positive feedback.
- 1.3** Wherever practicable, the Council will ensure that our enforcement actions will:-
  - aim to change the behaviour of the offender;
  - aim to eliminate any financial gain or benefit from non-compliance;
  - 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;
  - be proportionate to the nature of the offence and the harm caused;
  - aim to restore the harm caused by regulatory non-compliance, where appropriate; and
  - aim to deter future non-compliance.
- 1.4** Whenever possible, the Council will work in partnership with other agencies to achieve common goals on matters of mutual concern. Examples of other agencies include the County Council, Environment Agency, the Primary Care Trust, the Health and Safety Executive, the Food Standards Agency, HM Revenue and Customs, the Police and Fire Authority.
- 1.5** Some activities may result in investigations by different Sections of the Council at the same time. We will seek to co-ordinate the activity of different Sections to maximise our effectiveness in dealing with these issues and reduce legislative burdens for businesses operating in the Borough. We will also seek to share our enforcement intelligence and any successful action with other enforcing authorities or agencies if appropriate.

## 2. BACKGROUND DOCUMENTS

Our Enforcement Policy has been produced having regard to three principal documents:-

- The Enforcement Concordat
- The Code for Crown Prosecutors
- The Regulators' Compliance Code

### 2.1 The Enforcement Concordat

<http://www.berr.gov.uk/consumers/enforcement/enforcement-concordat/index.html>

The Concordat is a Code of Practice between Government and local Councils. It sets out what businesses and others being regulated can expect from the Council's enforcement services. Erewash Borough Council has signed the Concordat. This means all Services provided by the Council are committed to good enforcement practices and procedures. The Directorates of Development and Regulatory Services, Neighbourhood Services and Corporate Services fully support the principles of the Concordat and work within it when carrying out enforcement activities.

### 2.2 The Code for Crown Prosecutors

<http://www.cps.gov.uk/publications/docs/code2004english.pdf>

The Code for Crown Prosecutors sets out general principles to be applied when making decisions about prosecutions. As a regulatory body the Council also follows the principles of the guide when considering enforcement action.

### 2.3 Regulators' Compliance Code

<http://www.berr.gov.uk/files/file45019.pdf>

The Regulators' Compliance Code (the Code) is made under the Legislative and Regulatory Reform Act 2006. The code sets out that Regulators must *have regard* to the provisions of the Code when determining general policies or principles or when setting standards or giving general guidance about the exercise of general functions. It does not apply to the work of individual inspectors.

The Legislative and Regulatory Reform (Regulatory Functions) Order 2007 (specifically part 3) sets out those regulatory functions exercisable by local authorities to which the Code applies. In relation to Erewash Borough Council these are predominantly, but not exclusively:-

- Food Health and Safety
- Environmental Protection and Housing Renewal
- Licensing
- Community Safety

This Enforcement Policy has included those aspects of the Code which are relevant to our activities. The intention of the Council is to help to promote an efficient and effective approach to inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens.

### **3. ENFORCEMENT PRINCIPLES**

#### **3.1 The Council Commitment**

The Council is committed to the principles within the Enforcement Concordat, namely:-

- a. Standards: setting clear standards
- b. Openness: clear and open provision of information
- c. Helpfulness: helping business by advising on and assisting with compliance
- d. Complaints: having a clear complaints procedure
- e. Proportionality: ensuring that enforcement action is proportionate to the risks involved
- f. Consistency: ensuring consistent enforcement practice

Enforcement action may be taken as a result of an incident, a complaint, an inspection or information received. There are two distinct facets to enforcement, which may be taken to mean either of the following:-

- Measures to ensure compliance
- Measures to deal with non-compliance

#### **3.2 Measures to Ensure Compliance**

The Council has programmes in place for monitoring compliance by businesses and individuals, for example, inspection programmes for food premises, workplaces and authorised processes. Some inspection programmes require inspections at pre-determined intervals, or set annual targets for the number of inspections to be made. Many programmes are based upon an assessment of the risk posed by the activity. This risk based approach ensures that the Council focuses the inspection effort where risk assessment shows that both:-

- a compliance breach or breaches would pose a serious risk to a regulatory outcome; and
- there is high likelihood of non-compliance .

The Council ensures that inspections and other visits, such as compliance or advice visits, to regulated entities only occur in accordance with the relevant risk assessment methodology or inspection programme. The exception is where visits are requested by business, or we are acting on relevant intelligence.

Due to the diversity of requirements under the different legislation and guidance it is not practicable in this Policy to be prescriptive about the ways in which inspection programmes are organised and monitored. However, each Team has in place the means to arrange programmes or visits which will satisfy the needs of their particular legislation **and** the mechanism for monitoring.

The Council also ensure compliance by the use of Neighbourhood Wardens whose work is dictated by a range of parameters from information received to planned specific enforcement activity.

#### **3.3 Measures to deal with Non Compliance**

In this aspect of enforcement, the options available for taking action against businesses or individuals for ignoring or otherwise failing to comply with their legal obligations are detailed in Section 5.

The principles outlined in the Enforcement Concordat and Sections 4 and 5 of this policy will be applied to all actions to deal with non compliance.

#### **4. ENFORCEMENT CONSIDERATIONS**

The enforcement considerations in this section will be followed at all times. These are derived from the Enforcement Concordat to which the Council is fully committed to upholding.

##### **4.1 Procedures**

Advice from officers will be clear and simple and will normally be confirmed in writing, explaining why any work or actions may be necessary and stating the timescale for progress and completion. A clear distinction will be made between legal requirements and best or desirable practice.

Before formal action i.e. any enforcement process defined in legislation is taken, the opportunity may be provided to discuss the circumstances of the case and, if possible, resolve points of difference **unless** immediate action is required (for example a serious risk to health and safety or to prevent evidence being destroyed). In circumstances where immediate action is necessary, an explanation of why such action was required will be given at the time or, if this is not practical, within **5 working days** whenever practicable. In some cases of immediate action such as the service of a Fixed Penalty Notice or parking ticket a written explanation is not considered appropriate.

Where there are rights of appeal against specific actions advice on the mechanism to be followed will be given in writing. Wherever possible this will be included with the enforcement notice or other documentation.

##### **4.2 Transparency**

Information and advice will be published in plain language concerning the legislation which the Council is applying. Officers will be open about the work required, including any financial costs in complying, and consultation will take place as appropriate. Discussion will take place concerning general enforcement issues, specific compliance failures or problems with anyone who is experiencing difficulties. In addition interpretation services will be provided for anyone whose first language is not English.

##### **4.3 Helpfulness**

Officers will provide a courteous and efficient enforcement service and individual officers will identify themselves by name. A contact telephone number and an e-mail address will be provided for on-going discussions. Businesses and individuals will be actively encouraged to seek advice and information relating to the Council's enforcement role.

##### **4.4 Complaints**

If business operators or members of the public indicate that they wish to complain about any aspect of enforcement work officers will ensure that the mechanism for doing so is clearly explained. Our Comment, Compliment and Complaints procedure is published on our website at [www.erewash.gov.uk](http://www.erewash.gov.uk)

##### **4.5 Proportionality**

Costs of compliance are to be minimised to ensure that any actions required by the Council are proportional to the risks involved i.e. risk to public health and/ or the environment. Where the law allows officers will take account of the circumstances of a case and the offender's attitude when considering the level of enforcement action.

##### **4.6 Consistency**

Consistency means taking a similar approach in similar circumstances to achieve similar ends. The aim is to achieve consistency in the advice given, the response to incidents and the ways in which statutory powers are used. Consistency does not mean simple uniformity and officers will need to take account of many variables such as the scale of the risk, the attitude and actions of those involved and history of compliance, whether positive or negative.

Decisions on enforcement action are a matter of professional judgement and officers will frequently be required to use discretion. Where necessary, Directorate guidance will be provided. Efforts will continue in order to develop arrangements for promoting consistency including effective arrangements for liaison with neighbouring Authorities and other enforcing agencies.

## **5. ENFORCEMENT ACTIONS**

### **5.1 Prosecution**

Where statutory powers to prosecute exist the decision to do so is not taken lightly. Each case is unique and will be processed according to its own merits. There is no suggestion that prosecution will automatically follow the discovery of an alleged offence. In particular, alternative actions to prosecution which are outlined in paragraphs 5.1.1 below, will be considered in all cases and at every stage.

The decision as to whether to prosecute or not will be constantly reviewed and, if necessary, changed up until such time as an irrevocable step (e.g. accepting a Simple Caution as an alternative) is made.

#### **5.1.1 Alternatives to Prosecution**

The following steps will be considered as alternatives to prosecution, where applicable, as part of the decision making process. Each must be examined, however, in light of public interest (see paragraph 5.1.2.2 below):-

- Simple Caution
- Notices
- Works in Default (WiD)
- Revocation
- Fixed Penalty Notices
- Written Warnings
- Anti-Social Behaviour Sanctions
- Injunctions

#### **5.1.2 Test for Prosecution**

Before a decision to prosecute is taken the case must satisfy, in general terms, firstly, the evidential test and then if this is satisfied the public interest test is applied.

##### **5.1.2.1 Evidential Test**

There must be sufficient good quality evidence to provide a *realistic prospect of conviction* against each defendant and on each charge before prosecution is authorised. This is an objective test and means that a jury or bench of Magistrates, properly directed in accordance with the law, is more likely than not to convict each defendant on each charge.

Each prospective prosecution is scrutinised at appropriate points in the line management chain before sending to the Council's Solicitors in accordance with procedures. This ensures officers who are not directly involved in the case can test the evidence.

The following will be borne in mind by case officers throughout the investigation:-

- a) The validity and relevance of any tape-recorded interviews.
- b) The continuity of evidence.
- c) The quality of any notes and records kept during the investigation.
- d) The level of compliance with the Concordat. All legislation having a bearing on enforcement practice, and internal Procedures.

If there have been substantive departures from accepted practice on any of the above this will be made known to line management and Legal Officers so that decisions on whether or not to proceed can be properly informed.

In considering the evidence the following will be addressed:-

- Any factors, which might reduce the reliability of an admission made during a taped interview such as, for example, a defendant's age or lack of understanding.
- Any factors which might have a bearing on the reliability of any witness.

Unused evidence will be disclosed in accordance with the requirements of the relevant legislation.

### **5.1.2.2 Public Interest Test**

The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. Although there may be public interest factors against prosecution in a particular case, often the prosecution should go ahead and those factors should be put to the court for consideration when sentence is being passed. A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour, or it appears more appropriate in all the circumstances of the case to divert the person from prosecution.

Officers must balance factors for and against prosecution carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect.

Some factors may increase the need to prosecute but others may suggest that another course of action would be better.

**The following lists some common public interest factors, both for and against prosecution but are not exhaustive. The factors that apply will depend on the facts in each case.**

#### *5.1.2.2a. Some common public interest factors in favour of prosecution*

The more serious the offence, the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if:

- a. a conviction is likely to result in a significant sentence;
- b. a conviction is likely to result in a confiscation or any other order;
- c. a weapon was used or violence was threatened during the commission of the offence;
- d. the offence was committed against a person serving the public (for example, a police or prison officer, or a nurse);
- e. the defendant was in a position of authority or trust;
- f. the evidence shows that the defendant was a ringleader or an organiser of the offence;
- g. there is evidence that the offence was premeditated;
- h. there is evidence that the offence was carried out by a group;
- i. the victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage or disturbance;
- j. the offence was committed in the presence of, or in close proximity to, a child;
- k. the offence was motivated by any form of discrimination against the victim's ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics;
- l. there is a marked difference between the actual or mental ages of the defendant and the victim, or if there is any element of corruption;
- m. the defendant's previous convictions or cautions are relevant to the present offence;
- n. the defendant is alleged to have committed the offence while under an order of the court;
- o. there are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct;
- p. the offence, although not serious in itself, is widespread in the area where it was committed; or
- q. a prosecution would have a significant positive impact on maintaining community confidence.

#### *5.1.2.2b. Some common public interest factors against prosecution*

A prosecution is less likely to be needed if:

- a. the court is likely to impose a nominal penalty;
- b. the defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution or the defendant withdraws consent to have an offence taken into consideration during sentencing;

- c. the offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- d. the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- e. there has been a long delay between the offence taking place and the date of the trial, unless:
  - the offence is serious;
  - the delay has been caused in part by the defendant;
  - the offence has only recently come to light; or
  - the complexity of the offence has meant that there has been a long investigation;
- f. a prosecution is likely to have a bad effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence;
- g. the defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is real possibility that it may be repeated. The Council, where necessary, will apply Home Office guidelines about how to deal with mentally disordered offenders. Officers must balance the desirability of diverting a defendant who is suffering from significant mental or physical ill health with the need to safeguard the general public;
- h. the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution or diversion solely because they pay compensation); or
- i. details may be made public that could harm sources of information, international relations or national security.

Officers undertake enforcement on behalf of the public at large and not just in the interests of any particular individual or group. When determining the public interest test the consequences for those affected by the offence, of the decision whether or not and how to take enforcement action and any views expressed by those affected will be considered.

Deciding on the public interest is not simply a matter of adding up the number of factors on each side. Officers must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

Those people affected by the offence will be told about any decision that makes a significant difference to the case in which they are involved.

#### **5.1.2.2c. Youths**

Officers must consider the interests of a youth when deciding whether it is in the public interest to prosecute. However prosecution should not be avoided simply because of the defendant's age. The seriousness of the offence or the youth's past behaviour is very important.

Cases involving youths are usually only referred for prosecution if the youth has already received a reprimand and final warning, unless the offence is so serious that neither of these were appropriate or the youth does not admit committing the offence. Reprimands and final warnings are intended to prevent re-offending and the fact that a further offence has occurred indicates that attempts to divert the youth from the court system have not been effective. So the public interest will usually require a prosecution in such cases, unless there are clear public interest factors against prosecution.

#### **5.1.3 Other Prosecution Actions**

The Code for Crown Prosecutors will also be followed in the following circumstance:-

- Accepting guilty pleas; and,
- Re-starting a prosecution.

## 5.2 Simple Cautions

Where it is felt appropriate, the use of the Simple Caution may be considered. In all such cases, the Home Office Guidance on the use of Simple Cautions will be closely followed where it applies to legislation enforced by the Council. It should also be noted that the suspect must admit the offence before a Simple Caution can be offered.

Typically, the reason for choosing this option will be that the case does not fully meet the *public interest test* described in paragraph 5.1.2.2, above. It may be, for example, that the offence did not result in real harm to any person or that the person responsible co-operated fully in limiting the effects of the offence.

A Simple Caution will **never** be used simply because the evidence in a case is not robust enough to give a reasonable prospect of success in prosecution.

Indeed if a Simple Caution is offered and refused the most likely alternative enforcement action would be prosecution, so the evidence must always be sufficient before a Simple Caution is considered.

Other factors governing the use of a Simple Caution include:-

- a) Line Management are informed before a Simple Caution is offered.
- b) If a Simple Caution is issued it remains active and relevant until its statutory expiry date, which is stipulated by legislation. No more than **one** Simple Caution will be issued to the same business or person for a similar offence within that period. If a further, similar offence is committed before the expiry of the Simple Caution then prosecution will normally be taken in all but the most exceptional circumstances.
- c) Unless the circumstances are wholly exceptional, details of any outstanding Simple Caution will be placed before the Court in any prosecution taken within the expiry date of the Simple Caution.
- d) The suspect will be given the opportunity if (s)he so wishes, of viewing all of the evidence gathered in the case including any which may weaken the prosecution. This is to enable them, and/or their legal advisor, to assess the evidence so that the decision whether to accept the Caution or not can be an informed one.
- e) If accepted the Caution will be fully recorded and a copy of the documentation held on a Register of Simple Cautions held by the Council's Legal Services.

## 5.3 Notices

The service of statutory Notices is a routine part of the work of the Council and it is not appropriate to deal with the format and wording of Notices within a document such as this. However, there are some points of commonality affecting all types of Notices detailed below.

### 5.3.1 Peer Review

There are occasions when speed of service is of the essence and in such cases peer review may not be practicable. Wherever possible, the use of standardised Notices will be used when peer review is not possible, to ensure the greatest level of uniformity of approach.

When peer review is possible, and this should be in the majority of cases, each Notice should be reviewed by a member of the Team prior to submission to service.

### 5.3.2 Associated Documentation

Under normal circumstances the following information will accompany a formal Notice:-

- a covering letter setting out the background to the Notice and providing a point of contact
- a copy of the relevant Appeal provisions
- a separate Schedule of Works, where appropriate
- any other information which may help the person served to understand and comply with the terms of the Notice.

### **5.3.3. Method of Service**

The method of service of a formal notice may be specified in individual legislation and in such cases the method of service will be followed exactly. Where there is no prescribed method, any of the following may be used:-

- a. *Hand delivery* - the Notice will be delivered to the person(s) identified as being responsible. The date, time, place and other relevant details of the hand delivery will be endorsed on the notice.
- b. *Recorded Delivery* - the Notice is sent by first class, recorded delivery post.
- c. *Normal Post* - where used a copy will be endorsed giving details of the contents of the envelope, the date, time, and place of posting and the address to which sent.
- d. *Left at Scene* - the Notice may be left at the scene i.e. a premises or vehicle. A copy of the notice will be endorsed giving details of the service method.

### **5.4 Works in Default (WiD)**

Works in Default refers to the powers given to the Council under specified legislation to undertake works required in a Notice that has not been complied within the time permitted. A charge is normally made for carrying out such work which the person(s) named on the Notice would be required to pay.

The approval of line management will be sought before arrangements are made to carry out works in default. At the time that approval is sought the case officer will provide full details of the perceived need to undertake the work and be prepared to discuss alternatives.

There are two distinct types of WiD, these being:-

- a. *Seizure* of equipment causing a nuisance, for example stereo equipment in respect of noise problems
- b. *Physical works* undertaken by the Council to abate nuisance or comply with specified standards, for example carrying out drainage works or making structures safe where there may be risks to health or safety.

### **5.5 Revocation or Suspension**

In some circumstances the revocation or suspension of a licence or authorisation may be used as an enforcement method. No revocation or suspension action will be taken without reference to line management.

Whilst this is a legitimate enforcement action it is always remembered that the above may involve the removal of livelihood sometimes without reference to an independent arbiter or the Courts. Accordingly revocation or suspension is used only as a last resort when other sanctions are either deemed inappropriate, or have been tried without success.

Where revocation or suspension action is taken it will normally follow at least two warnings in writing. However it is recognised that this may not always be possible especially in the case of some types of licensing offence. Those concerned will be informed of any rights to appeal which they may have and be told of any time limits or other constraints which may apply.

### **5.6 Fixed Penalty Notices**

Some areas of legislation, for example in relation to litter, dog fouling and smoke free premises, allow for Fixed Penalty Notices to be issued against persons committing offences. This notice offers the individual the opportunity to release themselves from being prosecuted for that offence by payment of a fixed penalty set out in the relevant legislation.

No further legal proceedings will be taken by the Council for the offence if the individual pays the fixed penalty within the required time period set out in the notice. The individual will be liable to prosecution for the offence if the fixed penalty is not paid within the required time period. Payments made by post will be regarded as having been made at the time at which the letter would be delivered to the Council's offices in the ordinary course of post.

### **5.7 Seizure of Goods, Items or Documents**

Some areas of legislation, for example in relation to food safety, health and safety and environmental protection, allow for the seizure and detention of goods, items or documents.

The seizure of an item may be undertaken in isolation to deal with, for example,

- compliance with a noise abatement notice;
- a dangerous item of equipment quickly and effectively without the need for any further enforcement action, or
- to allow for further testing.

Alternatively seizure of items can be used in addition to other enforcement powers detailed in this section for example to prevent tampering with evidence.

### **5.8 Written Warnings**

Perhaps the commonest and most versatile form of enforcement is the use of a written warning which may result from a service request investigation or a routine inspection visit. The tone of a written warning will be firm, businesslike, unambiguous, polite and helpful.

There are few rules governing the use of this type of action as it is not a regulated or statutory function. However a written warning will normally:-

- a. clearly state the nature of the problem and suggest either specific remedies or a standard to be achieved;
- b. state the actions which may follow if matters do not improve;
- c. designate a named officer as point of contact;
- d. clearly distinguish between a legal requirement and 'desirable standard';
- e. indicate any follow-up action intended (e.g. a re-visit within a specified period of time); and,
- f. where possible point the way to specialist advice or additional information.

### **5.9 Anti-Social Behaviour Sanctions**

Each case of anti-social behaviour will be investigated and enforcement action will be based on evidence collected and recorded during that investigation and based on previous history. Anti Social Behaviour orders will be used generally following consultation with the key partners and will be considered only as a last resort where previous interventions such as warning letters and acceptable behaviour contracts have been unsuccessful.

Dispersal Orders must be agreed in consultation with the Police but can be initially suggested by the Council. Agreement to a dispersal order is made by the Chief Officer for the Police Division and the Chief Executive in consultation with the Portfolio Holder for Community Safety or the Leader of the Council and the appropriate Ward Councillor(s).

Criminal Acts will be referred to the Police for prosecution.

If it is anticipated that some enforcement cases may incur a cost to the Council, the decision as to whether to proceed will be referred to the council executive inline with key decision procedures and will form part of the Councils forward plan.

In all enforcement decisions, regard will be had to the human rights of all parties as contained in the European Convention on Human Rights and the Human Rights Act.

#### **5.10 Injunctions**

The use of an injunction will normally be considered in exceptional circumstances to prevent an activity that poses an imminent serious risk to public safety or the environment or economic harm to businesses. An application for an injunction will normally only be considered when the use of other enforcement options has been tried without success or are inappropriate due to the imminent nature of the activity.

#### **5.11 Revisit of Premises**

Following a formal notice or a written warning and advice we will normally revisit the premises to check compliance has been achieved. We may advise that a check will be carried out within a set time period.

In the event that a notice or written warning and advice have not been complied with the circumstances will be reviewed and considered further in accordance with the provisions of this policy.

#### **5.12 No Action**

In exceptional circumstances contraventions may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community.

A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade. A decision to take no action will be recorded in writing and take into account the overall implications of the contravention.

## **6. GENERAL**

### **6.1 Formal Interviews under the Police and Criminal Evidence Act 1984 (PACE)**

All interviews of individuals under caution regarding their involvement or suspected involvement in an offence will be carried out in accordance with the requirement of the Police and Criminal Evidence Act 1984 (PACE) and in particular Code C – Code of Practice for the Detention, Treatment and Questioning of Persons by Police Officers.

Juveniles (under 17 years of age) or persons who are mentally disordered or otherwise mentally vulnerable will not be interviewed regarding their involvement or suspected involvement in an offence unless the parent(s) or other person responsible for their welfare, or an appropriate adult is present.

### **6.2 The interests of the Borough's stakeholders**

Where particular local circumstances dictate enforcement activity they will, where practicable, take account of those circumstances to minimise any adverse effects of enforcement activity on legitimate businesses and individuals. These include:-

- Visits undertaken outside normal office hours where practical to meet the requirements of an individual or a business; and,
- Interpreters/translations will be made available where appropriate when a business or the public do not have English as a first language.

### **6.3 Other Relevant Authorities**

Where an enforcement matter affects a wide geographical area beyond the District's boundaries or involves enforcement by one or more other local authorities or organisations all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity co-ordinated with them.

### **6.4 Undue Influence on Enforcement Decisions**

If any person exerts undue or improper pressure in an attempt to influence a decision concerning enforcement it will be reported to the appropriate Director without delay.

### **6.5 Enforcement Policy implementation**

Scheduled internal and external quality audits will be undertaken to ensure that all enforcement activity is carried out in accordance with this policy.

Instances of non-compliance with this policy will be recorded and reported to the Director of the relevant service, who will instigate appropriate action.

### **6.6 Policy Review Period**

This Policy will be reviewed annually to identify if modification or adjustment is required.

### Comments, Compliments or Complaints

We welcome any feedback on our services or the contents of this Enforcement Policy. You can contact us in the following ways:-

- Telephone 0845 907 2244
- Write to Erewash Borough Council, Town Hall, Derby Road, Long Eaton. NG10 1HU.
- Email the [contactcentre@erewash.gov.uk](mailto:contactcentre@erewash.gov.uk)
- Fill our comments, compliments and complaints form at [www.erewash.gov.uk](http://www.erewash.gov.uk)

If you require this information in your language, please contact the Council using one of the below methods.

“જો તમારે આ માહિતીની તમારી પોતાની ભાષામાં જરૂર હોય, તો નીચેની પદ્ધતિઓમાંથી એકનો ઉપયોગ કરીને કાઉન્સિલનો સંપર્ક સાધો.”

如果您需要您自己语言的此信息，请通过以下方法之一与委员会联系。

“ਜੇ ਇਹ ਜਾਣਕਾਰੀ ਤੁਹਾਨੂੰ ਆਪਣੀ ਭਾਸ਼ਾ ਵਿਚ ਚਾਹੀਦੀ ਹੋਵੇ, ਤਾਂ ਕਿਰਪਾ ਕਰਕੇ ਹੇਠ ਲਿਖਿਆਂ ਵਿਚੋਂ ਕਿਸੇ ਇੱਕ ਤਰੀਕੇ ਦੀ ਵਰਤੋਂ ਕਰਦੇ ਹੋਏ ਕੌਂਸਲ ਨਾਲ ਸੰਪਰਕ ਕਰੋ।”

اگر آپ یہ معلومات اپنی زبان میں چاہتے ہیں تو براہ مہربانی نیچے دیئے گئے طریقوں میں کسی ایک کا استعمال کرتے ہوئے کونسل سے رابطہ کیجئے۔



**0845 907 22 44**



**communications@erewash.gov.uk**



**Ilkeston Town Hall, Wharncliffe Road, Ilkeston, Derbyshire DE7 5RP  
Long Eaton Town Hall, Derby Road, Long Eaton, Derbyshire NG10 1HU**