



Public Protection

ENFORCEMENT POLICY

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1. Background and General Principles

Public Protection is responsible for the protecting the public, the environment and to provide a fair and safe business environment.

The purpose of this policy is to create a framework for all enforcement action taken by Public Protection and to adhere to the general principles set out in the Corporate Enforcement Policy.

The Borough of Telford & Wrekin has adopted the Enforcement Concordat issued by the Cabinet Office in March 1998 and this Policy reflects the principles of that agreement.

This policy is consistent with the Regulators' Compliance Code published in December 2007 and reflects the principles of that agreement and the requirement's of the Statutory Code of Practice for Regulators.

The provisions of the Human Rights Act 1998 have also been considered in this policy.

All actions should be:

- Accountable
- Consistent
- Fair and reasonable
- Necessary and proportionate
- Targeted
- Objective
- Transparent
- Based on best practice
- In the public interest

2. Responsibilities

The Public Protection Service Delivery Manager and Team Leaders are responsible for the effective operation of this policy, in accordance with Council policy.

A formal Complaints Procedure operates within the Council for use in the event of a substantive complaint being made against the Council or any of its Officers. The Authority will operate a publicised, effective and timely complaints procedure easily accessible to all. In cases where disputes cannot be resolved any right of complaint or appeal will be explained with details of the process and the likely timescales involved.

Further information about our Complaints Procedure is available at www.telford.gov.uk

Officers will work with individuals and businesses to advise and assist with compliance whenever possible and appropriate. A courteous and efficient service will be provided and individuals and businesses will be encouraged to seek advice and/or information.

Only suitably delegated Officers will be authorised by the Council to take action on behalf of the Council and such Officers are required to take account of this policy.

The service will ensure that all recipients of Council services will receive fair and equitable treatment.

3. Purpose.

The purpose of enforcement sanctions and penalties is to:

- Protect those who live in, work and visit the Borough of Telford & Wrekin
- Change the behaviour of offenders
- Act as a warning to others
- Prevent a reoccurrence of the non compliance
- Set precedent
- Eliminate financial gain or benefit and restore the harm caused by non compliance where appropriate

4. Review

This policy will be reviewed as necessary in the light of legislative changes and other prevailing circumstances

5. Legal Considerations.

References in this policy to 'non compliance' refer to failures to comply with requirements imposed by legislation.

'Enforcement' means any action taken to deal with non compliance and includes action taken under criminal, civil, 'third way' and hybrid statutes.

In identifying a proposed course of action due regard will be paid to the service having complied with any statutory procedural requirements which apply.

6. Criteria for decision.

In determining the nature and extent of enforcement action reference will be made to:

- The Code for Crown Prosecutors. www.cps.gov.uk
- Prevailing Borough of Telford & Wrekin corporate policies and priorities
- Human Rights Act 1998
- Police and Criminal Evidence Act 1984
- Criminal Procedures and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Regulatory Enforcement Sanctions Act 2008
- Work Related Deaths Protocol

The following issues are amongst those to be considered in determining the nature and extent of the enforcement action. However each case is determined on its own merits and not all criteria will be applicable.

- Confidence in the ability of the offender to rectify the non compliance and to prevent reoccurrence
- Consequences of non compliance or continued non compliance
- Effects of unfair competition.
- Extent of consumer detriment and/or dishonest gain
- Extent of pain or suffering
- Likely effectiveness of enforcement options
- Local considerations
- Magnitude and frequency of non compliance
- Mistake, accident, wilfulness, fraud or dishonesty
- Nature and effectiveness of quality systems
- Previous history of offender
- Realistic prospect of conviction
- Reasonableness of course of action with regard to cost, appropriateness, outcome, effect on defendant.
- Risk of harm or hazard to the public
- Statutory defences
- Availability and reliability of witnesses
- The interests of consumers within Telford & Wrekin, including business owners and the public, and employees of the authority, and the authority itself.
- The offender's personal circumstances.

7. Links with Other Agencies

Within the authority and throughout the country shared enforcement roles exist in relation to legislative functions. In acknowledging these shared roles the nature and extent of enforcement action will, in addition, take account of all matters arising from the enforcement activities or priorities of other bodies.

Public Protection also has complementary enforcement roles with other enforcement agencies including: Police, Department of the Environment, Food and Rural Affairs, Animal Health, Office of Fair Trading, Health and Safety Executive, Food Standards Agency, Environment Agency, HM Revenues and Customs, Health Protection Agency, Gambling Commission, UK Border Agency and Vehicle and Operator Services Agency. Public Protection will work reactively and proactively with other agencies to ensure that effective 'joined-up' enforcement is achieved.

8. Enforcement Options

The enforcement options available to the Service are identified in this section of the policy.

- Issue of Statutory Notice
- Suspension, Revocation, revoke or refusal of a licence/consent/approval
- Application to review a premises licence
- Simple caution
- Written warning
- Fixed Penalty Notice
- Suspend, seize or detain goods and equipment
- Formal Undertaking
- Closure Notice
- Works and/or actions in default
- Prosecution
- Forfeiture, Prohibition or Destruction Order
- Proceeds of Crime Application
- Enforcement Order
- No action

The enforcement actions are not sequential and each case will be considered on its' own merits.

