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## Street Environment

# ENFORCEMENT POLICY STATEMENT

All City of York Council's street environment officers are committed to good enforcement policies and procedures. This document sets out the standards that businesses, individuals and the community as a whole can expect.

### 1.0 INTRODUCTION

Street Environment's main purpose is to implement and enforce legislation to improve and protect public health and the environment. Consistent and equitable enforcement ensures that this will not result in any business, resident or member of the public being put at a disadvantage.

Effective legislation depends upon people's willingness to abide by the law and we believe that most businesses and individuals want to do just that. We will assist and advise wherever possible but firm action will be taken against those who flout the law or act irresponsibly. We will make provision for educational and advisory work to help raise awareness of legal environmental duties whilst encouraging York's residents and businesses to be more aware of the effect they have upon their environment.

The City of York Council has adopted the Government's Concordat on Good Enforcement. In doing so we have committed ourselves to the following aims and procedures:

### 2.0 AIMS

#### Standards

- We will consult businesses and other interested parties on the service we provide.
- We will draw up clear standards setting out the level of service and performance that the public and businesses can expect to receive.
- We will publish these standards in our customer contract and report on our annual performance against them.

#### Openness

- We will provide accessible information and advice, in plain language, on the legislation that we enforce.
- We will be open how we work.

### Helpfulness

- We believe that prevention is better than cure and we will actively work with local business and residents to advise on, and assist with, compliance with the law.
- We will provide a courteous and efficient service and our staff will identify themselves by name.
- We will offer a contact point and telephone number to encourage further discussion.
- We will strive to ensure that wherever possible our activities are effectively coordinated to avoid unnecessary overlaps and delays.

### Complaints about our service

All complaints will follow City of York Council's complaints procedure, which is easily accessible to all service users, and explains the rights of complaint and appeal, including the likely timescales involved. A copy of the complaints procedure can be obtained from 9 St Leonard's Place, York, by calling 01904 551811, or through our website at <http://www.york.gov.uk>.

### Proportionality

- We will, as far as the law allows and where co-operation is given, work with businesses and residents so that they can meet their legal obligations, without unnecessary expense.
- We will take into account the costs of compliance for business by ensuring that any enforcement action we take or remedial action we require is proportional to the risks and the effect upon the local community and consumers.
- In the case of small businesses, voluntary and community organisations, we will take particular care to help them meet their legal obligations without unnecessary costs.

### Consistency

- We will carry out our duties in a fair, equitable and consistent manner. Whilst officers exercise judgement in individual cases, we will have arrangements in place to promote consistency, including liaison with other authorities and agencies.
- We recognise that there are situations where there is a shared enforcement role and in those circumstances we will ensure enforcement is effectively and efficiently coordinated to avoid duplication of resources.

## 3.0 PROCEDURES

- Advice from an officer will be put clearly and simply, confirmed in writing on request, explaining why remedial work is necessary and over what timescale. Legal requirements will be clearly distinguished from best practice advice.

## **ANNEX A**

- Formal enforcement action will only be considered and taken in the first instance in cases involving public safety, a risk to public health, statutory nuisances, and damage to the environment (including littering, dog fouling, fly tipping, fly posting, graffiti).
- In other cases formal enforcement action will be considered and may be taken when advice has been ignored.
- Before formal enforcement is taken, there will be an opportunity to discuss the circumstances of a case, unless immediate action is required (e.g. to prevent destruction of evidence, to issue fixed penalty notice or there is an imminent risk to health and safety). This discussion will usually be under caution if a prosecution is being considered.
- Where immediate formal enforcement action is taken (which will usually be the service of a legal notice), reasons for such action will be given at the time, and confirmed in writing within 10 working days.
- Where there are rights of appeal against formal enforcement action, notification of the appeal mechanism will be clearly set out in writing at the time the action is taken.

For the purpose of this policy 'formal enforcement action' includes a legal notice (e.g. an improvement, seizure, suspension, prohibition, abatement notice or fixed penalty notice), the issue of a formal written caution and prosecution. In cases involving environmental crime we will take account of any appropriate guidance issued by DEFRA (Department of Food and Rural Affairs).

### **4.0 WHEN DO WE PROSECUTE?**

Each case is unique and will be considered on its own facts and merits. Before deciding whether a prosecution shall be taken against a business or individual, we will consider a number of factors in line with the Code for Crown Prosecutors and any other nationally recognised guidance. These factors may include the following:

- The seriousness of the alleged offence,
- The history of the party concerned,
- The willingness of the business or the individual to prevent a recurrence of the problem and co-operate with officers,
- Whether it is in the public interest to prosecute,
- The realistic prospect of conviction,
- Whether any other action (including formal caution) would be more appropriate or effective,
- The views of any complainant and other parties with an interest in a prosecution.

These factors are NOT listed in order of significance. The rating of the various factors will vary with each situation under consideration.

## 5.0 APPLICATION OF OUR POLICY STATEMENT

All officers will refer to this policy statement when making enforcement decisions. It will be read in conjunction with relevant approved guidance on enforcement action that may be produced and regard will be given to any relevant quality procedure.

Any departure from this policy must be exceptional, capable of justification and be fully considered by the Head of Service before a final decision is taken. This proviso shall not apply where a risk of injury or to health is likely to occur due to a delay in any decision being made.

In cases of emergency or where exceptional conditions prevail, the Chief Executive may suspend all or part of this policy where necessary to achieve effective running of the service and/or where there is a risk of injury or to health of employees or members of the public.

## 6.0 REVIEW

This document will be subject to an annual review with additional reviews as and when required. Improvements will be made if there are any changes in legislation or in local needs.

If you have any comments please contact the Head of Neighbourhood Pride Unit by calling (01904) 551811, or by writing to 9, St Leonard's Place, York, YO1 7ET or email at [street.environment@york.gov.uk](mailto:street.environment@york.gov.uk).

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی میا کی جاسکتی ہیں۔ (Urdu)

 (01904) 613161

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