

METROPOLITAN BOROUGH OF WIRRAL

CABINET 5TH DECEMBER 2002

REPORT OF THE DIRECTOR OF HOUSING & ENVIRONMENTAL PROTECTION

ENVIRONMENTAL SERVICES – ENFORCEMENT POLICY REPORT

1.0 EXECUTIVE SUMMARY

1.1 Members are asked to agree the Enforcement Policy framework for the Environmental Services Section.

2.0 BACKGROUND

2.1 The Environmental Services Enforcement Policy adopts the principles of the Government's Enforcement Concordat through a commitment to following the principles of good enforcement.

2.2 This report details the principles the Environmental Services Section will follow in their dealings with the public and other stakeholders in the enforcement of legislation.

3.0 PRINCIPLES OF GOOD ENFORCEMENT : POLICY

3.1 **Standards** In consultation with the public and other relevant stakeholders, 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.

Openness We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible, leaflets and other publications will be available through the Council's 'One Stop' Shops. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary organisations, charities and consumers, where appropriate. We will keep the public informed of general issues, specific compliance failures or problems relating to waste disposal.

Helpfulness We believe that prevention is better than cure and that our role therefore involves actively working with the public and 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 the public to seek advice/information from us. We will ensure that wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.



Complaints About the Service

We will provide well publicised, effective and timely complaints procedures easily accessible to the public, 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 timescales involved.

Proportionality

We will take account of the circumstances of the case and the attitude of the person when considering action, taking into account the prosecution criteria included in this document.

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.

Consistency

We will carry out our duties in a fair, equitable and consistent manner. While officers 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/agencies and enforcement bodies. Due regard will also be given to any guidance issued in statutory Codes of Practice.

The decision as to whether or not to prosecute an individual or company lies initially with the individual officer as he or she confronts a particular situation. However, the officer must discuss their decision with their Line Manager prior to any action being initiated.

Prosecution is only one of a number of enforcement options available to the officer and each option should be considered to determine whether other courses of action are more appropriate and effective.

4.0 ENFORCEMENT OPTIONS OPEN TO ENVIRONMENTAL SERVICES

4.1 The form of enforcement which an officer can follow falls into two main types:-

Informal

Informal action typically consists of verbal and/or written advice/guidance or warnings.

Education in the form of courses and documents which have been translated into various languages are made available for those who do not have English as a first language.

When informal action is taken, officers will clearly differentiate between legal requirements and good practice.

Formal

Formal action may take the form of:-

- a) Fixed penalty notices – notice giving a person who has committed an offence the opportunity of discharging any liability for conviction for that offence by payment of a fixed penalty.



- b) Statutory notice – notice giving a person who has committed an offence the opportunity to carry out the necessary works required to remedy the contravention.
- c) Formal caution – used when the defendant admits the offence but the matter is not taken to court. Home Office Circular 18/1994 should be used as a guide.
- d) Prosecution – used when there is a blatant disregard for the law and when the public are put at serious risk. The result of prosecution is a fine and/or imprisonment on conviction.

Since it often takes several months to bring a case to Court, it may be necessary for the Officer to take a combination of actions to achieve the desired result. This may well be the case when immediate action needs to be taken to prevent the occurrences or occurrence of a particular hazard.

Formal action should be considered when:-

- i) formal action is proportionate to the risk to public health and the environment.
- ii) there is a record of non-compliance with breaches of legislation.
- iii) the authorised officer has reason to believe that an informal approach will not be successful.

5.0 CRITERIA FOR PROSECUTION

5.1 The process enforcement officers will follow when deciding whether a person who has committed an offence should be prosecuted will require the officer to consider:-

- a) the seriousness of the offence
- b) the public benefit of a prosecution
- c) the likelihood of the defendant being committed.
- d) the previous history of the person/premises involved
- e) witness co-operation
- f) confidence in likelihood of re-offending

6.0 BACKGROUND DOCUMENTS

6.1 Statutory Codes of Practice
Home Officer Circular 18/1994
Code for Crown Prosecutions
P.A.C.E. 1984

7.0 FINANCIAL & STAFFING IMPLICATIONS

7.1 Following the recent restructure the Environmental Services Section now has a full staffing establishment. The induction of new staff has been completed but the training of the Enforcement Officers continues and will include the principles contained within this report.



8.0 EQUAL OPPORTUNITIES IMPLICATIONS

8.1 Whilst the enforcement of Environmental Legislation is to protect the environment of all residents of the Borough, particular attention is given to the needs of disadvantaged sections of the population.

9.0 LOCAL AGENDA 21 IMPLICATIONS

9.1 Fly-tipping and other waste related offences are detrimental to the environment, not only does it give the impression of economic and social decline but the work required to clear it requires the deployment of vehicles which have a polluting effect on the environment.

10.0 LOCAL MEMBER SUPPORT IMPLICATIONS

10.1 None

11.0 HUMAN RIGHTS IMPLICATIONS

11.1 The use of surveillance equipment to observe the perpetrators of fly-tipping is regulated by the Rights of the Individual Persons Act. Officers will receive training in October to ensure all the sections surveillance operations comply with this legislation.

12.0 COMMUNITY SAFETY IMPLICATIONS

12.1 The prevention of fly-tipping promotes a feeling of a safer environment.

13.0 PLANNING IMPLICATIONS

13.1 None

14.0 BACKGROUND PAPERS

14.1 None

15.0 RECOMMENDATION

15.1 That Members agree the Environmental Services Enforcement Policy

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Director of Housing & Environmental Protection

This report was prepared by Chris Lomas who can be contacted on 666 4891.

