



WIRRAL COUNCIL

**CORPORATE ENFORCEMENT
POLICY**

JULY 2024

DRAFT

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1. EXECUTIVE SUMMARY

- 1.1 One of the functions of the Council is to act as a regulator and an enforcement authority for a large range of legal duties and powers applied by Acts of Parliament and the Regulations and Orders made under them (including various byelaws), for the purposes of protecting the public, individuals and the environment. These duties are mainly met by carrying out programmed inspections of premises, responding to complaints, issuing licenses and offering advice.
- 1.2 This policy sets out standards that will be applied across the Council when acting in its role as regulator and enforcement authority and what residents, businesses, consumers and workers can expect from Wirral Council.
- 1.3 This policy also sets out the approach to be followed by authorised Officers when making decisions in respect of the Council's compliance and enforcement activities. This policy is an overarching policy that applies to all the Council's Services with regulatory or enforcement duties, although it should be noted that some services have specific legal guidance and regulations which set out the enforcement requirements in these services.
- 1.4 In deciding on the most appropriate course of action officers should have regard to the principles set out in this policy and the need to maintain a balance between enforcement and other activities, including inspection, advice and education.

2. LEGAL STATUS OF THE ENFORCEMENT POLICY

- 2.1 This policy is intended to provide guidance for officers, businesses, and individuals. It does not affect the discretion of the Council to take legal proceedings where this is considered to be in the public interest. Officers of Wirral Council will act in accordance with this policy.

3. PURPOSE OF THIS POLICY

- 3.1 Wirral Council is committed to avoiding unnecessary regulatory burdens on businesses or individuals and seeks to encourage and promote compliance. Wirral Council

recognises that decisions about enforcement action can have serious implications for all involved. The purpose of this policy is to ensure that:

- (a) Decisions about enforcement action are fair, proportionate and consistent.
- (b) Officers and partners apply current Government guidance and relevant codes of practice.
- (c) Everyone understands the principles that are applied when enforcement action is considered.

3.2 Our primary objective is to achieve regulatory compliance. We will seek to promote advice, guidance, and support to assist businesses and individuals to comply, but where it becomes necessary to take enforcement action, we will do so. There are a wide range of enforcement tools available to the Council as an authority to deal with non-compliance, which include:

- Advice, guidance and support
- Voluntary undertakings
- Statutory (legal) notices
- Financial penalties such as Fixed Penalty Notices, Penalty Charge Notices and Civil Penalties
- Banning orders
- Rent Repayment Orders
- Injunctive actions / Enforcement Orders et
- Simple caution
- Prosecution
- Refusal, suspension or revocation of licences and permits.

3.3 Wirral Council will always choose and apply an enforcement method that is relevant and proportionate to the offence or contravention.

3.4 The Enforcement Policy is applied across the Council and specifically by the following services:

- Building Control

- Environmental Health
- Parking Services
- Housing Standards
- Licensing
- Planning
- Trading Standards
- Waste & Environmental Services
- Health, Safety & Wellbeing Team (Safety of Sports Ground Functions)
- Provision of enforcement by a third party on behalf of the authority
- Children's Services - School Attendance/ Child Employment & Performance

3.5 This policy sets out the range of options that are available to achieve compliance with legislation enforced by the above services. It is designed to help you understand our objectives and methods for achieving compliance and the criteria we consider when deciding the most appropriate response to a breach of legislation.

4. SCOPE AND MEANING OF ENFORCEMENT

4.1 This Policy applies to all the legislation enforced by Officers (or third-party Contractors) with delegated enforcement powers employed by the Council.

4.2 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.

4.3 '*Enforcement*' includes any criminal or civil action taken by the Council or its Contractors aimed at ensuring that individuals or businesses comply with the law.

4.4 The term '*Enforcement Action*' has been given a general legal definition, which is:

- (a) Action to secure compliance with a restriction, requirement or condition in relation to a breach or alleged breach.

(b) Action taken in connection with imposing a sanction for an act or omission; and

(c) Action taken in connection with a statutory remedy for an act or omission.

4.5 '*Enforcement Officer*' (Officer) includes any individual who has been duly authorised by the Council under the terms of the Wirral Borough Council Constitution and/or Scheme of Officer Delegations.

4.6 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 detailing the items seized will be given at the time of the inspection or as soon as is practicably possible afterwards.

4.7 Relevant statutory powers give authorised Officers a power to enter land and/or premises in order to carry out investigations or take enforcement action. In some instances to refuse an authorised Officer entry to land or premises when it has been demanded in accordance with the requirements of the relevant legislation may constitute a criminal offence of obstruction and may result in a prosecution. When seeking to use their powers of entry Officers will explain those powers to you and serve you with any required 'Notice of Entry' before seeking to enforce their statutory power.

4.8 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.

4.9 Officers will carry out formal interviews of suspects/offenders in line with this Policy and the Police and Criminal Evidence Act 1984.

4.10 Wirral Council is committed to ensuring that officers, or authorised persons acting upon its behalf, have the necessary knowledge, skills and resources to support businesses and individuals to be regulated in accordance with this policy.

5. GENERAL PRINCIPLES

- 5.1 Wirral Council aims to support businesses and individuals to comply with the law and to prosper within the Borough. Where appropriate, positive feedback will be provided to those it regulates to encourage and reinforce good practice and positive behaviour. Wirral Council will encourage and promote compliance through clear advice and guidance and will share information and intelligence across the Council and with other regulators, regarding compliance where is appropriate and lawful to do so.
- 5.2 Where we consider that enforcement action is necessary each case will be considered on its own merits. However, the general principles that apply to the way each case will be approached are set out in this policy.
- 5.3 We will exercise our regulatory activities in accordance with the Principles of Good Regulation and in a way which is:
- (a) Transparent: We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
 - (b) Accountable: Our activities will be open to public scrutiny, with clear and accessible policies, and a fair and efficient complaints procedure.
 - (c) Proportionate: Our activities will reflect the level of risk to the public and enforcement action will relate to the seriousness of the offence.
 - (d) Consistent: Our advice to those that we regulate will be robust and reliable and we will respect advice provided by other regulators. The Council shall seek to ensure consistency of enforcement; however, the Council realises that consistency is not a simple matter of uniformity. Officers will need to exercise their professional judgement and discretion according to the circumstances of each individual case and the relevant responsibilities and intervention systems maintained by the Council.

- (e) Targeted: We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities and where the Council believes its efforts are able to have an impact.

5.4 Wirral Council's decisions relating to which action to take will have regard to current legislation, statutory guidance and codes of practice, in particular:

- (a) The Regulators' Code

The Council has had regard to the [Regulators' Code](#) in the preparation of this policy. In certain instances, we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. Where Statutory Guidance and legislation specifies the action to be taken this legislation takes precedence.

- (b) Human Rights Act 1998

The Council is a public authority for the purposes of the [Human Rights Act 1998](#). We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to: the Right to a Fair Trial (Article 6) and the Right to Respect for Private and Family Life (Article 8).

- (c) Data Protection

Where there is a need for the Council to share enforcement information with other agencies, we will follow the provisions of the [Data Protection Act 2018](#) and the [UK General Data Protection Regulation](#).

- (d) The Code for Crown Prosecutors

When deciding whether to institute criminal proceedings the Council has regard to the provisions of [The Code for Crown Prosecutors](#) as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test', before instigating any prosecution proceedings:

- (i) Evidential Test - is there enough evidence against the defendant? When deciding whether there is enough evidence to prosecute, the Council will consider what evidence can be used in court and is reliable. We must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.
- (ii) Public Interest Test – 'is it in the public interest for the case to be brought to court?' The Council will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The public interest factors that we will take into account are detailed under the enforcement options available to us.

6. WIRRAL COUNCIL'S APPROACH TO DEALING WITH NON-COMPLIANCE

6.1 Wirral Council is committed to:

- (a) clearly explaining the non-compliance and any advice given, actions required, or decisions taken, with reasons for these.
- (b) provide an opportunity for dialogue in relation to advice given, actions required, or decisions taken in relation to non-compliance.
- (c) having the intention and capacity to take enforcement action when it is appropriate.

6.2 Wirral Council will:

- (a) provide details of who is responsible for managing investigations and making decisions on enforcement action in accordance with its Scheme of Delegation which is available via its website (www.wirral.gov.uk) within the Council's Constitution.

- (b) communicate with businesses and individuals in the most appropriate means which may include telephone, face to face, email, or letter.
- (c) ensure that officers or authorised persons acting upon its behalf register any conflicts of interest to ensure that decisions made are fair and transparent.
- (d) work with other enforcement agencies and will share information where appropriate and in accordance with the law.
- (e) ensure that all those it regulates will be treated fairly and with respect.
- (f) in certain circumstances, seek to raise awareness and increase compliance levels by publicising unlawful practices or criminal activity. Where appropriate the results of specific court cases may be published.

6.3 The action that Wirral Council chooses to take depends upon the circumstances and the conduct of the business or individual in respect of the breach.

6.4 In those cases where there has been a deliberate breach of the law, the Council will issue a Fixed Penalty Notice (FPN) where this is available in the relevant legislation and where appropriate.

6.5 Wirral Council is committed to ensuring that, where appropriate, those regulated can request advice on non-compliance without automatically triggering enforcement action, particularly where action to resolve non-compliance is being taken.

6.6 If the Council receives information that may lead to enforcement action against a business or individual, the Council will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the public.

6.7 During the progression of enforcement investigations/actions, businesses or individuals and witnesses will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court or other

enforcement agencies when required and/or in accordance with the Data Protection Act 2018 and General Data Protection Regulations and subject to other statutory provisions.

6.8 Wirral Council will respond appropriately to all complaints of non-compliance, subject to any risk-based prioritisation scheme used by the investigating department. This response will include careful consideration of how to respond to anonymous complaints depending upon the individual circumstances.

6.9 All investigations will be carried out lawfully having regard to the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Wirral Council:

- (i) Police and Criminal Evidence Act 1984
- (ii) Criminal Procedure and Investigations Act 1996
- (iii) Regulation of Investigatory Powers Act 2000
- (iv) Criminal Justice and Police Act 2001
- (v) Human Rights Act 1998
- (vi) Protection of Freedoms Act 2012 and Powers of Entry Code of Practice
- (vii) Equalities Act 2010
- (viii) Data Protection Act 2018

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

6.11 The Council's authorised officers or persons authorised to act on its behalf, will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

6.12 In investigating alleged or potential offences authorised officers and persons authorised to act on behalf of the council will consider the Council's duty to take reasonable steps to ensure that everyone has an equal opportunity to understand what an investigation is about and can exercise any right of appeal, reply or offer an explanation etc.

7. DECIDING WHAT LEVEL OF ENFORCEMENT ACTION IS APPROPRIATE

7.1 In assessing what enforcement action is necessary and proportionate, consideration will be given to:

- (a) The seriousness of compliance failure
- (b) The past performance of a business or individual
- (c) The current practice of a business or individual
- (d) The risks being controlled
- (e) Legal, official or professional guidance
- (f) Local priorities of the Council
- (g) The available actions made available by law for the particular offence involved

7.2 Where a service area has a detailed policy dealing with a particular task or area it is referred to below.

7.3 There are several potential enforcement options available to Wirral Council. The action taken varies from advice through to proceedings in Court. Examples of the main types of action that can be considered are:

- (a) Compliance Advice, Guidance and Support
- (b) Voluntary Undertakings
- (c) Statutory (Legal) Notices
- (d) Financial Penalties including Fixed Penalty Notices
- (e) Injunctive Actions / Enforcement Orders etc.
- (f) Simple Caution
- (g) Prosecution
- (h) Refusal / Suspension / Revocation of Licences

7.4 Wirral 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 (in the form of a letter or email), to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning 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. Such a warning cannot be cited in court as a previous conviction, but it may be presented in evidence.

7.5 Wirral Council recognises that where a business has entered a partnership with a Primary Authority, the Primary Authority will provide compliance advice and support, and Wirral Council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the Primary Authority.

7.6 It is a legal requirement under the Regulatory Enforcement and Sanctions Act 2008 for Wirral Council to notify the Primary Authority of any proposed enforcement action unless there is a significant risk of harm to human health, the environment or the financial interests of consumers in which case the Primary Authority can be notified retrospectively.

7.7 Detailed information on the workings of Primary Authorities may be found at the [Primary Authority Register Website](#).

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

7.9 Voluntary Undertakings

7.9.1 Wirral Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. Wirral Council will take any failure to honour voluntary undertakings very seriously and this may result in enforcement action.

7.10 Statutory (Legal) Notices

7.10.1 In respect of many breaches Wirral Council has powers to issue statutory notices. These include Stop Notices, Prohibition Notices, Hygiene Emergency Prohibition Notices, Improvement Notices, and Abatement 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.

- 7.10.2 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. Any rights of appeal will also be made clear in the notice.
- 7.10.3 Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges or with Land Registry. Some notices are required to be published or may be disclosed in response to request under Freedom of Information and Environmental Information Regulations. Where appropriate and legal to do so, notices may be made available in the public domain, either on a Statutory Public Register of Enforcement Notices or being registered on the Local Land Charges Register.
- 7.10.4 Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with (i.e. a breach of the notice) Wirral Council or its contractors may carry out any necessary works (Works in Default) to satisfy the requirements of the notice. Where the law allows, we will charge the business or individual served with the notice for all the reasonable costs we incur in carrying out the work or taking necessary steps, including administrative and supervisory costs.
- 7.10.5 The Council will follow its debt recovery processes to recover this public money.
- 7.10.6 In some instances where the business or individual charged for such costs fails to pay within the specified time limit, where the law allows, these charges can be registered against their property as a local land charge.

7.11 Financial penalties

- 7.11.1 Wirral Council has powers to issue fixed penalty notices (FPNs) in respect of some breaches.
- 7.11.2 An FPN is not a criminal fine and does not appear on an individual's criminal record. If a FPN is not paid, Wirral Council may commence criminal proceedings or take other enforcement action in respect of the breach.
- 7.11.3 If an FPN is paid in respect of a breach Wirral Council will not take any further enforcement action in respect of that breach. Payment of a FPN does not provide immunity from prosecution in respect of similar or recurrent breaches. Wirral Council is only able to issue FPNs where it has specific powers to do so, for example when specified in certain legislation or as a result of breaching an active Public Space Protection Order (PSPO). If FPNs are available, their issue is at Wirral Council's discretion. In some circumstances, where breaches are serious or recurrent, it may be that prosecution or alternative enforcement action is more appropriate than the issue of a fixed penalty notice. When FPNs are issued the Council will make it clear how it can be challenged by persons receiving them through appeal.
- 7.11.4 FPN fees are set annually as part of the Council's Fees and Charges and follow National guidelines.

7.12 Penalty Charge Notices

- 7.12.1 Penalty Charge Notices (PCNs) are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the enforcer in recognition of the breach. Failure to pay the PCN will result in the offender being pursued in the County Court for non-payment of the debt. A PCN does not appear on a person's criminal record, and we may choose to issue a PCN without first issuing a warning.

7.12.2 Civil Penalties can be used in certain circumstances related to privately rented residential accommodation, as an alternative to prosecution. The council can set the level of civil penalty up to a maximum of £30,000. Both decisions whether to prosecute or use civil penalties and setting the level of a civil penalty will be taken in line with a local Housing Standards policies.

7.13 Injunctive Actions, Enforcement Orders etc.

7.13.1 In some circumstances Wirral 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.

7.13.2 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.

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

7.13.4 Wirral Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, Wirral Council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

7.14 Seizure Proceedings

7.14.1 Certain legislation enables authorised Officers to seize and detain goods, for example unsafe food, documents, sound equipment that is being used to cause a statutory noise nuisance, unsafe products or any goods that may be required as evidence for possible future court proceedings. When we seize goods, the Council will give the person from whom the goods are taken an appropriate

receipt and will ensure they are informed of the powers used and any rights of redress that they have.

7.15 Voluntary Deprivation

7.15.1 Voluntary Deprivation allows for the owner of (or another person possessing rights to) illegal goods, property, equipment etc. to voluntarily surrender them to Wirral Council. In doing so, the owner of the items thereby renounces all rights, claims and ownership of the said items. Wirral Council will then be responsible for the disposal of the said items. This process is used to prevent illegal items from re-entering the marketplace or being used in such a way that may cause further problems.

7.16 Forfeiture Proceedings

7.16.1 This procedure may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the market place or being used to cause a further problem. In appropriate circumstances, we will make an application for forfeiture to the Magistrates' Courts.

7.17 Simple Caution

7.17.1 Wirral Council has the power to issue simple 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, Wirral Council is likely to consider prosecution.

7.17.2 A simple caution may appear on the offender's criminal record. It is likely to influence how Wirral 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.

7.17.3 Regard will be had to Ministry of Justice Guidance “Simple cautions for Adult Offenders” and other relevant guidance when considering and administering Simple Cautions.

7.18 Prosecution

7.18.1 Wirral 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 Wirral Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

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

7.18.3 The public interest must be considered in each case where sufficient evidence is present. Wirral Council will balance factors for and against prosecution carefully and fairly.

7.18.4 Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the defendant. Some factors may increase the need to prosecute but others may suggest that another course of action would be more suitable.

7.18.5 Before deciding that prosecution is appropriate, Wirral Council will consider all relevant circumstances carefully and will have regard to the following public interest criteria:

- (a) The prevalence or the type of offence
- (b) The need for a suitable deterrent
- (c) The risk of danger or injury to the public
- (d) The failure to comply with a statutory notice or to respond to advice about legal requirements

- (e) The disregard of legal requirements for financial reward
- (f) Significant financial loss, potential or, to a third party
- (g) A history of similar offences
- (h) Persistent breaches of legislation
- (i) Where fraud, guilty knowledge or negligence is a factor

7.18.6 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.

7.18.7 The Council will always seek to recover the reasonable costs that it has incurred when the Courts give a guilty plea in a prosecution in order to recoup the public monies spent.

7.18.8 For certain housing related offences, a specific policy is also available to guide officers in making decisions about whether to prosecute or use civil penalties, as an alternative.

7.19 Proceeds of Crime Applications

7.19.1 Applications may be made under the Proceeds of Crime Act for confiscation of assets. Their purpose is to recover the financial benefit that the offender has obtained from his criminal conduct. Applications are made after a conviction has been secured.

7.20 Refusal, Suspension & Revocation of Licences

7.20.1 Wirral Council issues licences, consents, and permits and has a role to play in ensuring that appropriate standards are met in relation to those issued by other agencies. Most licences, consents, and permits include conditions which require the licence holder to take steps to ensure that, for example, a business

is run in a lawful and responsible manner. Breach of relevant legislation or conditions attached to a licence may lead to its suspension, revocation, or refusal of future applications.

7.20.2 When considering future licence applications, Wirral Council will take previous breaches and enforcement action into account.

7.20.3 In the private housing rental sector, where appropriate, operating without the license may result in either prosecution or civil penalty, and, in addition a rent repayment order.

7.20.4 In the private housing rental sector, where appropriate, operating without the license may result in either prosecution or civil penalty, and, in addition a rent repayment order.

7.21 Interim Management Orders and Final Management Orders

7.21.1 Wirral Council has the power to make both Interim and Final Management Orders in relation to private sector rented properties, in certain circumstances. These orders allow the Council to take control of the management of a property for a period of time.

7.22 Rent Repayment Orders (RRO)

7.22.1 In some circumstances, Wirral Council may seek a RRO when taking action to for certain offences related to privately rented residential accommodation. A RRO forces an owner to repay rent previously received, to the Council. A separate policy providing more detail on when the Council should seek a rent repayment order is also available.

7.23 Banning Orders

7.23.1 Wirral Council may apply for a Banning Order against a person who has been convicted of a Banning Order offence. If granted such an order would prevent a person from, for example, letting or managing a rented house.

7.24 Use of Other Legal Powers

7.24.1 Certain Enforcement Officers have additional powers that enable them to carry out their duties: for example, take photographs, leave a workplace undisturbed as part of an accident investigation, and take samples or measurements. These powers are to allow Wirral Council to carry out its duties. Where these powers are exercised by officers they will be carried out lawfully and in accordance with statutory codes of practice and with due regard to guidance and best practice.

7.24.2 Wherever appropriate Wirral Council will seek to recover costs of enforcement action against a business or individual subject to the enforcement action, where appropriate and legal to do so.

7.25 No Action

7.25.1 In certain circumstances, contravention of the law may not warrant any action. This can be where there is insufficient evidence, or it is not in the public interest to proceed. Some areas of legislation only allow the Council to act where it is expedient to do so, taking into account the level of harm caused by the contravention. In certain cases, it may not be considered expedient to take enforcement action. All such decisions will be made transparently.

8. HOW ENFORCEMENT DECISIONS ARE MADE

8.1 In determining the most appropriate enforcement action, based on professional judgement, legal guidance, and statutory codes, Wirral Council will:

- (a) aim to change the behaviour of the offender/offending organisation.
- (b) aim to eliminate any financial gain or benefit from non-compliance.
- (c) consider what is appropriate for the particular offender and regulatory issue.
- (d) be proportionate to the nature of the offence and the harm caused.

- (e) aim to restore the harm or damage caused by the offence or regulatory non-compliance, where appropriate.
- (f) aim to deter future non-compliance/offence.

8.2 Senior Managers will monitor, and review decisions and action taken against this policy.

9. WHO DECIDES WHAT ENFORCEMENT ACTION IS TAKEN

9.1 Decisions about the most appropriate enforcement action to be taken are based upon professional judgement, legal guidelines, statutory codes of practice and priorities set by the Council and/or Central Government. This will be further reinforced, where considered necessary, by the introduction of practice and procedure notes which will seek to guide officers in the appropriate line of action to take.

9.2 Where appropriate, decisions about enforcement will involve consultation between or approval from:

- (a) Investigating Officer(s)
- (b) Managers
- (c) Council's Legal Services Team
- (d) Solicitors or Counsel acting on behalf of the Council.

9.3 Businesses and individuals will be provided with a timely explanation in writing of any rights to representations or rights to appeal, and practical information on the process involved.

10. APPEALS

10.1 In some circumstances a business or individual subject to enforcement action taken by Wirral Council, may have a right to appeal the decision. Where such a right exists the business or individual will be advised in writing of that right, including details of how to exercise that right.

11. LIAISON WITH OTHER REGULATORY BODIES AND ENFORCEMENT AGENCIES

11.1 Where appropriate, enforcement activities will be co-ordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.

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

11.3 Where appropriate, and in accordance with the law, Wirral Council will share intelligence with other regulatory bodies and agencies, examples including:

- (a) Government Agencies
- (b) Police Forces
- (c) Fire Authority
- (d) Other Local Authorities
- (e) Other prosecuting agencies

12. CONSIDERING THE VIEWS OF THOSE AFFECTED BY OFFENCES

12.1 Wirral Council undertakes enforcement on behalf of the public at large and not just in the interest of any particular individual or group. However, when considering the public interest test, the consequences for those affected by the offence, and any views expressed by those affected will, where appropriate, be considered when making enforcement decision.

13. REVIEW OF THE ENFORCEMENT POLICY

13.1 This policy will be reviewed every three years from commencement.

14. COMMENTS OR COMPLAINTS

14.1 Wirral Council want to give the best possible service, so we need to know when we are doing something well and when things can be improved. Details of how to provide

feedback, including complaints about our service can be found on our website www.wirral.gov.uk.

14.2 If Members of the public wish to contact Wirral Council regarding the application of this policy they should use the contact details below. When contacting Wirral Council please state clearly whether you wish to make a comment, compliment or complaint. Wirral Council operates a formal complaints procedure which assists in resolving complaints as quickly as possible.

By Post: Information & Advice Team Wirral Council
P.O. Box No. 2
Birkenhead
Wirral
CH41 6BU

Telephone: 0151 606 2020

Web: www.wirral.gov.uk email: comments@wirral.gov.uk

This policy is available on the Council's website.

If you would like a paper copy of the policy, please contact us using the details above. Wirral Council is committed to making information accessible to everyone. You can use the above contact details for support and advice if you need information translated or in another format such as large print, braille or audio.