



STOCKPORT
METROPOLITAN BOROUGH COUNCIL

Council Enforcement Policy

2015

1.0 Introduction

- 1.1 The Stockport Council Enforcement Policy was formally adopted by Stockport Council by resolution of the Corporate Policy and Strategy Committee on the 22nd February 2001. This is the first revision of the Policy.
- 1.2 The policy has been reviewed in line with the Regulator's Code which was introduced on the 6th April 2014 by the Better Regulation and Development Office. All regulatory services within the Local Authority must have regard to this code when developing policies, operational procedures and undertaking regulatory activities.
- 1.3 This policy is the Council's over-riding policy with regard to all the enforcement services it provides. It should be applied in conjunction with the Council's Regulator's Code which was formally adopted on the 10th February 2015.
- 1.4 The Council welcomes comments that any interested party may wish to make on any aspect of this policy or the on the way it is being applied. Comments may be made on the Council web pages [Stockport Council - Compliments and Complaints about Council Services](#)
- 1.5 The purpose of this document is to clarify the Council's general approach to various enforcement roles. The policy is based around the following principles:
- Standards of service provision
 - Openness of the service
 - Helpfulness to service users
 - Complaints about the service
 - Proportionality of the service response

- Consistency of the service

- 1.6 Officers are instructed to have regard to this policy whenever they are dealing with a suspected or alleged contravention of any legislative requirement or are considering using any statutory power they are authorised to use. Officers must ensure that any actions they take are consistent with the policy. If officers feel that to follow the policy would be inappropriate then they should discuss the situation with their line manager. If the manager agrees that action outside of the policy is appropriate then the reasons for this decision must be documented and reported to the Head of Service at the earliest opportunity.
- 1.7 This policy does not aim to address in detail all the enforcement circumstances that officers within the Council may face. In general it can only provide broad guidance and is not intended to be a substitute for officer's professionalism.
- 1.8 The policy is a working document. As circumstances develop, for instance as a result of changes in the law or working practices then the policy will need to be reviewed and possibly revised.

2.0 Definitions

Service Complaint

A “Service Complaint” is a criticism of any aspect of the service provided. It is not a request from the public, businesses, elected members or other agencies for action in respect of matters within a service’s responsibilities.

Enforcement

Enforcement encompasses a wide range of actions and activities other than just simply prosecutions. Enforcement is considered to be any action taken with respect to a possible contravention of a statutory requirement which aims to:

- a) Secure compliance with the statutory provision; and/or
- b) Impose a sanction for the contravention

It is also considered to include any actions carried out against a background of statutory powers.

Assessment of Seriousness

Central to a reasoned and proportionate approach to enforcement is an assessment of the seriousness of the possible offences in question. The assessment involves an evaluation of the harm or the risk of harm resulting from the non-compliance. All matters that come to the attention of officers will be considered as ‘trivial’, ‘serious’ or something in-between.

Serious Matters

A serious matter is one in which an officer has evidence that:

- a) Prejudice to the health, safety, freedoms, rights or economic wellbeing of persons had occurred or there was a risk that such prejudice would occur; or
- b) Harm to the environment or loss of amenity occurred or there was a risk that such harm or loss would occur; or
- c) Anti-social behaviour has engaged or threatened to engage in conduct causing nuisance or annoyance; or
- d) Unreasonable behaviour affecting a community's quality of life has occurred; or
- e) Money, goods or services were fraudulently or unlawfully obtained or given or there was an intention to do so; or
- f) The requirements of a properly served and valid notice were not complied with or a lawfully imposed financial penalty was not paid; or
- g) Written warnings or repeated oral warnings have been given for alleged contraventions and these have not been rectified or have recurred; or
- h) There was interference to the rights of the public or a third party and provision for those rights exists in statute law; or

- i) The requirements or conditions of a statutory authorisation, permit, licence or registration scheme were not met and those conditions or requirements were intended to:
 - i. Protect the health, safety, freedoms or economic wellbeing of persons; or
 - ii. Protect the environment; or
 - iii. Protect animals from harm or distress; or iv. Prevent fraud

In the case of a serious matter, appropriate formal action should be taken. In this context formal action includes:

- Written warnings
- Statutory notices
- Fixed Penalty Notices
- Simple Cautions
- Community Injunctions or other injunctions
- Prosecution
- Criminal Behaviour Orders

Trivial Matters

A trivial matter may be anything that does not meet the above tests of seriousness.

Legal proceedings will usually not be taken in respect of trivial matters but all enforcement options will be left open for consideration. Such enforcement options may include:

- Written warnings
- Service of notices

3.0 Consultation

The Council endorses the involvement of the wider community in the development of the services it provides.

Wherever practically possible the standards, targets and other requirements placed on a service by this policy will be determined by a process that includes consultation between the providers of a service and its users and/or other interested parties.

Any such consultation must include a realistic assessment of the capacity of a service to meet the wishes and expectations of its customers within the resources committed to that service.

4.0 General Principles

4.1 Standards

We will establish clear, written standards for the levels of service we aim to provide. To this end each service area will:

- a) Produce written statements defining what level of service customers can expect. Where appropriate performance targets or standards exist they will be clearly stated.

- b) Each service will as necessary, review statements produced with respect to (a) above. This may be as a result of changes to legislation or best practice.

5.0 Openness

Within the restraints of the confidentiality that our customers have a right to expect and the requirements of law, we will endeavour to be open about how we set about our work. To this end each service will:

- a) Ensure the documents identified in this policy are produced in clear language, are readily available and in a format accessible to all our customers.
- b) If requested, provide a written account of its actions or proposed actions to persons or organisations affected or likely to be affected by them.
- c) Clearly explain any areas of non-compliance, actions required, decision taken and reasons for these.
- d) Always ensure a customer is made aware of the existence of any appeals procedures or methods to review our actions or decisions.

6.0 Helpfulness

We believe that prevention and co-operation are preferable to formal action and confrontation. As such we will assist all our customers in their efforts to understand and comply with the requirements placed on them. To this end each service will:

- a) Actively and proactively seek to work with all its customers to provide them with the assistance and advice necessary to them achieve compliance with appropriate regulations.
- b) Take particular care to assist community groups, voluntary organisations and businesses so that they are able to achieve compliance without unnecessary expense.
- c) Ensure staff deal with customers courteously and always identify themselves by name.
- d) Seek to minimise delays by processing all applications for permits, approvals and licences promptly and efficiently.
- e) Provide clear details of who is dealing with a case and how and when they may be contacted.
- f) Review as necessary all standard correspondence to ensure it is clear and contains all relevant information to the matter that it aims to address.
- g) Minimise duplication of enforcement by ensuring a partnership approach is taken with other departments and agencies as is appropriate to each case.

7.0 Service Complaints

We accept that despite our best efforts, occasionally customer dissatisfaction with the service will occur. We recognise the role service complaints can play in identifying areas for improvement. To this end each service area will:

- a) Ensure that when dissatisfaction becomes apparent, customers are made aware at the earliest opportunity of the existence of and the method by which they may register a service complaint.

- b) Ensure that complaint procedures are made easily accessible and that all staff are made aware of their existence and content

- c) Ensure that should an investigation reveal a defect in the service, steps will be taken to address that defect as soon as is practically possible.

8.0 Proportionality

Crucial to the development of an effective and robust approach to enforcement is the question of proportionality, which means that we will endeavour to ensure that any action we take is commensurate with the degree of seriousness of the matter being investigated. To this end each service area will:

- a) When undertaking any form of action or developing policies or procedures relating to enforcement always pay due regard to the guidance set out in the Code for Crown Prosecutors
- b) Provide clear written methods for the assessment of the seriousness for all enforcement duties within their remit. The methods will include definitions of what the service considers to be serious and trivial offences.
- c) Produce written policies outlining the approach it will take with regard to prosecutions.
- d) Clearly identify the statutory or other relevant guidance it has or may use in the course of its enforcement duties.
- e) Recognise the compliance record of the individual or business before considering enforcement action.
- f) Ensure that all options are explored with the view to enabling compliance to be achieved without incurring undue or unnecessary expense.

9.0 Consistency

We will endeavour to promote consistency in both the level of service customers receive and the manner in which we respond. To this end each service will:

- a) Ensure that the documents referred to in this policy are made known and are readily accessible to all staff.
- b) Review as necessary operational, supervisory and management practices to identify and address issues of inconsistency.
- c) Establish and maintain effective communication with other local authorities, agencies and relevant professional or commercial bodies to ensure their standards and procedures reflect national best practice.
- d) Occasionally where we are the relevant enforcing authority we may also have an interest such as ownership or management. In respect of such occasions where there may be a conflict of interest we will:
 - Carry out our enforcement policy and practice in the same way as all other premises or organisations
 - Ensure that the attention received is in accordance with the criteria applied to other organisations/duty holders.

10.0 Procedures (general)

Advice from officers will be given clearly and simply, in writing if requested with explanations and time scales for remedial actions. Clear distinctions will be drawn between legal requirements and advice on best practice.

Unless immediate formal actions are considered necessary, we will provide the opportunity to discuss and if possible resolve problems.

Where immediate action is taken we will explain why that action was required and we will confirm this in writing. Where there are any rights of appeal they shall be set out in writing and provided at the time the action is taken.

Where a notice is served that is required by or allowed for under statutory powers, then written information explaining the notice and detailing any rights of appeal will be provide together with that notice.

11.0 Considerations in Taking Appropriate Formal Action

In deciding the nature of the formal action to be taken all the following must be considered:

- a) The seriousness of the matter in hand, considering not only the harm that has occurred but also the extent of harm that could reasonably have expected to occur. A matter is more serious where there is evidence of fraud, premeditation or negligence.

- b) The previous history of the potential defendants. It is important to consider all matters both positive and negative. Particular consideration should be given to unspent convictions, formal cautions, written warnings, advice given and examples of previous co-operation and good intentions.

- c) The effects on third parties. The degree of loss or suffering of a third party or victim must be considered.

- d) The quality of the available evidence must be sufficiently robust to support the proposed level of action to be taken.

- e) Any explanation offered by the potential defendant such as mitigation or due diligence must be given due consideration.

- f) The public interest.

- g) The requirements of any service specific guidance.