



CORPORATE ENFORCEMENT STRATEGY

1 Introduction

- 1.1 The Council is an enforcement authority for the purpose of exercising many of its statutory and regulatory functions.
- 1.2 Regulation and enforcement is necessary in order to safeguard and protect the public and the environment.
- 1.3 The purpose of this Enforcement Strategy is to create an overarching document for all types of enforcement activity undertaken by the Council and set out priorities to guide officers when deciding what action to take in carrying out their regulatory duties on behalf of Dover District Council.
- 1.4 The Council is committed to ensuring that all its enforcement actions seek to secure efficient and effective compliance through a fair and consistent approach. This includes taking into account the Enforcement Concordat, advice from the Crown Prosecution Service, the Home Office, Codes of Practice and Guidance.
- 1.5 In accordance with the Regulators' Compliance Code, this Enforcement Strategy aims to promote efficient and effective approaches to regulatory inspection and enforcement. The Council's intention is to improve regulatory outcomes without imposing unnecessary burdens. In certain instances we may conclude that a provision in the Code is either not appropriate or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned and based on material evidence. Individual Enforcement Policies will be developed setting out the specific arrangements and procedures as appropriate for each area or type of enforcement.
- 1.6 The term "enforcement" in the context of this Strategy will be given a wide meaning. It covers any action by the local authority carried out in accordance with its statutory powers and duties which are intended to secure compliance with relevant legislation, laws or regulations. It therefore includes the formal enforcement process itself, such as investigation, prosecution, service of statutory notices, action in default, etc; but it also includes the provision of information, advice and assistance, and prevention measures.

2. Setting Priorities

- 2.1 Dover District Council ("the Council") is committed to improving the appearance of the district and creating places, which are 'clean, green and safe' and where people want to live and work.
- 2.2 In order to achieve these objectives, the Council undertakes enforcement action to ensure that the quality of life and the health, safety and welfare of residents and visitors alike are maintained, that the district is an attractive and welcoming place for all, that residents and visitors are not harassed or subjected to anti-social behaviour and that planning regulations are adhered to.
- 2.3 The Council's Corporate Plan for 2012 to 2016 has set out a clear vision: ***"The vision for this Council is to ensure we support delivery, growth and enterprise,***

whilst preparing for the changing local government landscape. Striving to achieve what is best for local residents and businesses, to improve quality of life for all those living and working in the district, to keep local businesses and encourage new ones.”

2.4 This is supported by three strategic priorities;

- **Strategic Priority 1:** Enabling and supporting growth of the economy and opportunity for investment and jobs
- **Strategic Priority 2:** Facilitating strong communities with a sense of place and identity
- **Strategic Priority 3:** Serving our communities effectively

2.5 The Council will seek to use the range of enforcement powers available to support each of these strategic priorities with the focus for action being;

- Ensuring a robust response to any incidents of anti-social behaviour;
- Providing an efficient, effective and consistent customer focused Environmental Health & Licensing Service;
- Tough action on envirocrime and environmental enforcement;
- Effective management of on and off street parking
- Increasing the level of street scene related enforcement activities.
- Ensuring buildings are safe and compliant with the Building Regulations and,
- Use of planning powers to enforce breaches of planning regulation and improve the amenity of the District with particular focus on Dover Town.

2.6 This enforcement action is taken to support local communities and ensure that we deliver on our vision of improving the quality of life and the health, safety and welfare of all those living and working in the district, as this is a key factor in meeting our regeneration objectives.

3. Management of Enforcement Activities

3.1 When carrying out enforcement action it is important that the Council works within the statutory framework set out and that it follows best practice and procedure.

3.2 In particular, the Council is committed to acting in a fair and consistent manner and has adopted this enforcement policy as part of this commitment. When exercising its enforcement functions, the Council will act in such a way which is:

- transparent;
 - accountable;
 - proportionate;
 - consistent; and
- targeted only at cases in which action is needed.

3.3 The following areas or types of enforcement are undertaken by the Council:

- **Environmental Enforcement** - Investigating and ensuring legislative compliance in relation to issues such as littering, dog fouling, fly tipping, noise, nuisance, contaminated land, air quality, pest control etc.

- **Community Safety.** Provision of support to communities suffering from anti-social behaviour using a range of legal powers.
- **Debt recovery.** The recovery of monies owing to the authority.
- **Parking Regulation.** Enforcement of on and off street parking regulations undertaken in accordance with the provisions of the Traffic Management Act 2004.
- **Planning Enforcement.** Action is taken to deal with breaches of planning regulations using powers within the Town and Country Planning Act 1990 (as amended) and associated regulations.
- **Food safety and standards,** including inspections of food businesses, sampling of food stuffs, infectious disease control, seizure and detention of unfit food, and investigation of consumer complaints about food and food premises.
- **Health and Safety enforcement,** in premises allocated by law to the local authority such as offices, shops, warehouses, catering establishments, hotels and hostels, launderettes, places of religious worship, leisure centres, places used for child care or playgroups.
- **Licensing,** the issuing and enforcement of local licences with special emphasis on alcohol, public entertainment, late night refreshments, gambling, animal establishments and other miscellaneous registrations. In addition, the Council is responsible for the licensing and enforcement of licences issued to operators, drivers and vehicles used as Hackney Carriage (Taxis) and Private Hire vehicles.

Section 7 of the Licensing Act 2003 specifically reserves all matters relating to the discharge by a licensing authority of its licensing functions to its Licensing Committee. The Council approved in December 2010 a Statement of Policy and Principles under the Licensing Act 2003 which has specific reference to enforcement and which will be valid until 2015.

- **Private Sector Housing,** Enforcing Health and Safety standards within private housing .This can include cold homes, damp, falls, poor electrics, overcrowding and fire precaution. Licensing of Houses in Multiple Occupation. Requiring owners to bring empty homes back into use. The Licensing of caravan sites and mobile homes.
- **Building Control** The enforcement of standards in terms of building regulations and the control of dangerous structures to ensure public safety.

3.4 Individual policies will be developed across the Council to cover each area of enforcement activity and these will need to adopt different criteria specific to the type of enforcement work being carried out. However, as a general rule, the decision whether or not to take enforcement action will take account of the following:

- the risk that non-compliance poses to the safety, health or economic welfare of the public at large, specific individuals or to the Council;
- evidence of pre-meditation;
- failure to comply, in full or in part, with a statutory notice or order;

- a history of non-compliance, failure to heed warnings or advice, relevant previous convictions;
- aggravated circumstances such as obstruction of Council officers, violence or aggression.

4. Legislation

- 4.1 The Council will have due regard to all relevant legislation including but not limited to the Human Rights Act 1998 (HRA), the Data Protection Act 1998 (DPA), the Regulation of Investigatory Powers Act 2000 (RIPA), the Freedom of Information Act 2000 (FOI) and the Equality Act 2010. Individual policies and strategies will be assessed separately for relevance to legislation.
- 4.2 In all enforcement decisions, regard will be had to the human rights of all parties as contained in the European Convention on Human Rights. Inevitably, enforcement action may interfere with one or more of the convention rights, but such interference will not amount to a breach of human rights provided, for example, that it is necessary in the general interest of or for the protection of the public and that the proposed action is proportionate to the risk involved.
- 4.3 The Council will observe an individual's data protection rights in accordance with the Data Protection Act 1998, provided that personal data can be disclosed within the authority or to other enforcement agencies for the prevention or detection of crime.
- 4.4 The Council will ensure that it exercises all of its enforcement functions so as not to do any act which constitutes discrimination on the grounds of race, colour, ethnic origin, sex, or disability (save otherwise in accordance with the Law) and with due regard to the need to eliminate unlawful racial discrimination.

5. Surveillance

- 5.1 In carrying out its investigatory powers, the Council will consider the use of surveillance only in the most necessary circumstances. In considering whether to deploy surveillance, the Council will take account at all times of its responsibilities under the HRA and the requirements of RIPA. The Council has adopted a separate policy for RIPA and all staff will follow the guidance set out in that policy in deciding whether surveillance is necessary and in obtaining the correct authorisation.

6. Information sharing

- 6.1 The Council actively engages in Government anti-fraud schemes such as the Verification Framework, the National Anti-Fraud Network and the Housing Benefit Matching Service scheme as well as working with other government departments.
- 6.2 From time to time the Council will share information with other enforcement agencies such as the police and the Department for Work and Pensions. The Council will carry out prosecutions on behalf of the Department for Work and Pensions where there is a crossover between the work of the agencies. In all circumstances however, the Council will make a decision on the relevant enforcement action in accordance with the principles in this policy.

7. Staff

- 7.1 The Council is committed to employ staff who are competent, honest and committed to upholding the Council's values and standards of enforcement. Appropriate training will be given to staff carrying out enforcement duties and staff will be encouraged to study for recognised qualifications.

8. Enforcement concordat

- 8.1 Dover District Council is voluntarily signed up to the Enforcement concordat and in general any enforcement action will be taken in line with the concordat document.

The Enforcement concordat outlines three main principles. They are;

- **Consistency:** means taking a similar approach in similar circumstances to achieve similar ends. It does not mean uniformity, as officers will take into account many factors such as the level of risk, the history of compliance and the attitude and actions of those involved.
- **Proportionality:** means relating enforcement action to the risks and severity of the breach of the law involved. This will ensure that the most serious risks are targeted first.
- **Openness:** means explaining our actions clearly in plain language and discussing compliance failures or problems with anyone experiencing difficulties. A clear distinction will be made between legal requirements and advice or guidance.

9. Policies

- 9.1 This Strategy and the accompanying policies set out the way in which the Council will deal with enforcement across these areas. Although the Council will ordinarily follow this guidance there may be occasions when it is appropriate for this guidance not to be followed. In such cases, a record will be kept setting out the reasons for this departure. Some of the protocols provide for discretion to be exercised in certain circumstances. Whenever the Council exercises its discretion under this policy, a written record must be made setting out the reasons for the decision taken. When exercising its discretion, the Council will act in a transparent, accountable, proportionate, consistent and targeted way.

10. Delegated Authority

Decisions on enforcement action will be taken in accordance with the scheme of delegations from Cabinet and in line with the Council's constitution.

DC/Dec 2013

EQUALITY IMPACT ASSESSMENT

Department Regulatory Services	Division Governance	Officers involved in the assessment Diane Croucher/Paul Neagle
Name of the policy or service provision to be assessed: Corporate Enforcement Strategy	Date of assessment: 10 th October 2013	Is this a new, revised or existing policy or service provision? Revised

Overview

The Public Sector Equality Duty is designed to support decision making by ensuring public bodies consider how different people will be affected by their activities. It applies not only to public bodies themselves but also applies to anyone carrying out public functions on their behalf, such as contractors.

The duty states that public bodies must have due regard to the need to: -

- a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not.
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

1. Describe the item you are assessing and the outcomes you want from it?

The Corporate Enforcement Strategy provides a framework to aid enforcement officers in deciding what form of enforcement is the most appropriate. The Council has a statutory requirement to comply with the Regulatory Enforcement and Sanctions Act 2008 which along with the Local Better Regulation Office provides a framework for enforcement of regulatory regimes Following these guidelines maintains consistency in our approach.

The aim is to ensure that those who come into contact with the council e.g. businesses and individuals, are treated in a fair, consistent and equitable manner in line with the Enforcement Concordat, advice from the Crown Prosecution Service, the Home Office, Codes of Practice and Guidance. All enforcement should be

- **Proportionate**
- **Accountable**
- **Consistent**

- **Transparent**
- **Targeted only at cases in which action is needed.**

2. Who is intended to benefit, what is the full scope of the item and who is it aimed at?

Staff, businesses, residents and the public are the target of the policy. The policy impacts on, and is aimed at all those living, working in, visiting or passing through the District.

The overall scope is to provide a framework to ensure staff

- **take immediate action to deal with serious matters**
- **promote and achieve sustained compliance with the law**
- **Use available legislation to deal effectively with enforcement issues within the District**

3. Do the anticipated outcomes meet or hinder any other things that the authority is doing?

The anticipated outcomes fit in with Strategic Priority 3 of the Council Corporate Plan, i.e. Serving Our Communities Effectively which states

- **The Council will operate in an open and transparent way**
- **maintaining a clean and green approach to the appearance of the district;**
- **Increasing the level of street scene related enforcement activities**

4. Who defined the policy, function or service provision and who are the main stakeholders?

The policy is defined by corporate strategies, statutory functions and guidance laid down by external organisations like the Crown Prosecution Service.

Whilst the main stakeholders are officers of the council, the policy also impacts on external contractors employed by the Council to carry out enforcement work. Other stakeholders include elected members – District, Town & Parish Councils, Community Wardens, the Police and Kent County Council

5. Who implements your proposal and who is responsible for delivery?

The policy is implemented and delivered by officers of the relevant enforcement teams and any external contractors working on behalf of the Council.

6. Taking each strand of equality, explain how are you going to address the aims of the duty for each of these groups? State if your proposal positively or negatively impact on protected groups? If you conclude that it will negatively impact, explain how you have reached this conclusion and what you are going to do to mitigate this impact

- a. **Race - there could be potential impacts on those with English as a second language. The information will be made available in different languages on request.**
- b. **Disability – officers must take into account potential disabilities when communicating legal requirements e.g. sight, hearing and learning difficulties**
- c. **Gender – there is no evidence the policy will have an adverse impact on different genders.**
- d. **Age - there is no evidence the policy will have an adverse impact on different age groups.**
- e. **Religion - there is no evidence the policy will have an adverse impact on different age groups.**
- f. **Sexual orientation - there is no evidence the policy will have an adverse impact on this section of the community.**
- g. **Gender re-assignment - there is no evidence the policy will have an adverse impact on this section of the community.**
- h. **Pregnancy and Maternity - there is no evidence the policy will have an adverse impact on this section of the community.**
- i. **Marriage and Civil Partnership - there is no evidence the policy will have an adverse impact on this section of the community.**

7. If there is nothing you can do about any adverse impact can the reasons be justified?

No major adverse impact has been identified.

8. If you've had to make changes because of adverse impact, have you made sure these don't have a further adverse effect on any other group?

N/A

9. What lessons have been learnt from completing the assessment?

10. Who will be the owner of the action plan?

Regulatory Services Department

Completing Officer Diane Croucher / Paul Neagle

Lead Officer Diane Croucher

Action Plan to Remedy Areas of Concern

You need to complete this plan with actions that will correct the shortfalls in the review.

Description of Concern	Action Required	Date Due	Responsible Officer (Job Title Only)
Potential impact on those with English as a second language	<p>All Enforcement staff will be briefed to ensure they recognise that there is diversity within the community and care must therefore be taken to ensure that any enforcement actions are clearly understood.</p> <p>Consideration will be given to providing documents in a customer's first language and/or use of interpreters. .</p>	<p>Ongoing via Team Meetings and 1 to 1s</p> <p>On a case by case basis</p>	Relevant section Managers
Disabilities which may impact on understanding or perception if advice/information/instructions given by Council staff	<p>Discussions will be held with staff as to the importance of ensuring communication is understood.</p> <p>Consideration will be given to including other agencies, e.g. Social Services, Housing Associations, Trade Organisations, when communication/perception difficulties are perceived.</p>	<p>Ongoing via Team Meetings and 1 to 1s</p> <p>On a case by case basis</p>	Relevant section Managers