



East Suffolk Council

Compliance and Enforcement Policy

January 2024

**A Strategic Compliance and Enforcement Policy to Secure Better Regulation
Service Delivery Outcomes for the Council's Regulatory Services**

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1. Introduction

- 1.1 East Suffolk Council is responsible for undertaking enforcement activity across a wide range of services. Our aim is to protect the interests, the safety and wellbeing of all those who live, work and visit East Suffolk by ensuring that the actions of businesses and individuals comply with relevant legislation and Codes of Practice. We have a positive approach to securing compliance by helping businesses and individuals to understand what they need to do to meet regulatory requirements.
- 1.2 The Council is committed to good enforcement practice. This overarching Corporate policy applies to all service areas and explains our approach to securing regulatory compliance and the options available to achieve it. Relevant departments will hold their own procedures for implementation.
- 1.3 We strive to apply our legal powers consistently and fairly, whatever the circumstances. Our Enforcement decisions will not be adversely influenced by the age, gender, disability, language, race, religion or belief, sex or sexual orientation of the subject, victims, or witnesses.

2. Purpose of this Policy

- 2.1 The purpose of the Policy is to establish a consistent approach to enforcement. The Policy sets out our approach regarding compliance and enforcement activities and provides guidance to enforcing officers and those who may be affected by it, in particular businesses and the public.
- 2.2 If there is a justifiable reason based on evidence, or circumstance, to deviate from the approach of this Policy this should be at Head of Service level and be recorded.

3. Scope of this Policy

- 3.1 This Corporate policy applies to all service areas and provides a framework for our enforcement officers that ensures their powers are transparent and consistently applied.
- 3.2 Under the Corporate policy sit a range of additional departmental enforcement related procedures.

4. The Policy and Council Objectives

- 4.1 The Policy aligns with the vision, corporate objectives and priorities of the Council. It confirms our commitment as part of the Council's economic priorities to work with, advise and support those who live, work and visit our area to meet regulatory requirements. Its implementation contributes to partnership working with our key stakeholders.

- 4.2 At a strategic level it aims to improve regulatory compliance by being targeted to where our interventions have the greatest impact and focus on securing compliance in high-risk activities.
- 4.3 It has an overriding commitment to the principles of better regulation by having regulatory services that are transparent, fair, consistent, proportionate, intelligence led and adapted to the risk posed by the non-compliant activities.
- 4.4 The Policy supports robust, speedy and effective enforcement, against those that commit the most serious regulatory offences and serial offenders who deliberately and wilfully flout the law, including those who seek to take commercial advantage from such offences.
- 4.5 It takes as its default position a robust commitment to secure compliance with regulatory requirements across East Suffolk.
- 4.6 The Policy provides guidance to our officers, businesses and the public on the range of options available to achieve compliance with the legislation enforced by our regulatory services.
- 4.7 It outlines how we will ensure our enforcement officers are equipped with the appropriate level of skills and competencies to undertake effective and efficient enforcement.

5. Our Approach to Compliance and Enforcement

- 5.1 Our Policy is based upon current legislation, guidance and codes that apply to enforcement activities and in particular the Regulators' Code [Regulators' Code \(publishing.service.gov.uk\)](https://publishing.service.gov.uk) and the Principles of Good Regulation.

6. Monitoring, planned inspection and surveillance

- 6.1 Monitoring the district is an important routine activity to check for compliance and identify issues that may require intervention by the Council.
- 6.2 Proactive inspections will be guided by relevant guidance, local and national priorities and central Government agency requirements. We will have close regard to relevant codes of practice, statutory guidance and advice issued by them.
- 6.3 Where surveillance is necessary, it will be undertaken strictly in accordance with the Councils Covert Investigation Policy. The following guiding principles shall form the basis of all covert surveillance activity undertaken by the Council:
- It shall only be undertaken where it is absolutely necessary to achieve the desired aims.

- It shall only be undertaken where it is proportionate to do so and in a manner that it is proportionate.
- Adequate regard shall be had to the rights and freedoms of those who are not the target of covert surveillance.
- All authorisations to carry out covert surveillance shall be granted by appropriately trained and designated authorising officers.
- Covert surveillance regulated by Regulation of Investigatory Powers Act 2000 (RIPA) shall only be undertaken after obtaining judicial approval.

6.4 When conducting enforcement visits, officers will make their identity known and when it is requested, show the written authorisation issued to them.

7. Conduct of investigations

7.1 Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

7.2 Where there is a legal basis to do so, we will look to recover our costs and make reasonable charges for the time and effort spent on investigating and taking enforcement action.

8. Service requests and complaints

8.1 Service requests or complaints may be received from the public, including employers, residents, visitors, workers and consumers. The nature of the service request or complaint will determine the follow up actions necessary in terms of the priority, speed of those actions and resources deployed. They also provide a useful form of intelligence that can help to determine future planned inspections and intervention programmes.

9. Enforcement of non-compliance

9.1 Each decision to use enforcement action will be taken on a case-by-case basis to ensure consistency of approach and will be in accordance with this, and any other Policies which may be relevant. This Policy does not compel the Council to take enforcement action, but when it is taken, it will be proportionate to the severity and nature of the non-compliance. Although the approach is intended to be graduated this will depend on the nature and seriousness of the incident or offence. The enforcement options available include but are not limited to:

- No action
- Informal action and advice
- Voluntary undertakings

- Penalty Charge Notices
- Fixed Penalty Notices
- Statutory Notices and Orders
- Refusal, revocation or suspension of a licence, approval or registration
- Simple caution
- Civil Penalty notices
- Prosecution

9.2 When determining the appropriate enforcement actions for the non-compliance one or more of the following must be taken into consideration:

- Seriousness in terms of impact or likely impact
- Council policies and priorities
- Deliberate or repeated non-compliance
- Public interest
- Relevant local or national criteria.

10. Enforcement options

10.1 No Action

In some circumstances, a contravention of the law may not justify any action being taken.

10.2 Informal Action and Advice

We use compliance advice and guidance as a first response to many of the cases where breaches of legislation are identified. This is to assist businesses and individuals rectify breaches as quickly and efficiently as possible, avoiding the need for further enforcement action.

When giving advice on compliance we will clearly identify the legal requirement that is contravened, what needs to be done and include a deadline by which this must be done.

The time allowed will be reasonable and take into account the seriousness of the contravention and the implications of the non-compliance. Where non-compliances are identified and advice and guidance has been provided, re-visits may be carried out to determine if they have been rectified.

10.3 Voluntary Undertakings

We may accept a voluntary undertaking that breaches will be rectified and/or recurrences prevented. We will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

10.4 Penalty Charge Notices

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. These include offences under Traffic Management laws and the enforcement of on-street parking contraventions. 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 create a criminal record.

10.5 **Fixed Penalty Notices**

For some offences, there is a discretionary provision to issue a Fixed Penalty Notices (FPN) to an offender. A FPN gives the offender the opportunity to avoid prosecution by payment of the prescribed penalty fee. A FPN is not a criminal fine and does not appear on a person's criminal record. If the FPN is paid no further action will be taken regarding the offence, but if the FPN is not paid, we will either commence criminal proceedings or consider taking other enforcement action.

10.6 **Statutory Notices and Orders**

For the breach of some legislation, we have the power to issue statutory notices requiring a person or business to take specific action, provide information or cease an activity. Such notices are legally binding and the failure to comply with them can be a criminal offence and may lead to prosecution or the issue of a Civil Penalty.

The statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Certain types of notice allow works to be carried out in default. This means that if a notice is not complied with, we have the power to carry out any necessary works to satisfy the requirements of the notice ourselves. Where the law allows, we may then charge the person/business served with the notice for all costs we have reasonably incurred in carrying out the work. The Council will normally seek to recover all its costs.

In some circumstances, we may seek a Court Order that a breach is rectified and/or prevented from recurring. 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. Failure to comply with a court order constitutes contempt of court and may lead to imprisonment.

When officers seize food for failing food safety requirements an application will be made to the court for a condemnation order for it to be destroyed. Details of where and when this application will be made will be provided to allow interested parties to attend the hearing.

Where the non-compliance under investigation relates to anti-social behaviour such as persistent targeting of an individual, or a group of individuals in a particular area a Criminal Behaviour Order or Civil Injunction may be sought to stop the activity.

Where a property is in such a state as to be imminently or significantly dangerous to health, a Prohibition Order (or Emergency Prohibition Order) to prevent the property

being used in a particular way, or to prevent certain areas of the property being used, may be issued directly by the Local Authority. This comes into force immediately and must then be communicated to any Relevant Parties within specified timescales.

10.7 **Refusal, Suspension and Revocation of Licence, approval or registration**

Where there is a requirement for a business or person to be licensed by the Council, the licence will be determined in accordance with council procedures including receipt of representations or objections to that application.

10.8 **Simple Caution**

We have the power to issue simple cautions as an alternative to prosecution for some less serious offences provided there is sufficient evidence to give a realistic prospect of conviction. These can only be issued where a person admits an offence, consents to the simple caution and is over 18 years of age.

Simple cautions are offered in accordance with Home Office Guidance and other relevant guidance. A simple caution may appear on the offender's criminal record. It is likely to influence how we 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.

A record of the simple caution will be kept on file for 2 years and details of all simple cautions issued are a matter of public record.

Officers will not offer a caution where the offender has received one already for a similar offence within the last 2 years.

Where a simple caution is offered, but it is declined, we must consider prosecution.

10.9 **Civil Penalties**

Civil Penalties are available as an alternative to prosecution for a range of offences under the Housing Act 2004, and where a landlord or property agent has breached a banning order under the Housing and Planning Act 2016.

Officers must prepare cases to the same burden of proof as in prosecution cases and can award penalties of up to £30,000.00 in accordance with specific matrices contained within the relevant Civil Penalty Policies.

10.10 **Prosecution**

We may prosecute in respect of serious or recurrent breaches, or where other enforcement action has failed to secure compliance. When deciding whether to prosecute we will have regard to the provisions of the Code for Crown Prosecutors.

Prosecution will only be considered when we are satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the defendant(s), and that prosecution would be in the public interest.

11. Powers of Entry

- 11.1 The Council is provided with specific powers of entry that is specific to the legislation be enforced.
- 11.2 Authorised officers exercising a power of entry will have regard to the [Powers of entry: code of practice - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/61222/powers_of_entry_code_of_practice.pdf) , unless the exercise of that power is subject to another statutory code of practice which will take precedence.

12. Equalities

- 12.1 We are committed to fair and objective enforcement and to enhancing good community relations. This policy will be applied in a non-discriminatory manner. An Equalities Impact Assessment has been carried out as part of the approval process and equalities issues will be monitored and reported to senior management periodically
- 12.2 The Council will arrange for interpreters be present at interviews when they have been requested.

13. Enforcement in our own local authority premises and contractor services

- 13.1 Where the law permits officers will carry out enforcement within our East Suffolk council run premises in a manner consistent with any other business.
- 13.2 Any serious breaches of law that may be detected in such establishments will be brought to the attention of the Corporate Leadership Team without delay.
- 13.3 Contract caterers that operate within East Suffolk council establishments will be assessed in accordance with the Food safety law and associated Code of Practice and be inspected accordingly.

14. Information Sharing, Working and Liaison with External Agencies and other Regulatory Bodies

- 14.1 The Council will share relevant information regarding its investigations with partner agencies. All disclosures will be in accordance with the provisions of the General Data Protection Regulations 2018 and any other relevant statutes.

14.2 Where there is a wider regulatory interest, our enforcement activities will be co-ordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement.

15. Complaints, comments procedures

15.1 Where individuals and businesses are directly affected by our regulatory services and consider the Policy standards have not been met, they can seek redress through the Council's Customer Feedback procedure.

16. Monitoring and Review of this Policy

16.1 We will undertake a three yearly review of this Compliance and Enforcement Policy or earlier if required.