

# **Neighbourhood Services**

## **Environmental Health**

### **Enforcement Policy**

Date: December 2010

Review Date: January 2014

A summary of the Policy is available in large print, on tape, or in other languages on request



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## **1. Background**

- 1.1 In 1998 the Cabinet Office published the “Enforcement Concordat” to help promote consistency in the UK regulatory enforcement regime. The Enforcement Concordat laid down the principles of good enforcement policy and, although a voluntary Code of Practice, it was adopted by 96% of all central and local government bodies with enforcement functions. East Herts Council signed up to the Enforcement Concordat in October 2000.
- 1.2. Following the recommendations of the Hampton Report (2005)<sup>1</sup> into regulatory functions and the burdens created by regulation, the Legislative and Regulatory Reform Act 2006 came into force.
- 1.3. The ‘Regulators Compliance Code’, a Statutory Code of Practice for Regulators was brought in under the provisions of the Act to promote the Government’s better regulation agenda. The “Regulators Compliance Code”, supplements the provisions set out in the Enforcement Concordat, however in addition gives the Hampton Principles a statutory basis, and places a legal duty on regulators to have regard to five Principles of Good Regulation<sup>2</sup>. The Regulators Compliance Code came into force on 6th April 2008.

## **2. Introduction**

- 2.1 The Environmental Health Service forms part of the Health and Housing Service, which in turn is part of Neighbourhood Services. Within Neighbourhood Services, other services are undertaken by Housing Options, Community Protection, Building Control and Development Control.
- 2.2 The aim of the Environmental Health Service is to protect the health, safety and welfare of the public and protect the environment of East Herts. Most of this protection role is statutory and contained in legislation.
- 2.3 This policy seeks to illustrate how the Environmental Health Service will apply its enforcement powers. This could range from a criminal prosecution at one end of the spectrum or informal warnings and advice at the other. The policy is underpinned by detailed procedures that ensure consistency of approach by officers.
- 2.4 The Environmental Health Service role covers several different enforcement areas, including food safety, health and safety at work, private sector housing, noise and nuisance control, contaminated land, air quality, pollution prevention and control, infectious disease control, private water supplies and certain licensing functions.
- 2.5 Each area of work uses different legislation and guidance to secure its aims. This legislation has been developed by Government agencies, Legal Authorities, Public Authorities and Industry. This policy does not try to capture all of this detailed, complex and often changing guidance, but in all of its enforcement activities the Environmental Health Service gives due weight to current relevant guidance. This Policy may therefore

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<sup>1</sup> Reducing administrative burdens: effective inspection and enforcement – Philip Hampton 2005

<sup>2</sup> Transparency, accountability, proportionality, consistency and targeted action

be supplemented by more specific documents, where appropriate, relating to the areas of work mentioned above and detailing working protocols and procedures.

- 2.6 There is one other enforcement policy that the Environmental Health Service follows which relates to Private Sector Housing. However, the Environmental Health Enforcement Policy will form a general overarching policy for all Environmental Health enforcement work.
- 2.7 This Policy commits the Council to implementing procedures which officers shall follow when undertaking their statutory duties, ensuring that they act in an equitable, practicable and consistent manner.
- 2.8 The Policy cannot be absolutely prescriptive because the circumstances of each individual case and the evidence available are likely to vary. But this Policy should leave most readers in no doubt as to what they can expect by way of enforcement from the Environmental Health Service of East Herts Council.
- 2.9 This Policy accords with the principles of the Human Rights Act 1998, The European Convention on Human Rights, The Freedom of Information Act 2000, the Regulation of Investigatory Powers Act 2000, The Data Protection Act 1998 and the Legislative and Regulatory Reform Act 2006.

### **3. The Principles of Good Enforcement- Policy and Procedures**

- 3.1 The primary function of central and local government enforcement work is to protect the public and the environment. However at the same time, carry out enforcement functions in an equitable, practical and consistent manner to promote a thriving national and local economy. The council is committed to promoting compliance and maintaining a fair and safe environment.
- 3.2 The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. It is recognised that most businesses want to comply with the law, therefore care will be taken to help businesses meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice and safety.

### **4. The Principles of Good Regulation.**

- 4.1 This Policy is based on the five principles of good regulation in accordance with the Regulator's Compliance Codes: these are transparency, accountability, proportionality consistency and targeted only at cases for which action is needed.
- 4.2 **Transparency**
  - 4.2.1 We will communicate in plain English or in the appropriate language or method. The council has interpreting and translation services available for businesses or the public who do not have English as their first language.

- 4.2.2 In most circumstances when carrying out enforcement action we will ensure that people affected by formal action are informed of what is planned, and will allow for discussion and time to respond before the action is taken. However this is not always possible if immediate action is required (for example, in the interests of health & safety, environmental protection or to prevent evidence being destroyed).
- 4.2.3 The Environmental Health Service will make it clear in writing, and/or where possible verbal communication why the remedial work is necessary, what must be done, and over what time scale. We will make a clear distinction between legal requirements, and recommendations about best practice which are not compulsory.
- 4.2.4 Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (this advice will be issued with the enforcement notice).

### **4.3 Accountability**

- 4.3.1 The regulators will actively work with businesses and the public to advise and to assist with compliance and complaints.
- 4.3.2 In consultation with business and other relevant interested parties, including technical experts where appropriate, the council will produce and publish standards setting out the level of service and performance the public and business people can expect to receive. The Council's performance team monitors performance against these standards. Any service standard such as speed of response will be available on request, and information will be provided in plain language wherever possible.
- 4.3.3 The council undertakes regular customer satisfaction surveys and regularly reviews comments, compliments, and complaints it receives regarding the nature and quality of its service and enforcement functions. If anyone wishes to complain about enforcement action they may do so initially by contacting :

The Head of Health and Housing, or one of the Environmental Health Managers on  
Tel: 01279 655261

Or by writing to the above at Wallfields, Pegs Lane, Hertford, Herts SG13 8EQ.

Or by email at [environmental.health@eastherts.gov.uk](mailto:environmental.health@eastherts.gov.uk)

- 4.3.4 If a complainant is dissatisfied with the results of their complaint, they can complain through the Council's formal complaints procedure. This is available at all council offices or on the website [www.eastherts.gov.uk](http://www.eastherts.gov.uk)

### **4.4 Proportionality**

- 4.4.1 The council will minimise the costs of compliance for business by ensuring that any action required is proportionate to the risks involved and the seriousness of any breach. As far as the law allows, it will take account of the circumstances of the case and the

attitude of the operator when determining action, but will seek to secure the most appropriate standard.

- 4.4.2 The council will have regard to various courses of remedial action and will consider what is 'reasonably practicable'. Officers, when considering enforcement, will take into account the degree of risk. However some risks may be so serious that they cannot be permitted. The most serious formal action, including prosecution, will be for serious breaches of the law where there is a significant risk to health, safety or the environment, or where there has been a flagrant disregard for the requirements of the law.
- 4.4.3 The council will take particular care to work with small businesses, voluntary and community organisations and minority groups so that they can meet their legal obligations without unnecessary expense, where practicable.
- 4.4.4 Officers of the Council will, in appropriate circumstances, facilitate training and education if this is what is most needed to address problems attracting enforcement action.
- 4.4.5 We will only ask for information to be provided that is needed to carry out the regulatory work.

#### **4.5 Consistency**

- 4.5.1 The council will carry out its duties in a fair, equitable and consistent manner to ensure that similar issues are dealt with in a similar way, making full use of guidance produced by government and other agencies. Decisions on enforcement always entail a degree of judgement and the circumstances of each case will inevitably differ in detail. Furthermore, guidance upon which officers rely may change over time, and therefore decisions made one day may differ from one made the next for that reason. Because of this there may be times when the enforcement appears inconsistent, but through no fault of the Council's.
- 4.5.2 All staff undertaking enforcement duties will be suitably trained, qualified and authorised. The above measures will be supplemented by managerial checks prior to enforcement action.

#### **4.6 Targeted**

- 4.6.1 All enforcement action will be primarily targeted towards those situations that give rise to the most serious risks (such as high risk processes, poor compliance, poor management and deliberate or organised crime). Other factors also determine priorities for enforcement activity, including Government targets and priorities, new legislation, national campaigns and public concerns. This may result in particular types of business or particular sectors of the community being targeted from time to time.

#### **5.0 Shared Enforcement Responsibilities**

- 5.1 The council recognises there are areas of work within the Environmental Health Service where there may be shared or complimentary enforcement roles with other agencies, in these circumstances there may be a benefit from an inter- agency or multi-agency

approach. This can arise where the local authority powers alone are insufficient, shared with another agency, or required as a matter of good practice or safety. In all such circumstances the Council will aim to work in conjunction with all other agencies as appropriate.

- 5.2 Where matters are identified by, or reported to officers, and the enforcement responsibility lays with another Council service or outside agency, officers will refer the matter to the appropriate service or agency. Any persons involved will, so far as reasonably practicable, be informed that the matter has been thus referred.
- 5.3 Where enforcement action is being taken by another Council service or outside agency, officers will provide all reasonable assistance including the production of witness statements and collection and sharing of evidence etc. subject to legal constraints and the meeting of any reasonable expenses.
- 5.4 If a business has a Primary Authority the officer will contact the Primary Authority before enforcement action is taken, unless immediate action is required because of imminent danger to health, safety or the environment.
- 5.5 Enforcement agencies exchange information as part of their partnership work to help reduce crime and disorder. By capturing coherent and robust intelligence, current and emerging problems can be clearly identified. This approach enables strategic and tactical direction to be provided. Information on trends, history and specific incidents can be used to target regulatory activity on the risks identified.

## **6.0 Enforcement and the 24-Hour Economy**

- 6.1 The Council recognises that many activities take place outside normal office hours and can make provision to visit businesses outside normal office hours at times when the business is operating. The Environmental Health Service is therefore able to carry out a range of inspection, complaint response and monitoring activities outside the Council's normal service hours. The Environmental Health Service does not operate an out of hours service to respond immediately to all types of complaint, this service is only provided for emergencies or persistent offenders.

## **7.0 Authorisation of Officers**

- 7.1 The full range of legislative powers available to undertake the range of duties are found in the East Herts Council Constitution which is available on request or on the Council's website.
- 7.2 The constitution gives delegated power to the Director of Neighbourhood Services to appoint and authorise officers, subject where appropriate to officers possessing such qualification as required in accordance with the Council's policy and procedures, and having the necessary competency and experience. All enforcement officers will be authorised in writing by the Director of Neighbourhood Services.
- 7.3 The authorisation of each officer is dependant on the duties they have been appointed to undertake, their training, experience and competency. A copy of the documentation

detailing each enforcement officer's areas of responsibility, credentials and warrant are held on file and are regularly reviewed and updated as necessary.

## **8.0 Exercise of Powers of Entry**

- 8.1 In order to enforce the various statutory provisions relating to the different enforcement areas, the powers of entry prescribed under the applicable legislation vary. Such powers may allow an officer to request entry to a business address without notice. Alternatively officers seeking access to primarily residential addresses used as a business may be required to give notice to an owner/occupier that he/she wishes to gain entry for a specified purpose on a specified day. Entry may be sought for a number of purposes, including inspection, collection of evidence, checking compliance, and to undertake works in default etc.
- 8.2 The obstruction of an officer is a criminal offence and it is the policy of East Herts Council to refer cases of obstruction to the Solicitor to the Council, with a view to prosecution. In such cases the investigating officer will also apply to a Magistrate for a warrant to enter the premises by force if necessary, to enable the purposes of such entry to be fulfilled.
- 8.3 It is the policy of East Herts Council to issue all investigating officers with identification card which have a photographic image of the officer indelibly imprinted on them. Officers will carry their I.D. cards with them at all times and will produce them on request to verify their identity. If any person has any doubts or suspicions concerning an officer's identity they can contact the Head of Health & Housing or one of the Environmental Health Managers at the address listed in paragraph 4.3.3.

## **9.0 Levels of Enforcement Action**

- 9.1 This Policy applies to the enforcement activities undertaken by the Environmental Health Service. For the purpose of this document 'enforcement' includes action carried out in the exercise of, or against the background of, statutory enforcement powers. This is not limited to formal enforcement action such as prosecution or issue of notices, and includes the inspection of premises for the purpose of checking compliance with legal requirements, the provision of advice, and support to aid compliance.
- 9.2 This Enforcement Policy helps to promote an efficient and effective approach to regulatory inspection and enforcement, and to improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.
- 9.3 In certain instances the regulator may conclude that a provision in the Code is either not relevant or is outweighed by another provision. The regulator will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.
- 9.4 Following an inspection, monitoring visit, investigation, or referral from another responsible authority, there are several enforcement options available to the Council and its officers to secure compliance with the law. Having suitably considered all the relevant information these options are:

- To take no action
- To take informal action (either written or oral)
- To issue a formal caution
- To issue statutory notice(s)
- To issue fixed penalty notices
- To prohibit (e.g. and activity or use of a premises)
- To seize equipment, articles or records (paper or computer)
- To execute work required by a statutory notice where the recipient has not complied, or take Emergency Remedial Action under the Housing Act 2004
- To issue a range of statutory & compulsory orders - e.g. prohibition, demolition or management orders under the Housing Act 2004 and Housing Act 1985.
- To prosecute
- To review, amend, condition, vary, revoke or suspend a licence.
- To take out an injunction.

9.5 If a business has a Primary Authority (also if appropriate a Lead or Home Authority scheme or informal Lead or Home Authority Scheme), the regulator will contact the Primary Authority before enforcement action is taken, unless immediate action is required because of imminent danger to health, safety or the environment.

9.6 In any situation which requires action to ensure compliance with the law, officers will consider the following when deciding on the most appropriate enforcement method: -

- the degree of risk from the situation,
- the seriousness of the legal contravention,
- the different technical means of remedying the situation,
- the particular circumstances of the case and likelihood of its continuation or recurrence,
- the general attitude of the offender to his or her responsibilities,
- the past history of the person(s) or company involved,
- the impact of the enforcement choice in encouraging others to comply with the law,
- the likely effectiveness of the various enforcement options,
- any legal imperatives e.g. the obligation to serve an abatement notice if a statutory nuisance exists.

### 9.7 **No action**

If it is found that there has been no breach of relevant legislation or a licence condition, then no further action by the Council may be required. Notwithstanding this, the investigation officer will note their findings and the reason for the decision, which must be recorded in writing for future reference.

### 9.8 **Informal action**

9.8.1 This sort of action will be appropriate where the degree of risk (or in some cases environmental impact) from any given situation is minor, or is insignificant. The person responsible would have no recent history of non-compliance and the officer would have good reason to expect them to put right the matters in question without the need for further intervention. The other enforcement options would be inappropriate and disproportionate bearing all of these things in mind. In some instances, the law allows

discretion in whether formal or informal action should be taken. Examples of informal action include written and oral warnings. Other legislation may not allow such discretion.

- 9.8.2 For example, informal action is often inappropriate in the enforcement of proper standards of housing because the statutory mechanisms for enforcement already allow lengthy periods of time for compliance. Any addition to this could leave occupiers of such housing exposed to unsatisfactory conditions for too long.
- 9.8.3 Informal action will be recorded on files and will be used as a basis for judgements on future enforcement action if there are recurrent problems with an offender or premises.

## **9.9 Formal Cautions**

- 9.9.1 Formal cautions will be issued in accordance with guidance in Home Office Circular 18/1994. The aim of the formal caution is to deal quickly and simply with less serious offences, divert offenders from unnecessary appearance in the criminal courts and reduce the chances of their re-offending. A formal caution is likely to be appropriate where there has been a contravention of the law giving rise to a potential risk or environmental impact or persistent failure to put a matter right.
- 9.9.2 Formal cautions will only be offered where the Council has confidence that this is in the public interest and where there is sufficient evidence to support a prosecution should the offender refuse to accept the caution, i.e.:
- The evidence available must comply with the Crown Prosecution Service code on criteria for prosecution i.e. a conviction should be more likely than an acquittal before a court;
  - The offender must admit to the offence;
  - The offender must agree to the caution.
- 9.9.3 There should be a presumption in favour of cautioning rather than prosecution for certain categories of offenders, e.g. the elderly or those who suffer from mental illness or impairment or a severe physical illness. However, membership of these groups does not of itself provide protection against prosecution.
- 9.9.4 The offender must be given a full explanation of the significance of the caution before being allowed to accept it, as a formal caution is an admission of guilt to a criminal offence and is recorded as such. It may be cited if the offender is found guilty of the same or similar offence on a later occasion. It remains “on record” for 3 years and will be reported to the Office of Fair Trading.
- 9.9.5 The authorisation to issue formal cautions or prosecute is delegated to the Director of Neighbourhood Services, except in the case of the Health and Safety at Work etc. Act 1974, whereby an Officer (Inspector) is duly authorised.

## **9.10 Statutory Notices**

- 9.10.1 Notices are served where there is a clear breach of the law and require offenders to cease contravening activities. The time period allowed for compliance will be dependant on the degree of risk to health & safety, environmental damage, or nuisance. In some instances service of a notice will be compulsory as the law allows us no discretion.

Notices will be monitored to ensure compliance, **subject to consideration of the evidence it is likely that the negligent or wilful non-compliance with a statutory notice will result in prosecution.**

9.10.2 Information regarding any relevant appeal procedure will be made available at the time that the notice is served.

9.10.3 Where there is a statutory provision that enables the Council to levy a charge for the costs associated with the service of a formal notice, then such a charge will be made and may be pursued as a civil debt.

### **9.11 Fixed Penalty Notices (FPN)**

9.11.1 Certain legislation allows for an authorised officer of the Council to issue a fixed penalty notice (FPN) for low-level crime when a contravention of the legislation is witnessed. The issue of a FPN gives an offender the opportunity to avoid a prosecution and attending court by the payment of a set fine within a specified period. FPN's will only be issued when there is adequate evidence to support a prosecution. If the fine is not paid in full within the stated period then the Council is likely to take a prosecution.

9.11.2 Fixed penalty notices will not be issued to repeat offenders or if the offence is not a low-level crime as in these circumstances prosecution is the appropriate action.

### **9.12 Prohibition**

9.12.1 This power will be used where there are statutory grounds (e.g. that there is an imminent risk of injury to health or a risk of serious personal injury) and where the situation cannot be allowed to continue because of the risks involved. This course of action is usually associated with food, health and safety and housing enforcement.

### **9.13 Seizure of Equipment, Food &Articles or Substances**

9.13.1 Officers are entitled to seize certain items and remove them from a premises where they are used unlawfully, or where they may be required as evidence during part of an investigation. This approach will be used generally in association with other powers; for example equipment may be seized where there has been a repeated, persistent, or extreme use of sound equipment which has caused a nuisance at one or more neighbouring properties, and where it is practical to seize the equipment.

9.13.2 Seizure may also be used for food which fails to meet food safety requirements. This power will be used where there may be a serious health risk from food available for human consumption, in order to rapidly remove it from the food chain and protect public health.

9.13.3 Articles or substances which are a cause of immediate danger may be seized under health and safety law.

## **9.14 Work in Default**

- 9.14.1 Some legislation allows the local authority to undertake the work required by a notice if the recipient of the notice does not do so within the times specified in it.
- 9.14.2 Where such a notice has been served, and where without adequate excuse or reason, the work has not been done, then work in default would generally follow subject to the practical constraints of the case and the financial circumstances. Prior to carrying out works in default the Council will consider carefully the prospect of recovery of any costs incurred in accordance with any current Council policy.
- 9.14.3 The Council will make every effort to recover the full cost of doing the work in default. In circumstances where this is not achievable, the Council will attempt to place a charge on property to enable costs to be recovered on future sale of the said property.

## **9.15 Statutory & Compulsory Purchase Orders**

- 9.15.1 A range of Statutory Orders are available under the Housing Acts (1985, 2004) and are sometimes a precursor to compulsory purchase proceedings. A Prohibition Order may be made under Section 20 & 21 of the Housing Act 2004 if premises have Category 1 or Category 2 hazards. This will prevent the use of the premises or part of the premises for any purpose not approved by the local authority. A Demolition Order requires the vacation and demolition of premises within statutory time limits. The Council may make a Management Order under the Housing Act 2004, which allows the Council to completely take over the management and operation of a property. Rights of appeal exist in relation to these powers and compensation provisions also arise in some cases.
- 9.15.2 The Council may compulsorily purchase property under Section 17 of the Housing Act 1985. This procedure may sometimes follow the exercise of another statutory power (e.g. a Prohibition Order) or may be carried out without prior action. The consent of the Secretary of State is required and compensation provisions flow from the exercise of this power.

## **9.16 Prosecutions**

- 9.16.1 The decision to prosecute an individual is a serious step. Fair and effective prosecution is essential to maintain law and order. Prosecution can have serious implications for all involved. The Council has regard to the Code for Crown Prosecutors so that it can make fair and consistent decisions about prosecutions. The authorisation to prosecute is delegated to the Director of Neighbourhood Services, except in the case of the Health and Safety at Work etc. Act 1974, whereby an Officer is duly authorised.
- 9.16.2 The Council has the discretion whether or not to prosecute for an offence and the decision to prosecute will be based on the circumstances of each individual case. The criteria for prosecution must be related to the risk or the seriousness of the offence rather than being a punitive response to minor technical transgressions. Not every breach of legislation will result in legal action. Relevant factors will be assessed by the investigating officer, Environmental Health Managers, Head of Health and Housing and, where appropriate, the Director of Neighbourhood Services and the Head of Legal or their nominated representative.

9.16.3 Circumstances that warrant prosecution will include at least one of the following:

- The alleged offence involves an obvious breach of the law such that the safety, health or well being of residents, others or the environment is or has been put at risk;
- The alleged offence involves a knowing or wilful failure to comply in full or in part with the requirements of a statutory notice, statutory instrument or other legal duty;
- The alleged offence involves a failure to comply in full or part with a statutory requirement after having been given reasonable opportunity to do so;
- A history of similar offences involving risk to the safety, health or well being of the public or the environment.

9.16.4 The enforcement officer must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person/company. This is known as the evidential test.

9.16.5 Having satisfied the evidential test the following factors will be taken into consideration, forming the basis of the public interest test:

- The seriousness of the alleged offence;
- The previous history of the person or business concerned;
- The ability of witnesses and their willingness to co-operate;
- The willingness of the party concerned to prevent recurrence of the offence;
- The probable public benefit of prosecution;
- Any explanation offered by the alleged offender;
- The likelihood of the defendant being able to establish, where appropriate, a due diligence/best practicable means defence;
- Whether other action (formal cautioning, improvement notices) will be more appropriate or effective.

9.16.6 Further factors which may influence the decision to prosecute

<b>Factors in favour of prosecution</b>	<b>Factors against prosecution</b>
Significant sentence likely and will deter future non compliance.	Nominal penalty probable and unlikely to change offenders behaviour
Defendant a ringleader or organiser of offence	Offence committed as result of genuine mistake or misunderstanding (balanced against seriousness of the offence and consequences)
Evidence of premeditation	One-off minor occurrence due to misjudgement
Offence motivated by any form of discrimination	Defendant already subject of sentencing and further conviction unlikely to result in imposition of further penalty, unless the particular offence requires a prosecution
Victim of offence was vulnerable or in fear of offender	Prosecution likely to have a detrimental effect on the victim's physical or mental health.
Marked difference in actual or mental ages of defendant and	Defendant is particularly elderly, mentally or physically vulnerable, unless the

victim	seriousness of the offence or likelihood of its being repeated is such that it cannot be ignored
Eliminate financial gain or benefit from non compliance, and restore harm caused by regulatory non compliance.	There has been undue delay between the offence taking place and the date of trial, subject to the seriousness and complexity of the offence, unless caused in part by the defendant or offence only recently came to light.

9.16.7 Officers investigating offences will seek to ensure that their investigations and decision making is not unduly prolonged and that complainants, witnesses and other parties are kept informed of progress with the case. To this end all cases for prosecution will be referred to Head of Legal within 6 weeks of the decision to prosecute being made.

9.16.8 Fully documented contemporaneous notes will be kept of all cases.

## 9.17 Licences and Conditions

9.17.1 The Council has the power to attach, amend, or vary licence conditions where these are considered proportionate and necessary, in accordance with Council Policy or in accordance with advice and guidance issued by the Government and advisory bodies. Where changes are made and there are rights of appeal, advice on the appeal mechanism will be clearly set out in writing.

9.17.2 If a prosecution is taken by this authority and is successful, the court may order the cancellation of a licence for a prescribed period. Alternatively the Council may consider making application for cancellation of the licence following conviction for a relevant offence, especially where there are sufficient grounds to believe that such action is warranted to prevent an occurrence or halt an existing occurrence.

## 9.18 Injunction

9.18.1 If the Council's Legal Service advise that a High Court injunction is the most appropriate course of enforcement action, then an application will be made to the appropriate court. This enforcement action will only be used in exceptional circumstances.

## 10.0 Implementation of the Enforcement Policy

10.1 The Director of Neighbourhood Services, Head of Health and Housing and Environmental Health Managers will be responsible for ensuring that all enforcement officers are familiar with the requirements of, and carry out their duties in accordance with this Enforcement Policy.

## 11.0 Working with external agencies and enforcement bodies

Each regulator will liaise with the other partner regulators to ensure that any proceedings instituted are for the most appropriate offence.

## **12.0 Civil Claims**

Any enforcement action is completely separate and distinct from civil claims made by individuals for compensation or other remedy. Enforcement is not undertaken in all circumstances where civil claims may be pursued, nor is it undertaken to assist such claims.

- 12.1 The regulator may on request provide solicitors acting for individuals pursuing a civil claim, a factual report, which details the investigation and involvement in the case. There may be a charge for this report.

## **13.0 Publicity**

- 13.1 Regulatory authorities have a responsibility to protect the public from detrimental trading and environmental practices. Regulators undertake a range of activities to achieve this. These include actions that are taken after the detection of an offence, as well as measures to prevent offences occurring.

- 13.2 One such measure is the publication of convictions and information concerning significant detrimental trading behaviour. The publicity generated by prosecutions and other enforcement action acts as a deterrent to others. It also reassures the general public that Regulators take a serious view of such detrimental behaviour.

- 13.3 Regulators will therefore consider publishing the name and address of each person convicted of or subject to other enforcement action, together with details of the matters involved. In reaching a decision as to whether to publish such information, the Regulator will consider the following factors:-

- The specific details of the offence committed or detrimental activity.
- The public interest in disclosing personal information e.g. the deterrent effect of the publication.
- Whether the publication would be proportionate.
- The personal circumstances of the offender.

This list is not exhaustive and other factors may be relevant in the circumstances of an individual case.

## **14.0 Diversity**

- 14.1 The Council is committed to equality of access to its services and has adopted the East Herts Council Comprehensive Corporate Equality Policy. This policy will be followed by officers when carrying out their duties. The policy statement reads as follows:

- 14.2 'The East Herts Comprehensive Equality Policy sets out the Council's vision and commitment to ensure equality of access and opportunities for all living and working in the district. East Herts Council is committed to improving the quality of life for all its residents and employees. The Council values the diversity of the community and wants to use the community's wealth of experience to create an excellent quality of life in East Hertfordshire.

The Council accepts that discrimination affects people in complex ways and discrimination is a major barrier to fair and just society. The Council is dedicated to the promotion of equal opportunities and to removing any discrimination in service delivery, procurement and employment. The Council is committed to achieving equality and community cohesion in partnership with other organisations and local communities.

This Comprehensive Equality Policy also clarifies the Council's existing commitment to equalities by incorporating our new legal duties, and best practice standards. The Council is always learning. It endeavours to deliver its promise, review regularly to ensure compliance with legislation and its duties'.

### **15.00 Have Your Say**

Our enforcement policy is regularly reviewed and updated - please tell us your views on the policy and include any comments or questions you have for us via email: [environmental.health@eastherts.gov.uk](mailto:environmental.health@eastherts.gov.uk) OR use the space below and return to the following address:

Environmental Health Service,  
East Herts Council, Wallfields,  
Pegs Lane, Hertford.  
Herts. SG13 8EQ

Name: (Optional)  
Address: (Optional)

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