

## **ENVIRONMENTAL HEALTH ENFORCEMENT POLICY**

### **1. Introduction**

This document details the Sevenoaks District Council's Policy on Environmental Health Enforcement, including prosecution, relating to the following teams: - Private Sector Housing, Commercial and Environmental Protection. It takes into account the Enforcement Concordat, which the Council signed in 1998, and advice from the Crown Prosecution Service, the Home Office and relevant Codes of Practice and Guidance.

### **2. Statement of Objectives**

- It is the Sevenoaks District Council's policy to take all reasonable action towards ensuring risks to public health and safety and the quality of the environment for which it is the enforcing authority are controlled.
- The primary responsibility for protecting public health and the quality of the environment lies with those who create the risks, and in particular landowners need to recognise their responsibility.
- Depending on particular circumstances, Sevenoaks District Council (hereafter referred to as 'The Council') may use a variety of means to ensure that owners, occupiers, and proprietors of businesses meet their responsibilities including education, advice, guidance, warning letters and notices of prosecutions. The Council will generally reserve prosecutions (and, therefore, criminal proceedings) for the more serious offences which either result or could have resulted in serious damage to the environment or ill health or which represented a blatant disregard of legislation.
- To ensure that consideration is given to the interests of the community (including businesses, employees and the public via consultation with business and other relevant parties, including technical experts where appropriate) we will draw up clear standards setting out the level of service and performance that the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others when requested.

### **3. The Use of Formal Notices and Prosecution**

- 3.1 Following routine inspections and investigation of complaints, accidents, etc., contraventions of legislation may be discovered. In response there are a number of possible courses of action.
- Verbal advice
  - Informal notice (letter) requiring action
  - Formal notice requiring action
  - Prosecution
  - Formal cautions
  - Works in default
- 3.2 Officers should always refer to the advice given in codes of practice, advice notes etc. (relevant to the legislation involved), and to that given in guidance from the Home Office and Crown Prosecution Service. The policy takes account of the Enforcement Concordat, which the Council signed in 1998.

#### **4. Formal Notices**

4.1 It is appropriate to use formal notices broadly in three sets of circumstances: -

- where there is no confidence that an informal approach will be successful, e.g. where there is a history of non-compliance with informal notices or delayed compliance;
- where circumstances present a risk such that the position must be confirmed formally, e.g. inadequate fire safety, unsafe electrical installation, use of unguarded machinery which presents a risk of serious injury; and
- where the legislation requires the service of a notice, e.g. in the case of a statutory nuisance.

4.2 Local Members and the appropriate Portfolio Holder (unless they indicate otherwise) are to be notified of the existence of any formal action, normally by being sent copies of correspondence.

#### **5. Prosecution**

5.1 Prosecution will be appropriate in a number of different circumstances: -

- a) where formal notices have not been complied with;
- b) where informal action has failed, either in the past or the present;
- c) where there has been negligence resulting in a contravention;
- d) where the risk presented by a situation or the contravention is so significant or serious that informal action would be inadequate;
- e) where in addition to a formal notice, punitive action would be justified;
- f) where prosecution would provide a useful deterrent against a repeat of the offence; and
- (g) where prosecution would provide useful deterrent publicity.

Note: (f) And (g) would not on their own be sufficient grounds for prosecution

5.2.1 However there may be occasions where prosecution is felt to be the best course of action, even though the quality of the evidence is less than ideal:

- The offence arises from particularly serious circumstances – e.g. serious public nuisance or significant risk to health.
- Clarification of a point of law is required through the courts.

Such situations will need to be particularly carefully considered in conjunction with the Council's Legal Department.

- 5.3 In the interests of consistency it is important that cases, which might lead to prosecution, are fully considered by the appropriate Team Leader , Head of Service (HoS) and legal section. This will include examination of papers and discussions.
- 5.4 There may be occasions where, although prosecution would be possible, it is considered more appropriate to use the formal caution procedure. Notes on this are available from the Home Office and in the Code of Crown Prosecutors. An example of the use of a formal caution may be where there are particular health problems, which would be adversely affected by a Court appearance, or where the perpetrator is particularly young and there are reasons to avoid a criminal record. Formal caution will only be considered where there is enough evidence for a prosecution to succeed.

## **6. Shared Enforcement**

Officers from the Environmental Health Section will also liaise with other enforcing authorities/Council Departments to ensure that, in cases, where more than one body has enforcement responsibility, the most effective course of action is chosen. This may involve, for example, agreement that one organisation should take the lead in the investigation and the other should assist or that each organisation should cover a separate aspect of the case. Examples would be the situation where Social Services and Environmental Health can enforce the provisions relating to Filthy and Verminous Premises, or an investigation into dumping of waste, which could include not only the Environment Agency, but also other surrounding Local Authorities.

## **References**

**Home Office  
Crown Prosecution Service**