

Enforcement Protocol

This document sets out the procedures that are followed by enforcement officers to help ensure that the function is carried out in an equitable, practical and consistent manner. We hope you find this document helpful but if you need further information or other documents, details of how to do this are given at the end.

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1 INTRODUCTION

- 1.1 The Enforcement Concordat is a code of practice to be followed by enforcement officers, which details what householders, businesses and others regulated by those officers may expect. The Regulatory Impact Unit of the Cabinet Office promoted the Enforcement Concordat so that a balance is found between protecting the public and the environment, and promoting a thriving national and local economy. This can only be done by carrying out enforcement functions in an equitable, practical and consistent manner.
- 1.2 The London Borough of Waltham Forest Council adopted the principles of the Enforcement Concordat on 21st December 2000.
- 1.3 Environmental Services is made up of the following services:
- Street Services
 - Planning & Transportation Services
 - Community Protection Services
 - Building Consultancy

- 1.4 The following principles reflect the commitment by all within Environmental Services to the Enforcement Concordat. Because this document seeks to cover such a wide range of enforcement powers from different areas of legislation many of the references to powers or procedures will not be applicable to all areas. This document seeks to set out our general approach to enforcement matters rather than act as a guide to procedures for any particular action that may be contemplated or taking place.
- 1.5 Where there is a shared or complementary enforcement role with another agency, regard shall be paid to the policies, procedures and practices of that agency whilst still complying with the principles of this protocol.
- 1.6 The implementation of this protocol will be carried out with regard to the Council's policy on equal opportunity in service delivery. Enforcement practices that result in the provision of a lower standard of service to any group or individual because of unlawful or unfair discrimination will not be tolerated. Enforcement Officers within Environmental Services will take practical steps to ensure that all members of the community receive a fair and equal service, according to their needs.

2 STANDARDS

- 2.1 The level of service and performance for the different enforcement functions, which the public and businesses can expect, are published in a range of documents including:
 - Corporate Aims and Objectives
 - Appropriate National Performance Plans and Indicators
 - Environmental Services Business Plan
 - Service Guides and other information leaflets

3 OPENNESS

- 3.1 Environmental Services will provide information and advice in a clear and straightforward manner on the rules that apply to residents, businesses and the local community. Where written guidance is not available, staff will be available to discuss specific requirements of legislation, general issues, specific compliance failure and other enforcement problems. The Directorate will endeavour to keep information in the public domain whilst still exercising legal and business confidentiality including, where possible, protecting the identity of members of the public who bring breaches to our attention.

4 HELPFULNESS

- 4.1 The Directorate believes that prevention is better than cure and officers will actively work with residents, businesses and others who need advice to ensure compliance with legislative controls. The Directorate will provide a courteous and efficient service and the officers will identify themselves by name. Letters, telephone messages and other service requests will be answered in accordance with published standards.
- 4.2 The Directorate will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise overlaps and time delays,

5 PROPORTIONALITY

- 5.1 On all occasions the Directorate will minimise the costs of compliance for householders, businesses and other organisations by ensuring that any action that is required is proportionate to the risks posed to those we are trying to protect.

5.2 Factors that will be considered when determining the course of enforcement action can include:

- Seriousness of the offence, especially involving risk to the public
- The likely penalty in contrast to the cost of investigation
- The age or staleness of the offence
- The circumstances, state of mind and attitude of the offender
- Whether the offence is likely to be continued or repeated
- The views of the aggrieved person/people
- Past conduct and previous history of the offender including trading history, previous similar convictions or Formal Cautions
- The alternatives to legal proceedings
- The effect of likely defences and mitigation
- Whether there has been an element of fraud, negligence or recklessness in the commission of the offence
- Whether previous action has been unable to resolve the problem
- Whether a prosecution could test an important legal point or set a precedent.
- Whether there has been a blatant disregard of legislation
- Whether any action has been taken to resolve the problem
- Whether the offence has come to light as the result of a complaint or information from an outside body

6 CONSISTENCY

6.1 The Directorate will ensure that enforcement officers carry out their duties in a fair, equitable and consistent manner. While enforcement staff are expected to exercise judgement in individual cases, the Directorate will ensure consistency on a national and regional basis by ensuring staff are aware of relevant codes of practice and practices recognised by other authorities and governing bodies such as the Local Authorities Co-ordinators of Regulatory Services (LACORS).

7 POWERS OF ENTRY

7.1 Many of the statutes enforced by the Directorate have provision for authorised officers to enter premises for the purposes of enforcing the legislation. These statutes also provide for an authorised officer to seek an entry and search warrant in certain circumstances, which must be sworn before a Justice of the Peace. The Directorate recognises that the execution of a search warrant can be intrusive and will ensure that the relevant authorised officers keep information on all warrants sought and monitor their use to ensure they are compatible with the Human Rights Act 1998 (see below).

8 ENFORCEMENT POWERS

8.1 The above guidelines are not intended to be exhaustive, but to provide a framework to ensure consistent decision-making. Where there has been an alleged breach of legislation, there are several alternatives for action depending on the nature, seriousness and public interest of the alleged infringement.

8.2 The possible courses of action include (not all actions are available to all areas of enforcement):

- Informal advice
- Formal caution
- Enforcement notices
- Stop notices
- Immediate or direct action
- Prosecution proceedings
- Injunctions and other civil sanctions

8.3 More general information on these powers is given below:

Informal advice

8.4 This course of action is most appropriate when there has been a very technical or minor breach of legislation. Advice on how to comply will be given in as clear and concise manner as possible. Where necessary the officer will detail such action in writing, specifying the action required, the legislation concerned, the time scale involved and whether the matter is a legal requirement or good practice.

Formal caution

8.5 The purpose of a Formal Caution is to deal quickly and simply with less serious offenders by diverting them initially from the criminal courts, but to enable a previous relevant offence to be cited in subsequent court proceedings.

Enforcement notices

8.6 Within the wide range of legislation enforced by officers of Environmental Services there are specific provisions detailing instances when officers can serve written, statutory notices. When such a notice is served the reason for the notice being served and any available appeal mechanism will accompany it

Stop notices

8.7 For certain serious breaches of planning control a stop notice can be served requiring the breach of control to be immediately stopped. There is no right of appeal against a stop notice, but it is usually accompanied by an enforcement notice, which does have a right of appeal.

Immediate or direct action

8.8 In certain circumstances, such as where immediate enforcement action is necessary because of the seriousness of the breach direct action can be taken. Information will be given at the time, in writing, explaining why the enforcement action is being taken, what powers are being used, and any available appeal procedures.

Prosecution proceedings

8.9 It is the Council's practice that the institution of prosecution proceedings is used as a last resort. It will normally be considered when a person is a persistent and deliberate offender, a Formal Caution has been declined, public safety issues are involved or an Enforcement Notice has been ignored.

Injunctions and other civil sanctions

8.10 Where a fine or other penalty is inadequate or ineffective in preventing repeated or continuing breaches or in order to prevent very serious breaches in limited circumstances,

there are provisions giving the local authority authorisation to seek injunctions from the High Court to restrain the offender. This measure would only be used as a last resort.

9 HUMAN RIGHTS CONSIDERATIONS

- 9.1 Every Service within the Directorate has to have regard to the Human Rights Act 1998 and the Regulation of Investigatory Powers 2000 (RIPA).
- 9.2 In every enforcement action carried out by an authorised officer the Directorate recognises that individual's human rights may be affected. The Directorate will ensure that all officers are trained in Human Rights and that planned enforcement action balances individual's rights against the wider public interest when determining the appropriate course of action
- 9.3 The Regulation of Investigatory Powers Act 2000 (RIPA) was enacted in order to give a clear statutory framework for the operation of certain intrusive investigative techniques, to provide for compliance with the Human Rights Act 1998. RIPA covers the interception, acquisition and disclosure of communications data (Part I); the carrying out of covert surveillance and use of covert human intelligence sources (Part II); and the investigation of electronic data protected by encryption (Part III). RIPA also provides for the appointment of independent Surveillance Commissioners who will oversee the exercise by public authorities of their powers and duties under the Act (Part IV).
- 9.4 Local authorities are not able to carry out intrusive surveillance. However, a designated post within each Service area will be nominated to authorise the use of directed surveillance and the conduct and use of a covert human intelligence source (CHIS).
- 9.5 Before an authorised officer undertakes such investigative techniques in any particular case the nominated post holder will ensure the investigation is both necessary and proportionate to meet specified law enforcement objectives such as the prevention or detection of crime. As required by RIPA the Directorate will ensure that appropriate authorisation systems are put in place to ensure that their use is compatible with Human Rights Act 1998.
- 9.6 Documentation for the authorisation of surveillance and CHIS's can be found via the Environmental Services Intranet.

10 COMPLAINTS AGAINST THE SERVICE

- 10.1 Complaints against the Council's services or officers are initially taken up with the departmental Complaints Officer. If the matter cannot be resolved within the service concerned, the Council has a corporate Complaints procedure, details of which can be found on the Waltham Forest website.
- 10.2 Much of the legislation enforced also contains procedures for appeal against enforcement decisions; any such appeals will be communicated at the time of enforcement action.

11 FOR FURTHER INFORMATION OR HELP

- 11.1 We hope you find this document helpful. Other documents are available from our reception (Chingford Municipal Offices, The Ridgeway, London E4 6PS) or our web site (www.lbwf.gov.uk). If you need further information please phone Waltham Forest Direct on (020) 8496 3000 or call into our reception at the Chingford Municipal Offices between 9am and 5.15pm Monday to Thursday or 9am and 5pm Fridays (the offices are closed on Bank and Public Holidays). A Duty Planning Officer is available for general planning advice between 10am and 4pm Monday to Friday on (020) 8496 3000 or in our reception.

Interpreting and translation assistance

The Council has prepared this document to assist users of its Development Control Service. If you have any difficulty reading or understanding it because English is not your first language, we will try to help you. Please tick the box, which shows which language you speak, write your name, address and telephone number and return this form, together with the document, to the address given below.

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| <p>Kansilli e ka pregaditur këtë dokument për tui ndihmuar përdorësve të Shërbimeve të Kontrollit të Zhvillimit. Po patët vështirësi për ta lexuar apo kuptuar sepse Anglishtja nuk është gjuha juaj e parë, ne do të mundohemi t'ju ndihmojmë. Ju lusim shenoni katrorin që tregon se cilën gjuhë e folni, shkruani emrin, adresën dhe numrin e telefonit dhe ktheni këtë formë, së bashku me dokumentin, në adresën e dhënë më poshtë.</p> <p style="text-align: right;">Albanian <input type="checkbox"/></p> | <p>A Junta de Freguesia preparou este documento para assistir os utentes do seu Serviço de Controlo de Desenvolvimento. Se tiver dificuldades em ler ou compreender este documento devido ao inglês não ser o seu idioma principal, nós tentaremos ajudá-lo(a). Assinale o quadrado junto ao idioma que fala, escreva o seu nome, morada e número de telefone e devolva esta folha, juntamente com o documento, para a morada em baixo.</p> <p style="text-align: right;">Portuguese <input type="checkbox"/></p> |
| <p>لقد أعد المجلس هذه الوثيقة لمساعدة مستخدمي خدمة سيطرة التنمية. وإذا واجهت صعوبة في قراءتها أو فهمها لأن الإنجليزية ليست لغتك الأولى فسنحاول أن نساعدك. الرجاء وضع علامة بالصندوق الذي يبين لغتك وأكمل اسمك وعنوانك ورقم الهاتف وأرسل كامل النموذج مع هذه الوثيقة للعنوان أدناه.</p> <p style="text-align: right;">Arabic <input type="checkbox"/></p> | <p>Dagmada ayaa diyaarisay dukumantigaan si ay ugu caawiso dadka ubbaahan Adeegga Koontaroolka Qorshaynta Dhismaha Magaalada. Haddii aad wax dhib ah kala kulanto in aad fahamto qoraalkaan waayo Ingiriisku maahan luuqaddaada koowaad, waxaan isku dayaynaa in an ku fahamno. Fadlan calaamadi sanduuqa muujinaya luuqadda aad ku hadasho, qor magacaaga, ciwaankaaga, taleefoonkaaga, dabadeedna ku soo celi foomka, oo uu lasocdo qoraalkan, ciwaanka hoos ku qoran.</p> <p style="text-align: right;">Somali <input type="checkbox"/></p> |
| <p>কাউন্সিল এ ডকুমেন্টটি তৈরী করেছে এর ডেভেলপমেন্ট কন্ট্রোল সার্ভিসের ব্যবহারকারীদেরকে সহায়তা করার জন্য। ইংরেজী আপনার প্রধান ভাষা না হওয়ায় এটি পড়তে অথবা বুঝতে যদি আপনার কোন অসুবিধা হয়, তাহলে আমরা আপনাকে সাহায্য করতে চেষ্টা করবো। দয়া করে আপনি যে ভাষায় কথা বলেন সেই বাস্কে টিক চিহ্ন দিন, আপনার নাম, ঠিকানা ও টেলিফোন নাম্বার লিখুন এবং এ ফর্মটি ডকুমেন্টটির সাথে নীচের ঠিকানায় ফেরৎ পাঠান।</p> <p style="text-align: right;">Bengali <input type="checkbox"/></p> | <p>El Ayuntamiento ha redactado este documento para ayudar a los usuarios del "Development Control Service [Servicio de Control del Desarrollo]. Si le resulta difícil leer o entenderlo porque el inglés no es su idioma materno, intentaremos ayudarle. Marque la casilla que indica el idioma que habla, rellene el formulario con su nombre, dirección y número de teléfono y devuélvalo, junto con el documento, a la dirección abajo reseñada.</p> <p style="text-align: right;">Spanish <input type="checkbox"/></p> |
| <p>区议会政府准备了这份文件来介绍我们的发展控制服务。如果因为英文不是您的母语，您不能读懂这篇文章，我们可以帮您忙。请选择中文，填写您的姓名及地址以及电话号码，并将此文件寄回以下给出的地址。</p> <p style="text-align: right;">Chinese <input type="checkbox"/></p> | <p>Belediyemiz bu belgeyi İyमार Kontrol Hizmetlerinden yararlananan kimselere yardımçı olmak amacıyla hazırlamış,tır. Asıl diliniz İyngilizce olmadıyğ ý için bunu okumakta veya anlamakta güçlük çekiyorsanız, size yardımçı olmak isteriz. Lütfen hangi dili konuştuğ unuzu belirten kutuyu iş,aretleyip adınzyzıy- soyadınzyzıy, adresinizi ve telefon numaranzyzıy yazdıktan sonra, bu formu belgeyle birlikte as,agç ýdaki adrese gönderin.</p> <p style="text-align: right;">Turkish <input type="checkbox"/></p> |
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