

Environmental Services Enforcement Policy

This document explains what you can expect of the Council's Environmental Services in respect of our approach to dealing with non-compliance. It must be read in conjunction with the Council's Corporate Enforcement Policy which sets out our commitment to the Principles of Good Enforcement and the Regulators' Code.

<http://www.southkesteven.gov.uk/index.aspx?articleid=8678>

1.0 Regulated Areas

Environmental Services make a fundamental contribution to the maintenance and improvement of public health, wellbeing and quality of life within South Kesteven. The services within the scope of this policy include:

Environmental Protection	Environmental Crime
Health and Safety at Work	Private Sector Housing
Public Health	Infectious Diseases
Smoke Free	Food Safety
Noise and Nuisance	Antisocial Behaviour

2.0 General Principles

- 2.1 This policy guides all officers involved in investigation, enforcement action and recommending or deciding upon the commencement of legal proceedings within the scope of Environmental Services.
- 2.2 We will have regard to the Regulators' Code and in particular we will:
 - Carry out our activities in a way that supports those we regulate to comply and grow
 - Provide simple and straightforward ways to engage with those who we regulate and to hear their views
 - Base our regulatory activities on risk
 - Share information about compliance and risk
 - Provide clear information, guidance and advice to those we regulate to help them meet their responsibilities
 - Ensure our approach to regulatory compliance is transparent
- 2.3 Whilst the general principles outlined in this policy will apply in all cases, each case will be considered on its own merits before a decision is reached. Where we decide that a provision in the Regulators' Code is either not relevant or is outweighed by another provision, this will be properly reasoned, based on material evidence and documented.

3.0 Inspections and Visits

- 3.1 Inspections or visits will not take place without a reason. They may be undertaken in response to a complaint; in accordance with risk based programmes; in accordance with statutory requirements or on receipt of relevant intelligence.
- 3.2 Where complaints are being investigated, notice of inspections / visits will not normally be given unless we are required to do so by legislation.
- 3.3 In accordance with the Food Standards Agency Food Law Code of Practice most food hygiene inspections will be carried out unannounced during normal hours of operation of the business. In some circumstances, however, appointments to undertake an inspection have to be made.
- 3.4 On occasion, if admission has been refused, premises are unoccupied or prior warning of entry is likely to defeat the purpose of the entry, we may apply to a Justice of the Peace for a Warrant to enter premises, by force if necessary.

4.0 Liaison with other Enforcement Agencies and Regulatory Bodies

- 4.1 Where appropriate, enforcement activities within Environmental Services will be co-ordinated with other regulatory bodies and enforcement bodies to maximise effectiveness
- 4.2 Environmental Services will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies, including (but not limited to):
 - a) Government Agencies (e.g. Health and Safety Executive, Environment Agency, UK Visas and Immigration, HM Revenue and Customs, Public Health England, DVLA etc)
 - b) Police Forces
 - c) Fire Authorities
 - d) Statutory undertakers
 - e) Other Local Authorities
- 4.3 The Primary Authority Scheme was established by the Regulatory Enforcement and Sanctions Act 2008 (as amended). Officers will liaise with Primary Authorities when applicable e.g. before taking enforcement action. We will comply with the requirements of this Act when we are considering taking enforcement action against any business or organisation that has a primary authority, and will have regard to any guidance issued by the Secretary of State in relation to Primary Authority.

- 4.4 Where there has been a work-related death at a premise where the local authority is the enforcing authority, we will work with other regulators involved in the investigation to consider any health and safety offences as effectively and efficiently as possible. This will be undertaken in accordance with the Work-related Deaths Protocol for the Police, Crown Prosecution Service, Local Authorities, and the Health and Safety Executive.
- 4.5 We will have regard to the Health and Safety Executive Enforcement Management Model (EMM) and associated guidance when considering enforcement decisions relating to health and Safety at Work.
- 4.6 Where there are shared enforcement responsibilities, for example in relation to flytipping offences where both local authorities and the Environment Agency may take enforcement action, we will have regard to any agreed procedures or protocols which exist with other enforcement agencies.

5.0 Enforcement Options

- 5.1 We recognise that most individuals and businesses wish to comply with the law, and we will seek to assist them in doing so without imposing unnecessary regulatory burdens. However, where it becomes necessary to take enforcement action we will do so. The level of action varies from no action to court proceedings.
- 5.2 The full range of enforcement options is detailed in the Council's Corporate Enforcement Policy.
- 5.3 Decisions about any prosecution proceedings will involve consultation between the Investigating Officer; Team Leader; Business Manager and Legal Services.

6.0 Power to Charge for Enforcement

- 6.1 Where legislation allows, we will make reasonable charges as we consider appropriate as a means of recovering expenses associated with the service of enforcement notices e.g. under Section 49 of the Housing Act 2004. Charges will be published in accordance with the Council's Fees and Charges scheme.

7.0 Fixed Penalty Notices

- 7.1 Fixed penalty Notices (FPN) may be issued by authorised officers for certain offences, giving the offender the opportunity to discharge liability by payment of a specified amount within a specified time period.
- 7.2 Where the council has discretion to set the amount of the fixed penalty this will be detailed in the Council's Fees and Charges scheme, otherwise the fixed penalty amount will be as determined in relevant legislation. Where a fixed penalty amount is reduced for early payment this will also be detailed in the Council's Fees and Charges scheme.
- 7.3 If a FPN remains unpaid after the expiry of the specified payment period the case will be referred to be considered for prosecution.

- 7.4 FPNs will only be issued where there is sufficient evidence to prosecute. Normally, offences resulting in an FPN will be witnessed directly by the officer. However, we may consider it appropriate to issue an FPN to an offender based on other direct evidence or reliable witness testimony. FPNs may be issued either “on the spot” or by post.
- 7.5 Officers will have regard to the Department for Environment Food & Rural Affairs (DEFRA) guidance “Fixed penalty notices: issuing and enforcement by councils”
<https://www.gov.uk/guidance/fixed-penalty-notices-issuing-and-enforcement-by-councils>
- 7.6 Payment of FPNs by instalments will not be accepted.

8.0 Monitoring and Review

- 8.1 This policy will be reviewed in line with the Council’s Corporate Enforcement Policy.