APPENDIX 1



Enforcement Policy

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Revision History

Document

Enforcement Policy

Author

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Review Date

This Policy and Appendices A-D inclusive will be reviewed every 3 years or earlier if deemed necessary due to relevant legislative changes or organisational updates or changes

Versions

Version	Revision Date	Revised by	Revisions made
1.0	September 2014	Graham Helm	New policy
2.0	June 2016	Marianne Rolfe	Regulatory appendix added
3.0	October 2018	Marianne Rolfe	Additional enforcement responsibilities added
4.0	September 2021	Marianne Rolfe	Inclusion of Stratford DC and improved clarity
5.0	August 2022	Marianne Rolfe	Removal of Stratford DC
6.0	May 2026	Paul Hughes	General Review Addition of Appendix C (Private Sector Housing) and improved clarity Addition of Appendix D (Fixed Penalty Notices Process)

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ENFORCEMENT POLICY

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1. Introduction

1.1 This Policy was developed following a review of Warwick District Council's ('*The Council'*) existing service-specific enforcement policies, and to ensure that all services are compliant with the Regulators' Code. It should be read in conjunction with relevant service standards as published through the Council's website (including but not limited to Statutory Service Area Plans, Employee Code of Conduct, etc.).

1.2 Some service areas of the Council have powers, enforcement actions or considerations specific to their areas of work and have appendices attached to this Policy. The Council website also provides further service-specific advice and guidance in regard to matters concerning enforcement.

1.3 Business support organisations including Coventry and Warwickshire Chamber of Commerce, Federation of Small Businesses and the local Landlord Steering Group have been consulted in regard to this Policy.

1.4 The Policy sets out the approach of Warwick District Council in dealing with non-compliance and a commitment to good enforcement practice informed by the principles of good regulation. Commitments in the Policy are made by 'The Council'.

1.5 Part 2 of The Legislative and Regulatory Reform Act 2006 requires the Council to have regard to the Principles of Good Regulation when exercising a specified regulatory function. This includes services such as Environmental Health, Licensing, Contract Services, Private Sector Housing, Planning Enforcement and Development Management, Parking Enforcement and Community Safety/ASB enforcement.

1.6 The Council will exercise its regulatory activities in a way which is:

- Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.
- Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures.
- Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. We will work with other regulatory agencies and share and develop good practice.

- Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return.
- Targeted – we will focus our resources on higher risk enterprises and activities, including those that seek to evade regulation or those with poor compliance track records.

1.7 Regulators' Code

The Regulators' Code came into statutory force in April 2014 and provides a clear framework for transparent, open and accountable regulatory delivery. A copy can be found at:
www.gov.uk/government/publications/regulators-code

The Council has had regard to the Regulators' Code in the preparation of this Policy. In certain instances, we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

Certain legislation, such as the Renters Rights Act 2025 and Part 1 of the Housing Act 2004 sit outside the Regulators Code, meaning that local authorities can move more swiftly to formal enforcement action without necessarily adopting a graduated approach.

1.8 Human Rights Act 1998

The Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is given to the right to a fair trial and the right to respect for private and family life, home and correspondence.

1.9 Data Protection Act 2018

Where there is a need for the Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 2018, the UK General Data Protection Regulations (GDPR) and any superseding legislation.

1.10 The Code for Crown Prosecutors

When deciding whether to prosecute, the Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Crown Prosecution Service.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test':

Evidential Test - is there sufficient evidence against the defendant?

When deciding whether there is sufficient evidence to prosecute, the Council will consider what evidence can be used in court and the strength of that evidence. We must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.

Public Interest Test - is it in the public interest for the case to be brought to court?

The Council will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The public interest factors that we will consider are detailed under the enforcement options available to us in Section 6.1.

1.11 Regulatory Enforcement and Sanctions Act 2008 ('the RES Act')

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a Primary Authority and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

The Council is committed to avoid imposing unnecessary regulatory burdens, and to assessing whether similar social, environmental and economic outcomes could be achieved by less burdensome means.

1.12 Enforcement Policy Availability

This Enforcement Policy can be downloaded from the website:

- Insert new link once policy adopted
- or a copy can be requested by emailing dp@warwickdc.gov.uk

The Council's accessibility statement requires us to maintain and update our website as necessary in plain English in terms of the World Wide Web Consortium (W3C) guidelines. We will ensure that our publications and press statements are accessible to all communities and we aim to provide information in accessible formats on request.

This version of the Policy was approved by Warwick District Council on the 10th June 2026 to take effect on the 17th June 2026, allowing for circulation to all staff and publishing on the Council's website. It replaces all previous versions of the Council's Enforcement Policy and its appendices.

2. Purpose of the Policy

This Policy explains to anyone affected by the Council's regulatory activities what to expect in respect to its approach to dealing with non-compliance.

Authorised officers will act in accordance with the Policy**.** All services are subject to internal audit to ensure actions are appropriate to the Policy and

performance data will be published on the Council's website through the relevant appropriate mechanisms, such as committee reports.

3. Application of the Policy

This Policy applies to the following regulatory services which are the responsibility of Warwick District Council:

- Anti-Social Behaviour
- Dog Control and Fouling
- Environmental Protection
- Food Safety
- Occupational Health and Safety
- Housing (Landlord Services)
- Licensing
- Planning Enforcement
- Private Sector Housing
- Waste Enforcement
- Parking Enforcement

As stated in 1.2 above, some service areas and regulatory functions of the Council have service or function-specific powers, enforcement actions or considerations specific to the relevant areas of work and further information about these is set out in the following appendices: -

- Appendix A – Food Safety, Occupational Health and Safety, Licensing
- Appendix B - Planning Enforcement
- Appendix C – Private Sector Housing
- Appendix D – Fixed Penalty Notices

4. Our approach to dealing with non-compliance

4.1 Explanation of the approach to dealing with non-compliance

The general principle will usually hinge around negotiation, advice, guidance, education and support to ensure maximum benefit from minimum resource input, aiming to avoid imposing unnecessary regulatory burdens and to resolve non-compliance issues informally, wherever possible. Enforcement procedures will always follow statutory requirements and guidance. Whilst court proceedings including prosecution will normally be directed towards those who deliberately fail to comply there will also be occasions where proceedings are still deemed to be appropriate in certain other circumstances (see 4.2).

We will clearly explain any non-compliance, the actions required, or decisions taken, with reasons for these.

We will provide those who are subject to enforcement action with an opportunity for dialogue in relation to the advice given, actions required, or decisions taken in relation to non-compliance.

Dialogue with the business or regulated person will be available through all communication channels (face-to-face, Microsoft Teams, telephone, letter, email) and access to translators is available, if required.

Whilst dialogue and negotiation are encouraged, where a criminal offence is being investigated, conversations or correspondence may need to be undertaken in accordance with the requirements of the Police and Criminal Evidence Act 1984 and its associated codes.

The Council's Scheme of Delegation gives the relevant Head of Service responsibility for managing investigations and making decisions on enforcement action. The Head of Service may authorise other officers to act on their behalf.

Where it shares or has a complementary role with other agencies, the Council will consult those agencies, including Primary Authorities, before taking any formal enforcement action.

All staff must demonstrate commitment to equality in the performance of their regulatory duties and in their professional relationships with regulated persons to ensure fair and objective enforcement. The Council will operate in accordance with its
Equality_and_Diversity_Policy_Statement___June_2016.pdf

The Council will always aim to publicise successful convictions and where appropriate, civil penalties, to reassure compliant businesses or regulated persons that economic competition is a 'level playing field'.

4.2 Explanation that the action that the local authority chooses to take depends upon the particular circumstances and the approach of the business or regulated person to dealing with the breach

Enforcement action will always be proportionate and follow relevant statutory guidance. Formal court proceedings are usually a final step in a programme of enforcement actions. Enforcement action will usually be graduated. However, the Council will deal firmly with those that deliberately or persistently fail to comply. Where an absolute offence exists (for example non-compliance with a notice, failure to obtain relevant permissions, consents or licences) prosecution or civil penalty may still be considered the most appropriate course of action regardless of aggravating circumstances or a previous history of non-compliance.

The Council encourages all of those regulated to request advice and guidance from Officers at an early stage. Where incidents of non-compliance are revealed voluntarily and there is a willingness to resolve the issue the Council will provide support and often seek to avoid the need for formal enforcement action having regard to the particular circumstances.

4.3 Explanation of the factors that influence the local authority's response to breaches of the rules

The Council fully supports the principles in the Regulators' Compliance Code which sets out obligations in relation to enforcement. It sets out the need to consider a range of matters including economic progress, accountability, and risk assessment.

Where applicable, the Council will take note of the Primary Authority on responses to breaches.

The Council's approach to checking whether any previously identified non-compliance issues that were dealt with by the provision of advice or guidance have been rectified, will generally be through the next scheduled visit. However, where significant improvement is required an earlier revisit may be appropriate.

Where the Council considers that breaches should be investigated by another enforcement body, the details will be shared with that organisation.

4.4 Explanation of the local authority's approach to complaints of non-compliance

The Council will prioritise all complaints of non-compliance and act accordingly. Any follow-up will be dependent on the circumstances of each case and the requirements of the relevant legislation.

5. Conduct of investigations

5.1 Explanation of the processes for investigating alleged breaches

All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to the Council:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998
- Attorney Generals Guidelines on Disclosure
- the Protection of Freedoms Act 2012

These Acts and the associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

The Council's 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. Much of this legislation provides the officers with powers of entry at all reasonable times with the associated offence of obstruction if entry is refused.

Where a business is allegedly in breach of relevant legislation and has a partnership agreement with a Primary Authority, early communication will take place with that authority.

When exercising its statutory power to seize items during an investigation, the Council will follow the relevant legal process. If there is reason to believe access will be denied, the Council will apply to the Magistrates' Court for a warrant to execute this process.

Where an enforcement investigation is taking place, any person suspected of committing an offence may be invited to attend an interview under caution in accordance with the Police and Criminal Evidence Act 1984 at the Council offices or another appropriate location and will be given the opportunity to be legally represented at the interview. Interview questions may also be presented in writing and answers required within an identified timescale in accordance with the Police and Criminal Evidence Act 1984. The Council will always endeavour to expedite investigations into non-compliance and in any case ensure that statutory time limits for investigations are achieved.

Formal court proceedings will only be initiated where relevant evidential and public interest test have been met to the satisfaction of the Council's delegated and authorised officers and representatives.

5.2 A commitment to keep all parties informed on progress

The Council will, where possible, aim to keep alleged offenders and witnesses informed on the progress of investigations.

6. Decisions on enforcement action

6.1 The range of actions that are available to the local authority are set out in legislation and include:

Compliance Advice, Guidance and Support

The Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction, but it may be presented in evidence.

The Council recognises that where a business has entered into a partnership with a Primary Authority, the Primary Authority will provide compliance advice and support, and the Council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the Primary Authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, the Council recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

Voluntary Undertakings

The Council may accept voluntary undertakings to rectify breaches and/or prevent recurrences. In accepting these voluntary undertakings, the Council will expect that these are carried out and completed within agreed timescales.

The Council will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

Statutory (Legal) Notices

In respect of many breaches the Council has powers to issue statutory notices. These include but are not restricted to: 'Abatement Notices', 'Prohibition Orders', 'Emergency Prohibition Orders', 'Improvement Notices', 'Planning Enforcement Notices' and Remedial Action Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution, civil penalty and/or, where appropriate, the carrying out by the Council of work in default. In some cases, charges can be levied for the service of a statutory notice. Where applicable, this is outlined on the Council's website. Fees and charges - Download - Warwick District Council.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or require safeguards to have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges, dependent upon the legislation being used.

Works in Default

Where statutory provision exists, the Council will consider carrying out works in default to remedy non-compliance. In such cases, the Council's reasonable costs are recoverable from the offender.

Civil Penalties

A civil penalty is an alternative sanction to prosecution and can only be used where there is a specific power to do so, for example certain private sector housing offences, and in accordance with the Council's Civil Penalties Policy (Private Sector Housing) - Download - Warwick District Council. and government guidance. A civil penalty does not result in a criminal conviction.

Civil penalties can be appealed to tribunals. Civil penalty income can be retained by the Council and used to support ongoing enforcement work. If a civil penalty is not paid, the Council would normally seek to recover the penalty using civil debt recovery action.

Fixed Penalty Notices

A fixed penalty notice (FPN) is an offer to discharge liability to prosecution for a specified offence by payment of a fixed sum. It is not a fine and does not constitute a criminal conviction. Where an FPN is issued and not paid within the specified time period, the Council will consider prosecution for the original offence. The Council does not prosecute for non-payment of a Fixed Penalty Notice.

Injunctive Actions, Enforcement Orders etc.

In some circumstances the Council may seek a direction from the court (in the form of an order or an injunction) 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, a serious offence which may lead to imprisonment.

The Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, the Council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

Simple Caution

The Council may issue Simple Cautions (previously known as 'Formal Cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the Simple Caution. Where a Simple Caution is offered and declined, the Council will consider prosecution.

A Simple Caution has the same standing as a previous conviction and forms part of the offender's criminal record. It is likely to influence how the Council 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. If a Simple Caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Currently the simple caution details are held by the council and are not recorded on a central criminal database.

Simple cautions will be considered and used in accordance with current Government Guidance.

Prosecution

The Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute the Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Crown Prosecution Service.

Prosecution will only be considered where the Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

Before deciding that prosecution is appropriate, the Council will consider all relevant circumstances carefully and will have regard to the following public interest criteria:

a) How serious is the offence committed?

b) What are the circumstances of, and the harm caused to the victim(s)?

c) Is prosecution a proportionate response?

A successful prosecution will result in a criminal record. The court may impose a range of sentences depending upon the nature of the offence and in respect of particularly serious breaches, a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. (e.g. the Proceeds of Crime Act 2002 may be used to recover financial gain arising from criminal activity).

Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors or from holding a licence/permit or consent.

Refusal/Suspension/Revocation of Licences

The Council issues several licences and permits. The Council also has a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment, such as a reduced term or attached special conditions.

When considering future licence applications, the Council may take previous breaches and enforcement action into account. A person convicted of a relevant offence may be judged to be no longer a 'fit and proper person' and their application refused.

6.2 Explanation of how decisions are made on enforcement action

When considering the type of enforcement action to be applied, the Council will consider the following principles:

a) Aim to change the behaviour of the offender.
b) Aim to eliminate any financial gain or benefit from non-compliance.
c) Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction.
d) Be proportionate to the nature of the offence and the harm caused.
e) Aim to restore the harm caused by regulatory non-compliance, where appropriate and,
f) Aim to deter future non-compliance.

The Council will consider risk at every stage of its decision-making process, choosing the most appropriate type of enforcement action, including taking note of the compliance record of those being regulated.

The Council recognises the statutory requirement under Primary Authority to notify the Primary Authority of proposed enforcement action.

The Council will keep under review the effectiveness of its chosen regulatory activities in delivering the desired outcomes and make any necessary adjustments accordingly.

6.3 Explanation of how decisions are communicated to those affected

Where a right of appeal exists to any regulatory action, the Council will include full details of the appeal process at the time of taking the action. Regulated persons will be advised of their rights to representation at the time of being invited to any formal interview or hearing.

7. Review of this policy

This Policy will be reviewed following any new Government guidance or as a result of feedback received from local businesses or regulated persons as appropriate. It will be refreshed in accordance with the Council's policies guidance and procedures.

8. Comments and Complaints

8.1 Details of processes for complaints and appeals

An appeal against a regulatory decision can in the first instance be directed to the relevant Head of Service. If the action is subject to a formal appeal process (e.g. through the Magistrates' Court or Tribunal), the appellant may wish to proceed with this approach.

Complaints about the conduct of local authority staff can be made by:

- submitting a website complaint form: Your details | Council complaint
- email to complaints@warwickdc.gov.uk

- telephone 01926 958845
- post to Warwick District Council, Town Hall, Parade, Royal Leamington Spa CV32 4AT
- raising in person to any member of staff or elected member.

A service user can still make a complaint in cases where the Council has instigated legal proceedings. However, making a complaint will not stop any impending legal action.

Where statutory notices have been served, making a complaint does not replace the statutory rights of appeal or the right to make representations. It also does not allow extra time to comply with any notice or order.

If a service user disagrees with a statutory notice, they should act as specified in the notice or order to make an appeal, if any exists. Reference should be made to any notes that may accompany the notice or order for more detail.

A complaint regarding the outcome of a Court or Tribunal decision will not be investigated as part of the Council's complaints process and must follow the Court/Tribunal appeal process.

APPENDIX A

Food Safety, Occupational Safety and Health and Licensing Enforcement Policy

1. Introduction

1.1 This Regulatory Service Appendix is intended to be read in conjunction with the Council's published Enforcement Policy. It will provide specific details that relate to the enforcement of matters with respect to food safety, occupational safety and health and licensing.

2. Background

2.1 As a **food authority** in the terms of the Food Safety Act 1990, the Council has a duty to enforce food safety legislation, and a responsibility to follow associated Codes of Practice under the Act. It is required to enforce the legislation in pursuit of the particular interests of consumers within the authority's area including members of the public, employees and business owners by:

- protecting public health, and
- ensuring a fair-trading environment for local businesses.

2.2 Hygiene inspections are targeted in accordance with the risk assessment parameters set by the Food Standards Agency and the corresponding inspection frequencies.

2.3 The Council has a shared enforcement role with the County Council in respect of food labelling requirements. This situation is managed by case-by-case communication between the two authorities and by regular meetings of the Warwickshire & Coventry Food Liaison Group.

2.4 Food safety and quality is determined on inspection or sampling and by the investigation of complaints made to the Department.

2.5 Local authorities have statutory responsibilities to make adequate arrangements for the enforcement of health and safety law in relation to specified work activities- including offices, shops, retail and wholesale distribution centres, leisure, hotel and catering premises. Health and Safety Executive (HSE) inspectors also enforce health and safety law in workplaces allocated to them.

2.6. The appropriate use of enforcement powers, including prosecution, is important, both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures to safeguard health, safety and welfare. In allocating resources, enforcing authorities should have regard to the principles set out below, the objectives published in the National Enforcement Code, and the need to maintain a balance between enforcement and other activities, including

inspection.

2.7 HSE expects enforcing authorities to use discretion in deciding when to investigate or what enforcement action may be appropriate. The decision-making process which inspectors will follow when deciding on enforcement action will be set down in writing and made publicly available. The judgements will be made in accordance with the principles of Philip Hampton's report 'Reducing administrative burdens: Effective Inspection and Enforcement'.

2.8 The **Licensing** function of the council Team covers the following areas: -

- Licensing Act 2003
- Gambling Act 2006
- Sexual Entertainment Venues
- Private Hire driver, vehicle and operator's licences
- Hackney Carriage driver and vehicle licences
- Street Trading Consents (WDC) & Licences (SDC)
- Small lotteries
- Street Collections
- House to House collections
- Scrap Metal Dealers
- Animal Licensing
- Pavement Licences

2.9 This policy should be read in conjunction with codes of practice and guidance issued by the following:-Food Safety Act 1990 Code of Practice; Approved Codes of Practice (ACOPs); HSE and HELA guidance; Home Office, Institute of Licensing, National Association of Licensing Officers and Gambling Commission.

2.10 All actions will be taken only by duly authorised officers in accordance with the relevant Council's Scheme of Delegation.

3. Enforcement Options

3.1 In making a choice of action, the appropriate subject guidance below will be followed:- Food Safety Act 1990 Code of Practice; Approved Codes of Practice (ACOPs); HSE and HSE's Enforcement Management Model (EMM) and HELA guidance; Home Office, Institute of Licensing, National Association of Licensing Officers and Gambling Commission.

3.2 Any significant choice of action which might be considered to be inconsistent with such guidance, advice and views will be made in consultation with the Warwickshire & Coventry Food, Safety and Licensing Liaison Group, the Food Standards Agency, HSE and the Primary Authority. It is recognised, however, that only the Courts can make decisions on matters of legal judgement.

3.3 In most instances no action will be taken where the offending circumstance has been occasioned by inadvertence and is proactively in

the process of being remedied, however, each case will be considered individually.

4. Informal Action

4.1 Informal action is the issue of verbal advice (always confirmed in writing on the visit report or by letter), written advice with no date for action requested, written advice with a date specified for completion, and written warnings that future offences may result in prosecution.

4.2 Recommendations are necessary in order to assist the duty holder in taking all reasonable precautions and exercising all due diligence to avoid offences. Such recommendations will be clearly differentiated from legal requirements which will be identified by statute and regulation or section number.

4.3 Required improvements, including timescales for completion are agreed by all parties including where necessary, the Licence Holder, Designated Premises Supervisor and other relevant Responsible Authorities (e.g. Police, WDC Environmental Health Officers and Planning Officers).

5. Statutory Notices

5.1 **Food - Hygiene Improvement Notices** will be served by authorised Officers in circumstances related to risk to health, in accord with Code of Practice guidance, in one or more of the following circumstances:

i. There are such significant contraventions of the legislation that it is anticipated that a prosecution would be successful in the Magistrates' Court if the evidence were placed before them.

ii. There is a justifiable lack of confidence in the food business operator to respond to an informal approach.

iii. There is a history of non-compliance with informal action.

iv. Standards are generally poor with little duty holder awareness of statutory requirements.

v. The consequences of non-compliance could have negative implications for public health or fair trading.

vi. Although it is intended to prosecute, effective action also needs to be taken as quickly as possible to remedy continuing contraventions.

5.2 The time limit for compliance with the requirements of the notice will be made clear verbally with the food business operator or appropriately negotiated. Regard will be had in the negotiations to consistency and feasibility. The food business operator will be advised that any unforeseen

circumstances which arise in the time period, which may cause it to overrun, must be drawn immediately to the attention of the relevant authorised officer. On written application, the originating officer will have regard to the following criteria in granting an extension of the time period, or otherwise:

i. The risk to public health associated with the fault if an extension was granted.

ii. The reason for the request.

iii. The remedy involved.

iv. The past record of compliance of the food business operator; and

v. Any temporary action which the food business operator proposes to take to remedy the defect.

5.3 As a rule, failure to comply with a Hygiene Improvement Notice will be considered for prosecution. Only unavoidable circumstances or mitigating information coming to light concerning factors outside the control of the duty holder, will justify a variation of this policy.

5.4 **Food - Hygiene Emergency Prohibition Notices** will be served by authorised Officers in one or more of the following circumstances:

i. He/she is satisfied that there is an imminent risk of injury to health.

ii. Not taking immediate and decisive action to protect public health is unjustifiable.

iii. There is no confidence in the integrity of an offer made by a food business operator to close the premises voluntarily and to keep the premises closed until the risk is removed.

5.5 **Occupational Safety and Health – Improvement Notices**

i. Paragraphs 5.1 I – vi and 5.2, apply.

ii. As a rule, failure to comply with a Health and Safety Improvement Notice will be considered for prosecution. Only unavoidable circumstances or mitigating information coming to light concerning factors outside the control of the duty holder, will justify a variation of this policy.

5.6 **Occupational Safety and Health – Prohibition Notices** will be served by authorised Officers when there is a requirement to stop work to prevent a serious risk of personal injury.

i. Prohibition Notices will be issued to have immediate or deferred

effect.

ii. There does not have to be a breach of any statutory requirements before a prohibition notice is issued, but an officer who thinks there has been will specify it in the Prohibition Notice.

5.7 Primary Authorities will be notified of any statutory notices served.

6. Prosecution

6.1 The decision to prosecute rests with the Council and/or Duly Appointed Inspector (in the case of Health & Safety cases) and is delegated to the Head of Community Protection in consultation with the appropriate elected Member. See the Council's Scheme of Delegation.

6.2 The recommendation to prosecute, based on the available evidence and professional judgement, comes from the Team Leader and Section Manager by way of formal report to the Head Service and in consultation with a Solicitor acting for the Council.

6.3 Prosecutions will be related to risk and will not be used as a punitive response to minor breaches of legislation.

6.4 The objectives of any prosecution must be:

i. To concentrate the mind of the duty holder /food business operator/Licence holder on the necessity to be duly diligent and to take all reasonable precautions to ensure food safety and hygiene/health and safety and public safety (licensing);

ii. To demonstrate to the public that their interests are being protected.

iii. To demonstrate to other duty holders/licence holders/food business operators that the law is being evenly applied.; and

iv. To enable the Courts to decide the appropriate punishment.

6.5 **Before deciding whether a prosecution should be taken one or more of the following factors will be considered:**

i. The seriousness of the alleged offence.

ii. Whether death or personal injury resulted from the alleged offence.

iii. The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it.

iv. The previous history of the party concerned.

v. The likelihood of the defendant being able to establish a statutory defence e.g. 'due diligence' or 'so far as is reasonably practicable defence'.

vi. The availability of any important witnesses and their willingness to cooperate.

vii. The willingness of the party to prevent a recurrence of the problem.

viii. The probable public benefit of a prosecution, the importance of the case (e.g. whether it might establish a legal precedent) and satisfaction of the tests in the Code for Crown Prosecutors.

ix. Whether other action, such as issuing a simple caution in accordance with Guidance - Ministry of Justice - Simple Caution for Adult Offenders – 13 April 2015 or a Hygiene Improvement Notice (H.I.N.), Improvement Notice (I.N.) or imposing a prohibition, would be more appropriate or effective.

xi. Any explanation offered by the affected company.

xii. False information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to a significant risk.

xiii. Inspectors have been intentionally obstructed in the lawful course of their duties.

These considerations will be detailed in all reports recommending prosecution.

6.6 Before a decision is made to prosecute, the duty holder/food business operator/Licence holder will be invited to an interview under the Police and Criminal Evidence Act 1984 in order to make representations before a decision is made as to the appropriate course of action to be taken. The duty holder/food business operator/Licence holder will have an opportunity to be accompanied by a legal representative at the interview. This is the duty holder/food business operator/Licence holder's opportunity to present any facts or views he considers pertinent to the decision-making process.

6.7 The circumstances where prosecution is warranted are one or more of the following:

i. The offence involves a flagrant breach of the law such that public health, safety or well-being is or has been put at risk, or fair trading is prejudiced.

ii. The offence involves a failure to correct an identified serious potential risk to safety having been given a reasonable opportunity to comply with requirements.

iii. The offence involves a failure to comply with a statutory notice.

iv. There is a history of similar offences.

6.8 If it is then considered by the Team Leader and Section Manager that prosecution is appropriate the file of evidence will be presented to the Head Service with a Report by the Relevant Manager recommending prosecution. If the Head of Service agrees with the recommendation in the report, it will be presented to the Solicitor acting for the Council to review, and, if the evidence is considered sufficient for there to be a realistic prospect of conviction, and the public interest test is satisfied, then legal proceedings will normally be instigated.

6.9 Where there is a risk of injury to health the Solicitor will, in the course of the hearing, draw the Court's attention to its duty to impose a Prohibition Order.

6.10 Primary, Home and Originating authorities will be notified of the results of prosecutions.

- Primary Authority: A legal partnership between business and a local authority which provides a means for businesses to receive assured and tailored advice on meeting regulatory standards through a single point of contact. This is a chargeable service
- Home Authority: A partnership without legal standing of a business operating within the district boundary at a regional or national level with a local authority. The business is assisted through the provision of advice, guidance and information. Home Authority predates Primary Authority and as a result new Home Authorities are unlikely to be arranged. There are only a few existing arrangements.
- Originating Authority: The local authority within whose boundary a business which manufactures a food product is located.

7. Simple Cautions

7.1 Simple Cautions in accordance with Guidance - Ministry of Justice - Simple Caution for Adult Offenders – 13 April 2015 will only be issued by the Council in the following circumstances:

i. There is evidence sufficient to give a realistic prospect of conviction;

ii. The duty holder/food business operator/Licence holder admits the offence; and

iii. The duty holder/food business operator/Licence holder understands the significance of the simple caution and gives informed consent.

7.2 If a duty holder/food business operator/Licence holder refuses the offer of

a Simple Caution then a prosecution will be instituted.

7.3 Primary, Home and originating authorities will be notified of Simple Cautions issued. The Caution will be cited in any subsequent proceedings as a previous offence.

8. Revocation of Approvals/Licenses/Permits/Consents & Registrations

8.1 The Council will exercise its power of revocation, suspension or refusal to grant in the circumstances dictated by the appropriate regulations, and where it has not been possible to secure compliance by less draconian means.

APPENDIX B

Planning Enforcement Policy

1.0 Background

1.1 This policy has been prepared in accordance with paragraph 60 of the National Planning Policy Framework 2024 which advises Councils to consider publishing a local enforcement plan to manage enforcement activity proactively in a manner appropriate to their area and to set out how that activity will be undertaken.

1.2 The Framework advises that enforcement action is discretionary, and that Councils should act proportionately in responding to suspected breaches of planning control.

1.3 The Local Planning Authority is in the process of drafting a Local Planning Enforcement Plan which will detail the decision-making process and timescales for investigations. It will be read in conjunction with this Enforcement Policy once approved.

2.0 Planning Enforcement at Warwick District Council

2.1 The Council's Development Services includes a dedicated planning enforcement team which investigates alleged breaches of planning control and works to remedy unacceptable unauthorised development.

2.2 In order to ensure the effective use of that resource directed at the most harmful unauthorised development first, a scheme of prioritisation is in use which is included at Appendix 1. That scheme is also intended to assist members of the public to understand the priority that will be given to issues with which they may be concerned.

3.0 What is a Breach of Planning Control?

3.1 The following list sets out the main scenarios in which a breach of planning legislation may be considered to have occurred:

a. Building and engineering works undertaken without planning permission.

b. Material changes in the use of land or buildings undertaken without planning permission.

c. The undertaking of works that are materially different from the planning permission granted or which do not comply with either the

conditions imposed on a planning permission or the requirements of a legal agreement relating to that permission.

d. Unauthorised works to Listed Buildings.

e. Unauthorised works to trees protected by Tree Perseveration Orders (TPO) trees; trees in Conservation Areas and rural agricultural hedgerows.

f. The unauthorised display of advertisements.

g. The poor condition of land impacting on the visual amenities of the wider area.

3.2 It should be noted that in addition, the unauthorised works listed at d, e and f also comprise a criminal offence.

4.0 What isn't a Breach of Planning Control?

a. Buildings or extensions which do not require planning permission: planning legislation makes provision for a wide range of building works which can be undertaken using what are known as *permitted development rights*.

b. Changes in the use of land and buildings which are not so significant that they comprise a *material change of use* or which fall within the same use class category.

c. The display of advertisements which do not require consent: the regulations relating to advertisements allow the advertiser to display certain types of advertisements without the need to make an application to the Council.

d. Where development has been carried out more than four years ago it is immune from enforcement action.

e. Where a change of use has existed for more than 10 years it is immune from enforcement action.

f. Where there has been a residential dwelling unit in existence for more than four years it is immune from action.

g. Issues relating to waste disposal and tipping which are handled by Warwickshire County Council who can be contacted by following this link: Warwickshire Direct - Residents and click Report It.

h. Issues within or relating to the adopted highway including for example advertisements displayed within the Highway or on street furniture which are handled by Warwickshire County Council who

are the Highways Authority and can be contacted by following the above link.

i. Issues relating to noise and disturbance; smell nuisance and light pollution which are investigated by the District Council's Environmental Health Team ([1]). Further information can be found at:

pollution@warwickdc.gov.uk or by telephoning 01926 456725

j. Issues relating to the manner in which buildings or extensions have been constructed or concerning potentially dangerous structures which are handled by the District Council's Building Control Team who can be contacted via this link https://www.warwickdc.gov.uk/info/20375/building_regulations/581/contact_building_control or in relation to dangerous structures by telephoning 07881 787528.

k. Issues relating to compliance with covenants or other legal restrictions which are private civil matters.

5.0 Key Considerations in the Investigation of Alleged Breaches of Planning Control

5.1 In the circumstances where an enforcement investigation identifies that unauthorised development has taken place, the decisive issue for the Council in considering whether it is expedient to continue with the investigation is whether the development in question is unacceptable in planning terms such that planning permission would not be granted?

The fact that a development does not benefit from the required planning permission is not in itself sufficient justification for pursuing the matter.

5.2 Where enforcement action is taken, it must be proportionate to and commensurate with the breach of planning control to which it relates. For example, whilst clearly harmful breaches of planning control should be addressed by appropriate means, it is not expedient to pursue minor or technical breaches which cause no planning harm or where unauthorised development is acceptable in planning terms.

6.0 The Investigation Process

[1] In certain circumstances such issues may be controlled by planning legislation, for example where they are the subject of a condition imposed on a planning permission.

6.1 The speed with which an investigation can be undertaken varies between straightforward cases which can often be concluded quickly and more complex investigations which can take considerably longer.

6.2 Upon receipt of an investigation request, we will check that the issue in question is a planning matter. If it isn't, we will tell you as quickly as possible and where appropriate forward the concern onto another relevant Council team or external organisation. At this stage, we may also request further information from you to help with the investigation, for example, we may ask you to keep a record of activity in respect of the use of land or buildings over an appropriate period.

6.3 Before we begin an investigation, we will also ask you to provide your name and contact details in confidence so that we can update you on progress. **Your details will remain confidential at all times during the initial investigation ([2]).** This is because we need to ensure that we use our resources as effectively as possible and in order to prevent the investigation of spurious issues, anonymous complaints are not usually investigated.

6.4 All investigations are prioritised in accordance with the Council's scheme of prioritisation. If we are unable to investigate an issue that you have raised, we will tell you the reason for this. Where an investigation is commenced, after an initial site inspection and assessment has been made, we will tell you what will happen next.

6.5 There are a number of potential outcomes of an enforcement investigation which are principally: -

i. Where there is no breach of planning control or a minor breach: no further action will be taken.
ii. Where it is considered that planning permission would be likely to be granted for the unauthorised development, we will request that an application is made. However, if no such application is submitted, no further action will be taken.
iii. Where there is a breach of planning control which is unacceptable in planning terms, we will offer the responsible parties **one** opportunity to resolve the matter voluntarily. Where the matter is not satisfactorily resolved by that means, if it is expedient to do so, formal enforcement action will be taken.

[2] Where an investigation results in enforcement action being taken which is the subject of an appeal or prosecution, it is sometimes necessary for 3rd party details to be disclosed.

7.0 Voluntary Resolution

In encouraging you to voluntarily resolve a breach of planning control for which you are responsible, we may: -

i. Offer you written or verbal advice.
ii. Give you a verbal or written warning.
iii. Provide you with **one** opportunity to remedy the issue within a proportionate time period prior to the consideration of the use of formal action.

The majority of breaches of planning control which require remedy are resolved in this manner without the need for formal action. However, in the circumstances where a breach of planning control is so serious that it merits immediate action, where necessary the Council will take formal action without offering an opportunity for the matter to be resolved voluntarily.

8.0 Formal Action

8.1 Formal planning enforcement action may be taken where: -

i. The matter is so serious that it merits immediate action.
ii. There is a lack of confidence that the matter will be resolved voluntarily.
iii. There is a history of non-resolution of issues by a voluntary means.
iv. The matter has not been satisfactorily resolved on a voluntary basis.

8.2 Such action can take a number of forms including but not limited to issuing: -

i. Enforcement Notices and Listed Building Enforcement Notices requiring the actions specified in the Notice to be undertaken within the time period specified. There is a right of appeal against these Notices.

ii. Breach of Condition Notices to require compliance with conditions imposed on a grant of planning permission. There is no right of appeal against these notices.

iii. Untidy Land Notices to require the improvement of land or buildings in order to remedy their visual impact on the amenities of the surrounding area. There is a right of appeal to the Magistrates Court against such notices.

iv. Improvement or Repairs Notices in respect of Listed Buildings which are falling into disrepair.

v. Where it is considered expedient to do so a Temporary Stop Notice may be issued.

vi. In appropriate circumstances involving potentially serious and/or irreversible unauthorised development the issue of an injunction.

8.3 Non-compliance with the Notices listed above within the required timescale is an offence which the Council will normally seek to pursue by means of a prosecution.

9.0 Prosecution

9.1 In addition to non-compliance with formal Notices, the unauthorised display of advertisements; the alteration of Listed Buildings without consent and the unauthorised undertaking of works to trees protected by a Tree Preservation Order or within a Conservation Area are criminal offences.

9.2 For that reason, except in exceptional circumstances, we will require that any such works cease immediately and that unlawful advertisements are removed within 5 days. Where that cessation or removal does not occur and/or where such unauthorised works result in material harm to protected buildings or trees, legal action will usually be taken.

9.3 Decisions to proceed with legal action will take account of the Code for Crown Prosecutors and in particular, will be made in accordance with the requirements for: -

i. The availability of sufficient evidence to provide a realistic prospect of conviction; and
ii. It being in the public interest to proceed with such action.

10.0 Direct Action

10.1 There may be circumstances where by reason of the nature or extent of the unauthorised activity or development, non-compliance with a notice may result in the Council arranging for appropriate remedial works to be undertaken in default of the responsible party doing so. With the exception of the circumstances described below, this approach will only be used where appropriate. In most cases, the Council will seek to recover

the cost of undertaking those works from the responsible parties including for example by means of the imposition of a charge on the land in question.

10.2 In the circumstances where an informal request to remove an unlawful advertisement has not been complied with, the Council will consider the use of its powers to remove the advertisement.

11.0 High Hedges

Background

11.1 Under planning and related legislation, the planting of hedges does not require permission and there are no restrictions on the height to which they can be grown. However, the Anti-Social Behaviour Act 2003 and associated regulations introduced a power for Councils to investigate and where appropriate remedy complaints about high hedges where there is a significant impact on nearby properties.

11.2 Guidance on what you need to do if you are concerned about the impact of a hedge on your property or if you are the subject of a complaint about a high hedge can be obtained by following these links: -

i. The Department for Communities and Local Government website: -

https://www.gov.uk/government/organisations/department-for-communities-and-local-government

ii. Over the garden hedge
https://www.gov.uk/government/publications/over-the-garden-hedge

iii. High Hedges: complaining to the Council

https://www.gov.uk/government/publications/high-hedges-complaining-to-the-council

iv. High Hedges complaints: prevention and cure

https://www.gov.uk/government/publications/high-hedges-complaints-prevention-and-cure

11.3 Prior to requesting that the Council investigate a potential high hedge issue, a process which carries a fee, you must provide evidence that you have exhausted all alternative forms of negotiation and mediation with the hedge owner.

12.0 Publicity

12.1 In order to seek to raise public awareness of the risks associated with undertaking unauthorised development and thereby reduce the incidence of such development, where appropriate the Council will publicise the outcome of cases in the local press and by other means.

13.0 How You can Help

13.1 If you have reported a breach which the Council is investigating, please be aware that we will do so as quickly as possible and that in order to ensure that the investigation is undertaken as comprehensively as is necessary this may take longer than you might expect. We will aim to keep you updated at regular intervals as the investigation progresses.

13.2 When you initially tell us about the issue of concern, please provide as much information as you can to help us to investigate the matter as quickly as possible. At this or a later stage, we may also request further information from you to help with the investigation, for example asking you to keep a record of activity in respect of the use of land or buildings over an appropriate period.

13.3 If you are the subject of an investigation, your co-operation in assisting us to undertake that investigation will, in many cases, enable us to advise that there is either no breach of planning control or no remedial action to be undertaken. If a breach is identified and you are requested to undertake works to voluntarily resolve the matter, your co-operation in doing so within the timescale given will in most circumstances prevent the consideration of the use of formal action.

13.4 Whilst it is understood that you may wish to know where the complaint about your property has come from, all such complaints are treated confidentially, and we will not be able to provide you with that information.

14.0 Contacts

14.1 If you would like to contact us to report a potential breach of planning control please do so by either: -

- Completing our online form: Instructions | Report a possible breach of planning control

- E mailing planningenforcement@warwickdc.gov.uk

- Or by writing to us: Planning Enforcement, Warwick District Council, Town Hall, Parade, Leamington Spa CV32 4AT

APPENDIX C

Private Sector Housing

Enforcement Policy

Introduction
This policy sets out the Council's principles for enforcing and executing its duties as a Housing Authority under the relevant statutes.

Section 3 Housing Act 2004 imposes a duty on Councils to keep housing conditions in their district under review with a view to identifying any action that may need to be taken by them.

Section 107 Renters' Rights Act 2025 imposes a duty on the Council to enforce '*the Landlord Legislation*'. The Landlord Legislation is comprised of the following:

- Chapters 3 and 6 of Part 1 of the Renters' Rights Act 2025,
- Part 2 of the Renters' Rights Act 2025,
- Sections 1 and 1A of the Protection from Eviction Act 1977, and
- Chapter 1 of Part 1 of the Housing Act 1988.

Section 110 Renters' Rights Act 2025 imposes a duty on the Council to report to the Secretary of State on the exercise of its functions under the Landlord Legislation.

The Renters' Rights Act 2025 recognises that rogue landlords do not respect territorial divisions of local housing authorities. As a result, local housing authorities are expressly permitted to take enforcement action for breaches outside their area.

There is also provision for ensuring that local housing authorities notify each other of enforcement action.

In this policy, the term 'landlord' should be read as including letting agents, managing agents, licensors, property owners, directors of corporate landlords and any other person involved in the letting or management of privately rented accommodation.

In this policy, the terms 'House of Multiple Occupation' or 'HMO' are defined by the Housing Act 2004.

9. Aims of the Policy

The purpose of this Enforcement Policy is to provide guidance for Private Sector Housing ("PSH") officers to ensure enforcement action is taken in line with the Regulators Code and the principles of good regulation where required by The Legislative and Regulatory Reform (Regulatory Functions) Order 2007.

The following pieces of legislation are subject to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007: -

- Parts 8, 9 and 10 of the Housing Act 1985
- Part 8 of the Housing Act 1996
- Parts 2 to 5 of the Housing Act 2004

This Policy document sets out what owners, landlords, their agents or any other person involved in the letting or management of privately rented accommodation, and tenants of private rented sector properties, can expect from Council officers when dealing with non-compliance.

All enforcement action taken will be in accordance with relevant statutory Codes of Practice, Council procedures and protocols, and official guidance from central and local government bodies.

As a public body under the Human Rights Act 1998, the Council will apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

10. Approach to Enforcement

The Council wants to support responsible landlords to raise housing standards. However, the Council expects landlords to have a good understanding of the housing standards and management issues that should be met in privately rented accommodation.

Section 5 Housing Act 2004 places a duty on Councils to take formal enforcement action where a Category 1 hazard exists.

Section 7 Housing Act 2004 gives Councils a discretionary duty to take action where a Category 2 hazard exists. The Council will usually take action where a significant Category 2 hazard exists.

In addition, Council officers will often investigate and identify the need to take enforcement action through proactive inspections of dwellings through licensing provisions; in response to a complaint or request for assistance; and referrals from other public bodies. All investigations will be carried out in accordance with the relevant statutory requirements. The Council will ensure that appropriate governance is in place to ensure that action is taken in accordance with appropriate policies.

The Council may commence enforcement with formal action instead of informal action in the first instance. In deciding whether to do so, the circumstances of the case will be considered. Relevant factors may include, but are not limited to:

- Where there is a risk to public health
- Where there is a blatant or deliberate contravention of the law
- Where there is history of non-compliance

The Council will usually take formal action in the first instance if there has been:

- Non-compliance with previous formal or informal action
- Offences in relation to the licensing of HMOs

- Unlawful eviction or harassment

The Council may take formal enforcement action in the first instance for breaches of the Landlord Legislation.

11. Investigatory powers

In addition to the Council's informal and formal powers of enforcement, the Council also has investigatory powers relating to the collection of information and relating to the entry of premises including, but not limited to, the powers detailed below.

Power to Investigate

Section 114 of the Renters' Rights Act 2025 gives the Council power to issue a notice to a relevant person to require the person to provide specified information to the Council.

This notice may be given to any person with an estate or interest in the land; the licensor; their agents; or a marketer of a property. It may be given in regard to any offence under the following Legislation:

- Sections 1 and 1A of the Protection from Eviction Act 1977.
- Chapter 1 of Part 1 of the Housing Act 1988.
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013.
- Sections 21 to 23 of the Housing and Planning Act 2016.
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Failure to comply with a Section 114 notice is an offence under Section 131 of the Renters' Rights Act 2025, as is being obstructive and intentionally or recklessly making false or misleading statements in response to a Section 113 notice.

Section 115 of the Renters' Rights Act 2025 permits the Council when it reasonably suspects a breach of the Rented Accommodation Legislation to issue a notice to any person requiring them to provide the specified information. This may only be done to investigate whether a breach has occurred under the Rented Accommodation Legislation, or to determine the amount of a penalty. For the purposes of this section, the Rented Accommodation Legislation means:

- Sections 1 and 1A of the Protection from Eviction Act 1977.
- Chapter 1 of Part 1 of the Housing Act 1988.
- Parts 1 to 4 and 7 of the Housing Act 2004.
- Section 83(1) or 84(1) of the Enterprise and Regulatory Reform Act 2013.
- Sections 21 to 23 of the Housing and Planning Act 2016.
- Chapter 3 of Part 1 and Part 2 of the Renters' Rights Act 2025.

Where an individual has not complied with a Section 115 notice, Section 116 of the Renters' Rights Act 2025 enables the Council to make an application to the Court to enforce the provisions of the notice and seek reimbursement for the costs of the application.

Section 131 of the Renters' Rights Act provides that, in addition to the offence of non-compliance with a Section 114 notice, it is an offence for an individual to obstruct a Council officer seeking to exercise their powers without reasonable excuse. It is also an offence to fail to give an officer any additional assistance or information which they reasonably require without reasonable excuse.

Section 235 of the Housing Act 2004 allows the Council to issue a notice to relevant individuals, including occupiers, directing them to provide specified documents under their control for the purpose of investigating whether an offence has been committed under Parts 1 to 4 of the Housing Act 2004 or exercising the Council's functions under Parts 1 to 4 of the Housing Act 2004.

Section 16 of the Local Government (Miscellaneous Provisions) Act 1976 also permits the Council to issue a notice to an occupier, manager, or individual with an interest in the land to compel them to provide the Council with information on the nature of their interest and the names and addresses of current occupiers.

Entry to Premises

Section 118 of the Renters' Rights Act 2025 permits Council officers to enter business premises of relevant people (including landlords, letting agents, and marketers) if it is necessary for the production or seizure of documents under Section 122-Section 123 Renters' Rights Act 2025. This power will be exercised without a warrant.

Section 121 of the Renters' Rights Act 2025 allows a Council officer named in a warrant to enter premises used for a rental sector business which is not mainly accommodation if there are documents on the premises which the officer could require under Section 122 or seize under Section 123. In addition, for this power to be exercised, one of the following conditions must be met:

- That access to the premises has been or is likely to be refused, and the Council has provided notice of their intention to apply for a warrant to the occupier.
- Those documents on the premises would likely be concealed or interfered with if notice of entry were to be given.
- That no occupier is present, and waiting for their return might defeat the purpose of the entry.

Following a Section 118 or Section 121 Renters' Rights Act 2025 entry, Section 122 allows an officer at any reasonable time to require a relevant person on the premises to produce any documents relating to the business and to take copies of them. This may only be exercised to ascertain whether there has been a breach of the Rented Accommodation Legislation where an officer reasonably suspects there has been a breach or an offence; or to ascertain whether the documents may be required in evidence for proceedings regarding a breach or offence.

Following a Section118 or Section 121 Renters' Rights Act 2025 entry, Section 123 authorises Council officers to seize and detain documents that the officer

reasonably suspects may be required as evidence in proceedings relating to a breach of, or an offence under, the Rented Accommodation Legislation. When doing so, the officer will provide evidence of the officer's identity and authority if reasonably practicable. The officer will take reasonable steps to inform the person from whom documents have been seized that they have been seized and will provide that person with a written record of what has been taken.

Section 126 of the Renters' Rights Act 2025 permits the Council to enter residential premises used for a tenancy at a reasonable time if the officer considers it necessary as part of an investigation into potential offences specified in subsection 1(b). Where required, the Council will give at least 24 hours' notice of this to the occupier and individuals with an interest in the property as per subsection 1(c), detailing in writing why the entry is necessary and the suspected offences. Where there are occupiers found on the premises, the officer will provide evidence of the officer's identity and authority to at least one of the occupiers if reasonably practicable.

In addition, Section 239 of the Housing Act 2004 permits Council officers to enter, if necessary and at a reasonable time, a property to carry out a survey or examination. This may be done if any one of the following is met:

- to determine if any Part 1-4 enforcement functions should be exercised.
- the premises are subject to an Improvement Notice or Prohibition Order.
- a management order is in force under Chapter 1 or 2 of Part 4 on the premises.

In certain circumstances the Council may obtain a warrant to enter, by force, if necessary, under Section 240 of the Housing Act 2004.

12. Informal action

Informal action taken by the Council may be in the form of written or verbal advice. Additionally, a visit may be made at the outset by Council Officers in cases where the initial complaint indicates that an immediate investigation by a Council officer is warranted.

In cases where officers visit an address, whether this is a result of a landlord's failure to adequately resolve a highlighted issue or as part of an audit or other investigation, written or verbal advice may be deemed sufficient should the inspection highlight only very minor deficiencies.

Where written advice is deemed appropriate by the Council and is provided, timescales will normally be included to undertake any specified work or actions. While the Council will use its discretion on whether to carry out informal action for a Category 2 hazard, it does not need to provide written or verbal advice before commencing formal action.

13. Formal action

If formal action is considered appropriate, the following options are available to the Council: -

<u>Statutory notices</u>

Section 11 and Section 12 of the Housing Act 2004 permit the Council to issue a statutory Improvement Notice in respect of any Category 1 hazards and any Category 2 hazards on the property. This requires the person to whom it is served to undertake the remedial action specified on the Notice within a given timeframe. The mandated work and the timeframe will be determined by the Council depending on the nature and scale of the work.

Section 6A of the Housing Act 2004 allows the Council to impose a civil penalty where a Category 1 hazard exists. This power may be exercised separately or in addition to the issuing of an Improvement Notice. The Council will usually exercise its power to impose a civil penalty in the first instance where a Category 1 hazard exists.

Section 30 of the Housing Act 2004 provides that failure to comply with a statutory Improvement Notice is a criminal offence, which will normally be followed by prosecution or the issuing of a civil penalty. The Council would view the offence of failing to comply with the requirements of an Improvement Notice as a significant issue, as it may expose tenants of a dwelling to one or more significant hazards.

Other formal notices served by the Council may not require the landlord to undertake remedial works but may cover a range of other matters including, but not limited to, exercising a right of entry under Section 239 of the Housing Act 2004 and a request to provide information or the need to abate or avoid overcrowding.

Work in default

The enforcement options for non-compliance with formal Notices or breach of licence conditions include the Council carrying out the works specified in the Notice and taking steps to recover any costs incurred, including costs incurred in administering the work in default, plus interest. This power may be exercised in addition to other enforcement proceedings taken for non-compliance. The Council has no duty to undertake works in default and it will be at its discretion. The costs and any interest may be registered as a charge against the property until paid.

Emergency or suspended enforcement action

Where there is a Category 1 hazard present, Section 43 of the Housing Act 2004 permits the Council to issue an Emergency Prohibition Order. This immediately prohibits the use of all or part of a dwelling if there is an imminent risk of serious harm to the health or safety of the occupants or others.

Section 40 of the Housing Act 2004 allows the Council to undertake Emergency Remedial Action on the Category 1 hazard without prior notice. The Council may then seek reimbursement of costs incurred on the work and the administration of the scheme.

The Council also has the power to suspend action taken under Part 1 of the Housing Act 2004 in situations where it has the power or duty to take enforcement action through the service of an Improvement Notice or Prohibition

Order. This will be at the Council's discretion and will normally be considered for the purpose of minimising inconvenience to the current occupiers.

Prosecution

Where a Civil Financial Penalty is an available alternative to prosecution, the Council will only consider using its power to prosecute under Part 1 of the Housing Act 2004 in more serious cases.

The decision to prosecute will be determined by the evidential strength of the Council's case and the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors.

In many circumstances, where an offence is committed by a body corporate, legislation enables local authorities to pursue persons involved with the body corporate in addition to, or instead of, the body corporate. These include company officers and, where applicable, company members.

The Council will determine, on a case-by-case basis, whether to take enforcement action against any person or persons that it considers fall within the scope of this category, in addition to prosecuting the body corporate.

Civil Financial Penalties for specified offences

This section relates exclusively to Civil Financial Penalties issued by the Council for breaches of the housing law below.
The Council has the power to impose a Civil Financial Penalty for the following:

- Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- Failure to comply with an Improvement Notice [Section 30 Housing Act 2004]
- Offences in relation to licensing of Houses in Multiple Occupation (HMOs) [Section 72 Housing Act 2004]
- Offences in relation to the Selective Licensing of 'houses' [Section 95 Housing Act 2004]
- Failure to comply with an Overcrowding Notice [Section 139 Housing Act 2004]
- Failure to comply with a management regulation in respect of an HMO [Section 234 Housing Act 2004]
- Offences in relation to Regulation 3 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- Failure to comply with a banning order [Section 21 Housing and Planning Act 2016]
- Failure to give a written statement of terms under Section 16D of the Housing Act 1988
- Failure to give an existing tenant information about changes made by the Renters' Rights Act under paragraph 7(2) of Schedule 6 to the Renters' Rights Act 2025

- Attempting to let a property for a fixed term under Section 16E of the Housing Act 1988
- Attempting to end a tenancy orally or by service of a notice to quit under Section 16E of the Housing Act 1988
- Serving an eviction notice that attempts to end a tenancy outside the prescribed Section 8 process under Section 16E of the Housing Act 1988
- Relying on a ground where the person does not reasonably believe that the landlord is/will be able to obtain possession under Section 16E of the Housing Act 1988
- Relying on a ground knowing the landlord would not be able to obtain possession or being reckless as to whether they would under Section 16J of the Housing Act 1988
- Failing to provide a tenant with prior notice that a ground which requires it may be used under Section 16E of the Housing Act 1988
- Reletting or re-marketing a property before expiry of the 12 month no-let period after using the moving and selling grounds under Sections 16E and 16J of the Housing Act 1988
- Discriminating against prospective tenants during the letting process on the grounds that those tenants are in receipt of benefits or have children under Sections 33 and 34 of the Renters' Rights Act 2025
- Marketing a letting without stating the proposed rent under Section 56 of the Renters' Rights Act 2025
- Inviting or encouraging any person to offer to pay an amount of rent under the proposed letting that exceeds the stated rent under Section 56 of the Renters' Rights Act 2025
- Accepting an offer from any person to pay an amount of rent under the proposed letting that exceeds the stated rent under Section 56 of the Renters' Rights Act 2025

Rent Repayment Orders

Part 2 of the Housing and Planning Act 2016 permits the Council to seek a Rent Repayment Order at the First Tier Tribunal Property Chamber to require the landlord of the property where the offence(s) has been committed to refund rent to the tenants or the Council.

Section 48 of the Housing and Planning Act 2016 places a duty on the Council to consider applying for Rent Repayment Orders.

Where a landlord has been convicted or received a Civil Financial Penalty in respect of the offence, the Tribunal must award the maximum applicable amount, except in exceptional circumstances.

This power will be considered in response to all qualifying offences and where there is sufficient evidence for successful application to the First Tier Tribunal.

The qualifying offences are:

- Unlawful eviction and harassment of occupier as defined under the Protection from Eviction Act 1997
- Failure to comply with an Improvement Notice [Section 30 Housing Act 2004]
- Offences in relation to unlicensed HMOs [Section 72(1) Housing Act 2004]
- Offences in relation to unlicensed houses [Section 95(1) Housing Act 2004]
- Failure to comply with an Improvement Notice [Section 30(1) Housing Act 2004]
- Failure to comply with a Prohibition Order [Section 32(1) Housing Act 2004]
- Breach of a Banning Order [Section 21 Housing and Planning Act 2016]
- Using Violence to secure entry [Section 6(1) Criminal Law Act 1977]
- Knowingly or recklessly misusing a possession ground [Section 16J(1) Housing Act 1988]
- Letting or marketing of a property within twelve months of using the 'moving in' or 'selling' ground of eviction [Section 16J(2) Housing Act 1988]
- Continuous breach of certain tenancy reform requirements [Section 16J(3) Housing Act 1988]

An application for a Rent Repayment Order may be in addition to other formal action, such as prosecution proceedings or the imposition of a Civil Financial Penalty. Where the Council has issued a Civil Financial Penalty or pursued prosecution, it will usually apply for a Rent Repayment Order where public funds have been paid to a landlord who has committed a qualifying offence.

Section 49 of the Housing and Planning Act 2016 enables the Council to assist tenants in applying for Rent Repayment Orders.

Banning Orders

Part 2, Chapter 2 of the Housing and Planning Act 2016 permits a Council to apply for a Banning Order against a person who has been convicted of one or more of the relevant offences.

This would prevent the landlord from:
- Letting housing in England.
- Engaging in English letting agency work.
- Engaging in English property management work; or
- Doing two or more of those things.

The Council may consider a Banning Order for the more serious offenders. It will consider the seriousness of the offence(s), whether the landlord has committed other offences (or received any Civil Penalty in relation to a Banning Order offence) and any history of failing to comply with their obligations or legal responsibilities.

It will also consider other relevant factors, including but not limited to:

- The harm, or potential harm, caused to the tenant.
- The need to punish the offender.
- The need to deter the offender from repeating the offence.
- The need to deter others from committing similar offence

14. Statement of principles to determine the amount of a penalty charge under Part 4 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 as amended by The Smoke and Carbon Monoxide Alarm (Amendment) Regulations 2022 ("the Regulations")

Section 13 of the Regulations requires local housing authorities to prepare and publish a statement of principles which they propose to follow in determining the amount of a penalty charge.

The Regulations introduced legal requirements on relevant landlords to:

1. Equip a smoke alarm on each storey of the premises on which there is a room used wholly or partly as living accommodation.

2. During any period when the premises were occupied under the tenancy, to ensure that a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and which contains fixed combustion appliance other than a gas cooker.

3. Carry out checks by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

4. Where, following a report made on or after 1st October 2022 by a tenant or by their nominated representative to the landlord, a prescribed alarm is found not to be in proper working order, the alarm is repaired or replaced.

For the purposes of the legislation, living accommodation includes a bathroom or lavatory.

Where the Council believe that a landlord is in breach of one or more of the above duties, the Council must serve a remedial notice on the landlord. The remedial notice is a notice served under Regulation 5 of the Regulations.

If the landlord then fails to take the remedial action specified in the notice within the specified timescale, the Council can require a landlord to pay a penalty charge and can arrange for remedial action to be taken under certain circumstances. The power to charge a penalty arises from Regulation 8 of the Regulations. Failure to comply with each remedial notice can lead to a fine of up to £5,000. Fines will be applied per breach, rather than per landlord or property.

The Council will impose a penalty charge where it is satisfied, on the balance of probabilities, that the landlord has not complied with the action specified in the remedial notice within the required timescale.

A landlord will not be considered to be in breach of their duty to comply with the remedial notice if they can demonstrate they have taken all reasonable steps to comply. Where there is evidence, including written correspondence, of repeated

and consistent efforts to obtain access to the property, with access repeatedly being prevented by the occupant(s) of the property, a landlord will not be considered to be in breach of their duty to comply with the remedial notice. A landlord will be expected to have:

- Communicated the risk of harm that the lack of functioning alarms posed to all occupants in writing on multiple occasions
- Requested access to comply with the remedial notice on a regular basis of no longer than every seven days in writing

In considering the imposition of a penalty, the Council may look at the evidence concerning the breach of the requirement of the notice. A non-exhaustive list of methods that may be used to obtain relevant evidence includes, but is not limited to:

- Evidence obtained from a property inspection
- Evidence provided by the tenant or agent
- Evidence provided by the landlord demonstrating compliance with the Regulations by supplying dated photographs of alarms, together with installation records
- That all detector heads have not passed their expiration or replacement date

Landlords need to take steps to demonstrate that they have met the testing requirements at the start of the tenancy requirements. A non-exhaustive list of methods that may be used to evidence compliance with these testing requirements includes, but is not limited to:

- Tenants signing an inventory form which states that they observed the alarms being tested and confirming that the alarms were in working order at the start of the tenancy

Where a landlord is in breach, the local housing authority may serve a remedial notice. Failure to comply with each remedial notice can lead to a fine of up to £5,000. Fines will be applied per breach, rather than per landlord or property

When determining the amount of the penalty charge, regard will be had to whether this is a first breach under the Regulations.

Determining the amount of the penalty charge for a first breach

The minimum amount of a penalty charge for a first breach of the Regulations will be £2500.
The starting level of a penalty charge for a first breach of the Regulations will be £3000. The penalty charge amount will then be varied depending on aggravating and mitigating factors.

Aggravating factors include, but are not limited to:

- The number of alarms not working or missing (the Regulations state there should be one per storey)
- Other fire safety concerns/defects in the property which increase the risk posed to the occupants

- The length of time the offence is believed to have been on-going
- The frequency of complaints by the occupiers to the landlord about the non-working or missing alarms
- The costs of any remedial work the Council have carried out in response to the breach
- Whether the property is let as a HMO (which increases the overall risk)
- The number of occupants living in the property
- Presence of vulnerable occupiers such as elderly, children or disabled people
- Any history of previous enforcement or non-compliance of the landlord
- Attempts to obstruct the investigation

Mitigating factors include, but are not limited to:

- The property being small and low-risk (for example a one-bedroom ground floor flat with a large number of fire escapes including large windows)
- A single occupant living in the property
- Evidence that all required alarms were checked and in working order at the start of the tenancy
- Written evidence that some efforts to gain access and comply with the remedial notice were made and access was prevented by the occupant

Determining the amount of the penalty charge for a subsequent breach

The penalty for subsequent breaches by the same landlord will be £5000.

15. Statement of principles to determine the amount of a penalty charge for a breach of minimum energy efficiency standards (MEES) with respect to domestic privately rented property

The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 ("the Regulations") make it unlawful to rent out a domestic property if it has an EPC (Energy Performance Certificate) rating of F or G (unless a valid exemption has been registered on the PRS Exemptions register).

The Regulations make it unlawful to fail to comply with a compliance notice served by the Council.

The Regulations cover all relevant properties, even where there has been no change of tenancy.

The Regulations were introduced to improve the energy efficiency of housing in the private rented sector and to reduce greenhouse gas emissions and tackle climate change. They should help make tenants' homes more thermally efficient.

An energy performance certificate (EPC) gives the property an energy efficiency rating – A rated properties are the most energy efficient and G rated are the least efficient. It's valid for 10 years and must be provided by the owner of a property, when it is rented or sold.

If you are a landlord and you fail, when requested, to provide an EPC for the start of a tenancy, you will be in breach of the Regulations.

An EPC contains information about the type of heating system and typical energy costs. It also gives recommendations about how the energy use could be reduced, lowering running costs. You can find the recommended energy efficiency improvements on the current EPC.

If you're a private landlord, you must either:

- ensure your rented properties have an EPC with a minimum 'E' rating
- register a valid PRS exemption on the PRS exemptions register

Failure to do either of these is a breach of the Regulations.

The Council investigates any potential breaches of the regulations. If the Council is satisfied that you are or have at any time in the 18 months preceding the date of service of the penalty notice, breached the Regulations, you may be subject to a penalty notice imposing a financial penalty. The Council may also impose a publication penalty.

The "publication penalty" means publication, for a minimum period of 12 months, or such longer period as the Council may decide, on the PRS Exemptions Register of such of the following information in relation to a penalty notice as the Council decides:

- Where the landlord is not an individual, the landlord's name
- Details of the breach of these Regulations in respect of which the penalty notice has been issued

- The address of the property in relation to which the breach has occurred, and
- The amount of any financial penalty imposed.

The Council will impose the following financial penalties:

(a) letting a property with an F or G-rating for less than 3 months: £2,000
(b) letting a property with an F or G-rating for more than 3 months: £4,000
(c) registering false or misleading information on the PRS exemptions register: £1,000
(d) failing to provide information to the Council demanded by a compliance notice: £2,000

The Council may not impose a financial penalty under both subsections (a) and (b) above in relation to the same breach of the Regulations. But they may impose a financial penalty under either paragraph (a) or paragraph (b), together with financial penalties under paragraphs (c) and (d), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

APPENDIX D

Fixed Penalty Notice – General Process

1. Introduction

Fixed Penalty Notices (FPNs) are a long-established enforcement mechanism designed to provide a swift and proportionate response to certain low level criminal offences, avoiding the need for formal proceedings. Where legislation permits, they allow an alleged offender to discharge liability by paying a fixed sum within a specified period. This supports timely and effective enforcement while enabling the Council to focus formal legal action on more serious or persistent breaches.

If an FPN is not paid, the opportunity to discharge liability is withdrawn and the Council will normally consider prosecution for the original offence. For this reason, FPNs will only be issued where there is sufficient, admissible evidence to support a prosecution. FPNs do not create a recoverable debt and cannot be enforced through the civil courts. This distinguishes them from civil penalties, which may be pursued and recovered as a civil debt if unpaid.

2. Purpose

This section sets out the Council's general approach to the use of Fixed Penalty Notices (FPNs) as an enforcement tool. FPNs provide an opportunity for an alleged offender to discharge liability for certain offences by payment of a prescribed sum, as an alternative to prosecution.

FPN's will be used in a manner that is proportionate, consistent, transparent and targeted, in line with the principles of good regulatory practise and relevant statutory frameworks, including the Regulatory Enforcement and Sanctions Act 2008.

3. Scope

This process applies to all services within the Council that have regulatory functions where legislation enables the use of FPNs. These may include (by way of example only):

- Littering offences
- Failure to produce waste transfer documentation
- Dog control
- Breach of Public Spaces Protection Orders
- Smoking in smoke free premises
- Failure to comply with a Community Protection Notice

4. Principles of Use

FPNs will be issued in accordance with the following principles:

4.1 Proportionality

FPNs will be used where they represent a proportionate response to the offence, taking into account:

- The seriousness of the offence
- The harm caused or risk posed
- The culpability of the offender

4.2 Consistency

Authorised officers will apply this process consistently across similar circumstances, while recognising that each case must be considered on its own merits.

4.3 Transparency

Individuals will be provided with clear information regarding-

- The nature of the alleged offence
- The amount of the penalty
- The payment methods and deadlines
- The consequence(s) of nonpayment

4.4 Targeting

FPNs will be targeted offences where:

- There is sufficient evidence to support prosecution
- A financial penalty is considered inappropriate and an effective deterrent

4.5 Accountability

All decisions to issue FPNs will be capable of justification and subject to appropriate oversight and review.

5. Authorisation

Only officers who are duly authorised in accordance with the Council's Scheme of Delegation to Officers and relevant legislation may issue FPNs.

Authorised officers must be satisfied that:

- They have the delegated legal power to issue the FPN
- The evidential threshold is met (see Section 6)
- Issuing an FPN is in accordance with the Council's Enforcement Policy

6. Evidential Requirements

An FPN will only be issued where there is sufficient, admissible, and reliable evidence to support a prosecution should the notice not be paid.

This includes:

- Identification of the offender.
- Evidence of the offence (e.g. officer observations, witness statements, photographic or video evidence)
- Compliance with relevant procedural requirements, including considerations under the Police and Criminal Evidence Act 1984 where applicable.

Where the evidential test is not met, alternative action will be considered.

7. Decision to issue an FPN

In deciding whether to issue an FPN, officers will consider:

- Whether informal resolution or advice is more appropriate
- The offender's history of compliance or non-compliance
- Any aggravating or mitigating factors
- The public interest test

FPNs will not normally be issued where:

- The offence is too serious and warrants prosecution
- An FPN has already been issued for the same offence previously
- The offender is vulnerable and enforcement would be disproportionate
- There are significant evidential uncertainties

8. Issuing an FPN

FPNs may be issued:

- At the time of the offence
- By post following investigation

The notice will include:

- Details of the alleged offence
- The amount payable
- The payment period
- Accepted payment methods
- The consequence of non-payment
- Contact details for enquires

9. Payment and Discharge of Liability

Payment of the FPN within the specified period will discharge liability for the offence, and no further legal action will be taken in respect of that offence.

The Council may offer a reduced payment for early settlement when permitted by legislation.

10. Nonpayment

Where an FPN is not paid within the specified timeframe:

- The case will be reviewed
- Consideration will be given to initiating prosecution proceedings

Any decision to prosecute will be made in accordance with the Council's Enforcement Policy, Scheme of Delegations to Officers and relevant legal frameworks.

11. Withdrawal of FPNs

FPNs may be withdrawn where:

- They have been issued in error
- They have been reconsidered in light of new evidence and no longer remain an appropriate form of action
- There are exceptional circumstances

Requests for withdrawal must be supported by evidence and will be considered on a case-by-case basis.

12. Representations and Challenge

There is no formal right of appeal against the issue of an FPN. However, the Council will consider written representations where there is a dispute with its issue.

Submission of representations does not suspend the payment period unless explicitly confirmed by the Council.

13. Record keeping

Accurate records will be maintained of:

- All FPNs issued
- Supporting evidence
- Payments received
- Decisions relating to withdrawal or prosecution

Records will be managed in accordance with the data protection requirements.

14. Equality and Fairness

The Council will have due regard to its duties under the Equality Act 2010 and will ensure that enforcement action is undertaken fairly without discrimination.

15. Monitoring and Review

The use of FPNs will be subject to periodic monitoring to ensure

- Consistency of approach
- Effectiveness as a deterrent
- Compliance with legal requirements