

1.0 Introduction

Huntingdonshire District Council is committed to improving the quality of life for local people, to create a better Huntingdonshire for future generations and to deliver good quality services. The appearance of the district is incredibly important, and we want to create places that are clean, green and safe where residents are proud to live and work.

The Council is responsible for enforcing a wide range of statutory provisions. This policy explains how the Council's regulatory and enforcement activities will be carried out and what individuals and businesses can expect from Council services who are involved in enforcement. Fair and effective enforcement is essential for protecting residents, businesses and communities. This includes health and safety, the environment, business and legitimate economic interests.

Our 2023 – 28 Corporate Plan is made up of three key priorities:

- Priority 1: To improve the quality of life for local people.
- Priority 2: Creating a better Huntingdonshire for future generations.
- Priority 3: Delivering good quality, high value-for-money services with good control and compliance with statutory obligations.

To help us achieve these priorities, it is important that the Council utilises the legislative tools and powers available to them to investigate and take enforcement action where deemed necessary. The purpose of the Corporate Enforcement Policy is to create an overarching document for all types of enforcement activity undertaken by the Council. This policy will be supplemented by more detailed enforcement procedures that relate to specific service areas and officers will ensure that they follow such procedures as well as consult nationally published enforcement guidance.

2.0 Purpose of the Policy

This policy replaces the previous Corporate Enforcement Policy adopted in 2018 and aims to set out the standards that will be applied and what residents, businesses, consumers and workers can expect from Huntingdonshire District Council. This policy also sets out the approach to be followed by authorised Officers when making decisions in respect of the Council's compliance and enforcement activities. The Council is committed to ensuring that all authorised officers will act in accordance with this policy.

3.0 Scope of the Policy

This policy is the overarching enforcement policy for the Council. It outlines the approach to enforcement and lays down the principles which will be followed in deciding upon and taking action.

Enforcement includes any criminal or civil action taken by the Council aimed at ensuring that individuals or businesses comply with the law. This policy has been set in accordance with the Regulator's Compliance Code and the Statutory Code of

Practice for Regulators. This means that the Council will be open, helpful, fair and careful to ensure that any action required by the Council is proportionate to the risks.

The Council has set out its strategic aims and objectives and its enforcement services will carry out their duties in support of these. This approach is intended to provide better information to businesses and the community and, by doing so, lend support to the Council's efforts to deliver best value services.

Council services will work with and consult other agencies, and other service areas within the Council, as necessary where there is a shared or complementary enforcement role.

Officers will take reasonable steps to assist businesses and individuals to comply with the law. However, officers will be prepared to ensure compliance by exercising the formal powers delegated to them in the Council's Scheme of Delegation including, where appropriate, prosecution.

In certain circumstances the Council will seek to raise awareness and increase compliance levels by publicising unlawful trade practices or criminal activity. Where appropriate the results of specific court cases may also be published.

The policy will cover the following service areas:

- Public Protection (Community Safety including Anti-Social Behaviour, Environmental Crime and Dog Control)
- Licensing (Animal licensing, personal, premises and event licenses, Hackney Carriage and Private Hire regulation)
- Environmental Health (including food safety, pollution control, nuisance, Health and Safety, Private Sector Housing)
- Planning and Development Management

This is intended to be an indicative rather than an exhaustive list and will be subject to change over time should the Council's regulatory duties change in the light of legislation, statutory guidance or case law. The policy will not include enforcement activities linked to off-street parking, benefit issues, fraud and serious crime, which are covered by service-specific protocols.

4.0 Principles of Good Enforcement

The Council aims to undertake its regulatory and enforcement role in an impartial, open, and consistent manner. This is achieved through appropriate engagement, education, mediation, advice, inspections, monitoring, and by regulating the activities of individuals and businesses on a case-by-case basis.

Compliance is secured through informal and formal action and, if necessary, through the courts via a prosecution.

The Council will work to ensure compliance with the law by:

- Helping and encouraging businesses and individuals to understand their responsibilities by providing the necessary advice and guidance to allow them to comply with the law,

- Responding proportionately and fairly to breaches of the law, and
- Using the Council's service planning process to ensure that resources and regulatory activities are appropriately targeted to where they will have the greatest impact considering the associated risks.

In accordance with the Legislative and Regulatory Reform Act 2006 any officer authorised by Huntingdonshire District Council to undertake regulatory functions will have regard to the following key principles for good enforcement:

- An open, fair and proportionate approach will be taken in dealing with breaches of legislation which are regulated and enforced by the Council. Raising awareness and promoting good practice in regulated areas is the first step in preventing breaches, and officers of the Council will signpost to guidance on aspects of the law where requested to do so.
- Best efforts will be used to resolve any issues where the law may have been broken without taking formal action or referring the matter to the courts when the circumstances indicate that a minor offence may have been committed and the Council is confident that appropriate corrective action will be taken. However, there may be occasions when the breach is considered to be serious and/or where informal action is not appropriate. In such cases immediate enforcement action may be taken without prior notice and as noted above some services have specific Legislative Guidance and Regulations which set out the enforcement requirements in these services.
- Advice regarding the non-compliance, the actions required, and decisions taken at the time of our intervention, along with the reasons for these will be clearly explained. An opportunity to discuss the Council's course of action will be provided to ensure actions are proportionate and consistent. As stated in the previous paragraph, where immediate enforcement action is required, the opportunity for discussion may not be given where there is a serious breach or risk to public health or safety.
- Officers investigate potential breaches of legislation, and they are responsible for managing investigations and making decisions on enforcement action. As part of this process, they may consult with colleagues and managers in determining the best and most appropriate course of action. Officers have the power to use a variety of legislation in the course of their duties, and these have been delegated to them by Chief Officers. The Council's Scheme of Delegation can be found here [Constitution](#). In relation to prosecutions, where relevant, officers' cases are reviewed by a manager in line with the enforcement policy before submitting to 3C Legal Service for consideration.

- In some instances, the Council may have shared responsibilities or a complementary role with another enforcement agency, such as Cambridgeshire Constabulary. In these circumstances, officers will liaise with that other agency to ensure effective co-ordination, to avoid inconsistencies and to ensure that any proceedings taken are proportionate and appropriate.
- The Council will be fair, objective and consistent in its approach to enforcement by following the criteria and guidance set down in relevant legislation and codes of practice. Further information on the Council's approach to equality and diversity can be found here [Equality - Huntingdonshire.gov.uk](https://www.huntingdonshire.gov.uk)
- The Council may publicise information about enforcement action that is taken in line with Government guidance on publishing sentencing outcomes. This is usually once an investigation has been concluded via a successful prosecution in Court. Any news releases of this nature are normally sent electronically by our Communications Team to newspapers. Such information may also be publicised on the Council's website and via other social media.

5.0 How Action Taken is Determined

Where evidence is found that a business or other regulated person is showing flagrant disregard for the law by deliberately or persistently failing to comply with advice or requests made by the Council, it may be deemed that informal action is not appropriate. Under these circumstances enforcement action may be escalated directly to prosecution or other more severe sanctions where available.

- Where there is specific Legislative Guidance and Regulations which set out the enforcement requirements these will be followed.
- Where a business or other regulated person contacts the Council to ask for advice and it transpires that a breach of legislation is present at the premises, the most appropriate course of action will be determined.
- If it is clear the business or regulated person is keen to resolve the non-compliance quickly, taking on board and completing the steps recommended by the Council, an informal approach is likely to be taken as opposed to triggering enforcement action. However, if there is a serious breach and/or an imminent risk to public health or safety, enforcement action may still have to be taken but the Council will seek to work with the business or regulated person to resolve the problem as quickly as possible.

6.0 Factors that Influence our response to Breaches

Where a breach of legislation is being investigated the approach taken will be proportionate and will take account of factors such as business size and capacity.

- If the Council has provided advice or guidance to a business or regulated person, our officers will make the necessary checks to ensure that, where this relates to a legal requirement rather than best practice, the non-compliance has been rectified.
- The Council may receive referrals from other enforcement bodies which require investigation. These referrals will typically be a result of the other bodies' inspections or investigations, or intelligence which they have received. The Council will also refer to other enforcement bodies where breaches of legislation which are dealt with by that body are found.

7.0 Non-Compliance

Where a complaint of non-compliance relating to a business, or other regulated person, is received the officers investigating this breach will assess the information received and may make further enquiries to determine whether a complaint requires investigation. In assessing a complaint, officers may consult colleagues and managers to help assess what risk may be involved and this will determine what action is taken.

8.0 Conduct of Investigations

Enforcement action may result in either civil or criminal proceedings being instigated by the Council. The process that will be followed by officers in the investigation of alleged breaches of the law will depend on which branch of law the investigation is being conducted under. As the enforcing authority in any proceedings it instigates, the burden of proof falls to the Council.

Investigations will be carried out in compliance with the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Huntingdonshire District Council:

- 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;
- the Equality Act 2010;
- the Police and Criminal Evidence Act 1984.

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants. The authorised officers of the Council will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

9.0 Authorised Officers

There are numerous pieces of legislation which the Council as a local authority either has a duty to enforce or adopts and chooses to enforce. The powers available to officers under these different pieces of legislation vary considerably and it is not the purpose of this document to provide an exhaustive list of those powers.

- If officers come across situations where they believe they are being obstructed in carrying out their duties, they will always explain the provisions of the relevant legislation in order to resolve the issue.
- The Council recognises the Primary Authority scheme and where appropriate will communicate with any identified primary authority as part of the enforcement/compliance process.
- In some cases, powers of seizure are used for safety and evidence gathering purposes. Where articles are removed for any of these purposes a receipt or notice will be given at the time of the inspection or as soon as is practicably possible afterwards.
- Officers do not have the power of arrest; however joint working is undertaken with the Police and other agencies. Instances may arise where the Police or other agencies consider that an arrest should be made in connection with an authorised officer's investigation.
- Any questioning of those suspected of having committed an offence will be carried out in line with this policy and the Police and Criminal Evidence Act 1984.
- In respect of Legislation in England that contains criminal offences, there are strict time limits beyond which the law prevents proceedings being instituted. These time limits vary and are stated in the relevant legislation.
- In relevant cases where either criminal or civil proceedings are intended to be brought by the Council a report will be prepared containing all relevant evidence that has been gathered during an investigation. This report will be reviewed by a manager and will also be reviewed by 3C Legal Services before any proceedings are commenced.

10.0 Progress of Investigations

Officers carrying out investigations will keep complainants, alleged offenders and witnesses informed about the progress of any investigation as far as their involvement in the process is concerned.

11.0 Enforcement Action that the Council may Utilise

There are a range of actions that are available to the Council as set out in the different legislation the Council enforces. Examples of the main types of actions which may be considered are set out below.

a) 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.

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.

b) Voluntary Undertakings

The Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. The Council will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

c) Statutory (Legal) Notices

The Council has powers to issue statutory notices in respect of many breaches. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default. 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 safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals/representation process and any charges applicable 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.

d) Fixed Penalty Notices

The Council has powers to issue Fixed Penalty Notices (FPN) or civil penalty notices in respect of some breaches. Payment of a FPN does not result in a criminal conviction and therefore does not appear on an individual's criminal record. If a FPN is not paid, the Council may commence criminal proceedings in respect of the breach or take civil enforcement action to recover the penalty charge subject to the provisions of the relevant legislation. If a FPN is paid in respect of a breach the Council will not take any further enforcement action in respect of that breach. Payment of a FPN does not provide immunity from prosecution in respect of similar or recurrent breaches. The Council is only able to issue FPNs where it has specific powers to do so. If FPNs are available, their issue is at the Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a FPN.

e) Injunctive Actions, Enforcement Orders

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 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.

f) Simple Caution

The Council has the power to 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 is likely to consider prosecution.

A simple caution will appear on 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.

Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.

g) 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 Director of Public Prosecutions.

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). If the evidential test is satisfied a prosecution will usually take place unless there are public interest factors against prosecution which outweigh those in favour.

The more serious the offence or the offender's record of breaches/ criminal behaviour, the more likely it is that prosecution will be required in the public interest. Assessing the public interest is not merely a matter of adding up the number of factors on each side and seeing which has the greater number. The public interest must be decided on the merits of each individual case and making an overall assessment. It is quite possible that one factor alone may outweigh a number of other factors which tend in the opposite direction.

A successful prosecution will result in a criminal record. The court may impose a fine 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. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

h) Refusal/Suspension/Revocation of Licences

- The Council issues a number of different Licences, Consents, Registrations and permits. They are applied for by submission of an application, the form and content of which is sometimes specified in law. Applications are generally granted for a defined period and will need to be renewed periodically.
- The Council may be permitted to ask supplementary questions on an application form in order to assist it in reaching a decision on whether the applicant is a fit and proper person to hold such a Licence.
- In some cases, applications are subject to either a public or interested party consultation process and any application that attracts adverse comment or objection or does not meet Council policy requirements will be referred to the Licensing and Protection Committee.
- Most licences and other permissions have conditions attached which can be standard conditions or specific conditions or a combination of both. These conditions form part of the licence and lay down requirements that a business or individual must have regard to when trading. Breach of a condition may be a civil or criminal matter.

When considering applications, information supplied with the application together with any previous enforcement action and compliance record can be taken into account when reaching a decision.

12.0 How we Determine what Enforcement Action to Use

In assessing what enforcement action is necessary and proportionate consideration will be given to:

- 1) aim to change the behaviour of the offender and reduce the likelihood of repeat offences;
- 2) The impact that the offending behaviour has had on the victim/s and the location.
- 3) aim to eliminate any financial gain or benefit from non-compliance;
- 4) 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;
- 5) be proportionate to the nature of the offence and the harm caused;
- 6) aim to restore the harm caused by regulatory non-compliance, where appropriate; and,
- 7) aim to deter future non-compliance. Where appropriate decisions about what enforcement action is to be taken may involve consultation between:
 - (a) Investigating Officer(s)
 - (b) Senior Managers
 - (c) 3C Legal Services

The decision to prosecute a case will be taken by those with authority to do so in accordance with the Council's Scheme of Delegations. Before making the decision to

prosecute, authorised officers will ensure that there is sufficient evidence to demonstrate that one or more of the following factors are present in a case:

- a deliberate breach/ offence has taken place;
- the health or safety of consumers/ residents/ members of the public has been significantly jeopardised/ put at risk (or could have been);
- the offence is a serious one; the attitude of the offender towards the offence and the offender's history of previous behaviour warrants action;
- there has been an apparent reckless disregard of standards or repeated breaches;
- there has been a blatant disregard of notices, information, advice or guidance;
- the standard of the offenders' activities falls significantly below that imposed by legislation and that generally prevailing in the particular business sector;
- creating a public nuisance;
- causing disamenity to the local area.

13.0 How are Decisions Communicated to those Affected

The Council will provide a timely explanation in writing of any rights to representation or appeal, and information on the process involved.

14.0 Review of this Policy

This policy will be reviewed periodically or in line with changes in relevant legislation, or Regulators Code.