



Environment and Development Department GENERAL ENFORCEMENT POLICY

Introduction

As with all local authorities, Parliament has given Leicester City Council the task of enforcing laws that regulate a wide range of local activities. This document, the Environment and Development Department's **General Enforcement Policy** sets out why and how this is done by the Department.

This document should be read in conjunction with:

- The City Council's *Constitution* and the Department's *Delegated Powers List*, which specify how enforcement responsibilities are delegated.
- The City Council's *Prosecution Policy*, which relates to prosecutions and formal cautions.
- The service-specific enforcement policies and procedures made under this Policy, relating to the Department's individual enforcement services.
- The Government's *Enforcement Concordat*, which sets out the principles of good practice that the Department has committed itself to.

What is Enforcement?

The aims of enforcement are to take timely and appropriate action under all available legislation to protect the health, safety, amenity, and economic interests of Leicester's citizens. Enforcement includes -

- Advice to help compliance with legislation;
- Inspections to check compliance with legislation;
- Response to complaints about matters which may be dealt with under the legislation;
- Actions taken upon finding a breach of the law.

Who Carries out Enforcement?

Leicester City Council's enforcement powers are in the first place given to the Council as a whole. Council, the Cabinet and Committees may *reserve* decisions about the exercise of these powers or *delegate* them to officers of the Council. Because of the range and complexity of modern legislation, most enforcement activities are so delegated. This means that enforcement of each piece of legislation covered by the General Enforcement Policy will be carried out by officers who are:

- Duly authorised under the relevant legislation.
- Appropriately trained in the relevant work-area.
- Supported and monitored through documented management procedures.

Details of how enforcement responsibilities are delegated are contained in the Council's *Constitution* and in the Department's *Delegated Powers List*. Enforcement work undertaken by a wide range of services, including environmental health, consumer protection, building control, development control, and licensing all come within the scope of this policy.

About our Enforcement Policy

Leicester City Council wishes to follow the best standards of good practice in enforcement work. For this reason, we have signed the Government's *Enforcement Concordat*. Our own aims and the principles of the Concordat are embodied in the Environment and Development Department's General Enforcement Policy. This Policy has been endorsed by elected members of the Council.

The Environment and Development Department will:

- Adopt and follow clear standards of enforcement.
- Carry out enforcement in an open way so that everyone involved understands what action may be taken and what their rights and entitlements are.
- Be helpful to all parties involved with enforcement work.
- Apply clear procedures for dealing with complaints about the service.
- Carry out enforcement, which is fair, reasonable and proportionate to the circumstances.
- Carry out enforcement in a consistent way.
- Adopt and follow policies and procedures for responding to complaints about third parties and requests for enforcement services.
- Consult people about the delivery of enforcement services.
- Systematically monitor and review enforcement services.
- Where possible, plan enforcement work and target resources where they are most needed and where the highest risk of harm exists.
- Adopt procedures for handling statutory notifications and inter-agency exchanges of information.

All services within the Department will carry out enforcement according to the General Enforcement Policy. Individual services may produce detailed **Service-specific Enforcement Policies and Procedures** for their area of responsibility, which will comply with the General Policy. These documents will set out clear standards and procedures for the administration of enforcement. Heads of Service are responsible for ensuring that these Policies and Procedures are monitored and complied with.

Service Standards and Monitoring

Service-specific Policies and Procedures are tailored to each Service's delegated enforcement duties. These documents set out clearly what standards people are entitled to expect from each City Council Service, for example:

For people subject to enforcement action, we will aim to provide:

- Targeted information and education programmes, where this is appropriate to help achieve compliance with the law.
- Information about actions which we may take on finding a breach of the legislation and within what times-scales.
- Clear advice about what action needs to be taken to avoid or remedy breaches of the legislation, distinguishing between legal requirements and good practice.
- Advice on the planned level and frequency of inspections, linked to an assessment of risk, where premises are subject to regulatory controls.
- Arrangements for inspecting businesses at suitable times.
- Co-ordination of the functions of different Council Services and outside agencies to minimise the burden on businesses from multiple inspections.
- Clear standards for response to complaints about the way in which enforcement activities are carried out.
- Arrangements for communicating with people in the most appropriate language and format.
- Arrangements for ensuring that information obtained in the course of enforcement activities, which is commercially confidential, is protected, where this is prescribed by statute or is otherwise appropriate.
- Consistency of enforcement in businesses which undertake similar activities across their sector, where appropriate

For people benefiting from enforcement action, we will aim to provide:

- Clear information about how we will respond to complaints and within what times.
- Arrangements for visiting complainants to investigate their problem where and when it is happening.
- Standards for keeping people informed of progress with complaint investigations and enforcement action.
- Arrangements for communicating with complainants in the most appropriate language and format.
- Standards for response to complaints from people who are dissatisfied about enforcement activities carried out on their behalf.
- Clear explanation of the limitations, or non-availability, of powers to deal with some matters.
- Arrangements for review and revision of Service-specific Policies and Procedures in the light of monitoring and consultation.

Confidentiality

We understand that people making complaints may not wish their identity to be made known to the party about whom the complaint is being made and, wherever possible, we will take care to respect the confidentiality of complainants. However, in some circumstances, papers relating to individual cases may be in the public domain. We will endeavour to make it clear whether or not complainant confidentiality can be maintained. Anonymous complaints will be investigated wherever it is appropriate and in the public interest.

Formal Action

Ignorance of the law is not an excuse for failure to comply. However, the Department will make every effort to assist businesses and individuals to comply with the legislation by providing information and advice. We will always investigate relevant complaints and will always take appropriate action when we become aware of breaches of the law.

Service-specific Policy and Procedure documents issued under the General Policy will clearly set out the criteria to be met before we take formal action under the legislation. Formal Action includes:

- Service of legal Notices to secure necessary improvements and to prevent undesirable behaviour.
- Formal cautions, to underline to minor offenders that they have caused a problem and that further, similar offences will not be tolerated.
- Prosecution, where it is warranted, to punish and deter offenders.
- Where relevant powers exist and the circumstances warrant it, revocation of licences and authorisations, in order to protect the public from regulated activities carried out to a poor standard.
- Seeking injunctions in the High Court in very serious cases, where other effective remedies are not available.

Procedures relating to formal cautions and prosecutions will conform to the City Council's *Prosecutions Policy*. This is based upon the guidance on the prosecution of offenders within the "Code for Crown Prosecutors", issued by the Director of Public Prosecutions, for example:

- Is the evidence substantial and reliable, giving a reasonable prospect of securing a conviction?
- Is prosecution in the public interest, taking account of the seriousness or frequency of the offence, the attitude of the accused and the likely penalty?

In addition, the Council will comply with legislation that protects the rights of persons subject to legal action, which controls how evidence against offenders may be obtained and which preserves the confidentiality of personal information, in particular:

- *The Human Rights Act 1998*
- *The Regulation of Investigatory Powers Act 2000*
- *The Police and Criminal Evidence Act 1984*
- *The Data Protection Act 1998*

In cases where:

- no statutory powers are available;
 - following diligent investigation, no clear evidence a breach of the legislation has been obtained; or
 - the public interest is not served,
- further action may not be possible or appropriate. In such cases, we will inform the parties of our decision and the reasons for it.