

Enforcement Policy Statement



This document sets out what businesses, individuals and the community as a whole can expect from Portsmouth City Council Enforcement Officers.

Introduction

Portsmouth City Council has responsibility to enforce various laws and recognise that some people may regard some of these laws as a hindrance.

In this respect, we aim to ensure effective compliance with legislation, where necessary to protect people and their environment, whilst minimising the burden to local businesses and residents.

Depending upon the circumstances, the Council has a variety of options available to it in order to ensure legal compliance. These options include education, guidance, letters, notices, revocation of licences, cautions and prosecution. In considering these options, the Council will take account of the Attorney General's Guidelines on Criteria for Prosecution' and the Crown Prosecution Service's Code for Prosecutors.

This policy sets out how we will seek to strike a helpful balance in our approach to enforcement. It does not, however, cover the Council's approach to debt recovery or housing benefit, which are dealt with elsewhere.

Underlying principles

The Council must seek to ensure compliance with the law in accordance with guidance issued by Central Government. We have signed up to the Enforcement Concordat issued by the Cabinet Office. We will carry out this duty in an appropriate manner according to the following principles:

Proportionality. Any action that we take will relate to the seriousness of the risk to health, safety or the environment, deliberate fraud or carelessness and to the seriousness of any breach of law.

Consistency. We will try to ensure that our Officers act in a similar way when faced with similar circumstances. We will also work with other Authorities to ensure that this principle is applied at a local and national level.

Transparency. The Council will help people to understand what the law requires of them and make clear what needs to be done, to comply. We will also make clear what businesses and the general public should do if they are not happy about any action we have taken or are proposing to take.

Targeting. Our enforcement efforts will normally be directed against those whose activities pose the most serious risks or those who have a history of non-compliance.

Informative. Enforcement effort will be given to providing information which is timely relevant and helpful to each situation.

Deciding whether to prosecute

Whilst it is important that each case be treated on its merits and it is not, therefore, possible to give definitive answers to every possible situation, the following guidance indicates the type of action we will normally take.

Fixed penalty offences. It will be normal practice, where a fixed penalty applies to an offence, for the penalty to be applied in all instances where such an offence is detected.

Minor breaches of legislation. Where a minor breach of the law has occurred and the person responsible is prepared to put things right, no further action will normally be taken, although, on occasions, a written warning may be given.

Serious breaches of legislation. Whilst the Council prefers to secure compliance with legislation by a process of education and encouragement, it will sometimes be necessary for more formal action to be taken. This may involve the service of a Statutory Notice which states what must be done and gives a date for completion. Such Notices will normally only be served when:

- there has been a serious breach of law.
- there is a serious risk to health and safety or the environment.
- the Council has a statutory duty to serve notice.
- an informal approach by the Council has not been successful.

Whenever practicable, except when we believe that there is an immediate risk to health, safety or the environment, or other legal requirement, prior warning of our intention to serve notice will be given. At this time, people will be given an opportunity to make representations if they believe that the notice should not be served or that its requirements are unreasonable.

Breaches of licence conditions. Several licences are issued by the Council. These include licences for public entertainment, pet shops, caravan sites, petroleum, explosives and poisons and they are normally issued with specific conditions. Minor breaches of licence conditions may result in formal action in support of the enforcement policy approved by the Licensing Committee, or be dealt with informally dependent on the circumstances. As licence conditions are imposed in order to control activities which would otherwise cause harm, serious breaches will tend to result in prosecution.

Prosecution. The council prefers to deal with contraventions of the law in other ways but, on occasions, it will be necessary for businesses and individuals to be prosecuted.

This will only happen when:

- an informal approach by the council has failed to resolve the problem, or
- there is serious risk to safety, the environment or health, or
- there has been a blatant disregard of the law, deliberate act of fraud, or failure to comply with a notice, or
- the offence is so serious that other forms of action would be inappropriate, and

- It would be in the public interest.

When the Council is considering prosecution, we will consider all available information and discuss matters with the person or company responsible to ensure that a fair, consistent and objective decision is made. When deciding whether to prosecute we will look at the following:

- the seriousness of the offence
- the history of the person concerned
- the willingness of the person concerned to prevent a repetition
- any explanation given
- the public benefit
- any deliberate actions intended to deceive
- the likelihood of success of the prosecution.

Review

If you have any queries regarding the Council's enforcement policy, please contact us on 023 9283 4253.