

HARLOW COUNCIL

GENERAL ENFORCEMENT POLICY FOR

SAFETY AND LICENSING DEPARTMENT

Introduction

The purpose of this Enforcement Policy is to provide a general policy that outlines the overarching principles to be applied when making enforcement decisions, and the process all Officers will use when deciding what action to take when carrying out their statutory duties on behalf of Harlow Council.

Fair and effective enforcement is essential to protect the interests of residents, licence holders and businesses based within Harlow. Even in a minor case, a decision about enforcement action has serious implications for all involved. The Safety and Licensing Department will apply this policy so that it can make fair and consistent decisions about enforcement.

Approval

The Environment and Community Committee of Harlow District Council approved this policy on 11th September 2007.

Scope

This policy applies to the enforcement action carried out under legislation enforced by the Safety and Licensing Department, details of which are contained within the Council's Scheme of Delegation.

Enforcement, in the context of this policy, includes action carried out in the exercise of, or against the background of, statutory enforcement powers. This is not limited to formal enforcement action such as prosecution, and includes, for example, the inspection of premises and vehicles for the purpose of checking compliance with acts and regulations, and the provision of advice to aid compliance.

The Safety and Licensing Department will also publish specific enforcement policy appendices relating to specialist functions such as hackney carriage and private hire licensing, gaming permits and licensing duties in respect of the Licensing Act 2003 etc. Although specific policies are more detailed they will still reflect the overarching principles of this General Policy.

General Principles

The Council recognises the importance of achieving and maintaining consistency in its approach to making all decisions that concern enforcement action, including prosecution. Each case is unique and must be considered on its own merits. There are, however, general principles, which apply to the way each case is approached, and these are set out in this policy.

The Council and its officers will make it clear to businesses, charitable organisations and individuals what their responsibilities and duties are, and what can be expected of Officers undertaking enforcement duties. Written reports will follow inspections and will distinguish mandatory requirements from recommendations on good practice.

Staff must be fair, independent and objective and treat customers equally regardless of race, colour, ethnic origin, religion, sex, disability, age or marital status. They must not be affected by improper or undue pressure from any source.

The Council is a public authority for the purposes of the Human Rights Act 1998. Staff must apply the principles of the European Convention on Human Rights in accordance with the Act.

Service Requests

Complaints received, which may result in enforcement action against a business, licence holder or individual will be notified to that business, licence holder or individual as soon as practicable, except in the circumstances described in the following paragraph. During the progress of enforcement action that business, charitable organisation or individual will be further notified of progress and any new information.

In circumstances where notification could impede enforcement action, notification will not take place until those circumstances no longer exist.

Determining Whether Formal Enforcement Action is Viable and Appropriate

In reaching any decision on formal enforcement action, regard will be given to the Crown Prosecution Service (CPS), Code for Prosecutors.

In particular a prosecution should not be commenced unless the criteria in the Code Tests, namely, the Evidential Test and the Public Interest Test have been met. The Code is located on the CPS website (www.cps.gov.uk) or can be requested by telephoning 020 7796 8442.

Regard will also be given to any other nationally recognised guidance and codes of practice.

Liaison

Where an enforcement matter affects a wider geographical area beyond the boundaries of Harlow, or requires the involvement of one or more other local authorities or organisations, liaison and consultation will be undertaken as soon as possible, and all enforcement activity co-ordinated with them.

Training

Officers undertaking enforcement duties will be suitably trained and qualified to ensure that they are competent to undertake enforcement activities.

Authorisations

Officers appointed and authorised by the Council carry out enforcement action. All authorised officers are issued with a written Authority specifying the provisions that they are entitled to exercise.

The final decision to prosecute will be taken by the Safety and Licensing Manager in consultation with Legal Services.

Management Systems

The Council will maintain management systems to monitor the quality and nature of enforcement activity undertaken to ensure, so far as is practicable, uniformity and consistency in approach and quality of service.

Adherence with Policy

All authorised Officers when making enforcement decisions shall abide by this policy, and will refer to supporting documented operating procedures and specialist enforcement policies where appropriate.

Any departure from this policy must be capable of justification, and will only be accepted in exceptional circumstances following full consideration and authorisation by the Safety and Licensing Manager in consultation with the Chair or Vice Chair of the Licensing Committee.

Appeals

If any person is unhappy with the action taken, or the information or advice given by the Council's Safety and Licensing Department staff, they will be given the opportunity of discussing the matter with the Officer's line manager. This is without prejudice to any formal appeals mechanism.

Harlow Council also operates a Corporate Customer Care and Complaints Procedure, details of which are available on request, or on Harlowweb: (www.harlow.gov.uk).

Access to the Policy

This policy is available on the Council's web site (www.harlow.gov.uk) and in hard copy from the Safety and Licensing Department. It can be ordered by telephoning (01279) 446005, emailing (licensing@harlow.gov.uk) or by writing to the Safety and Licensing Department, Harlow Council, Civic Centre, The Water Gardens, College Square, Harlow, CM20 1WG.

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