



Knowsley Council Enforcement Policy

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Brief Summary: The purpose of this policy is to set out Knowsley Council's ('the Council') approach to dealing with regulatory non-compliance. It describes what businesses and others being regulated can expect from the Council and its enforcement officers who are required to follow this policy. All action taken under this policy will be consistent with statutory guidance issued by the Government, in particular the Regulators' Code and the principles of good regulation.

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Responsible Directorate: PLACE (Communities and Neighbourhoods)

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Responsibility of: Brian Toolan

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1.0 INTRODUCTION

- 1.1 The purpose of this policy is to set out the approach of Knowsley Council ('the Council') to dealing with regulatory non-compliance. It describes what businesses and others being regulated can expect from the Council and its enforcement officers who are required to follow this policy. It is supplemented by policies that relate to specific council services that provide more clarity and detail in relation to the areas of responsibility.
- 1.2 The policy has been developed after consultation with key stakeholders such as Knowsley Chamber of Commerce and other relevant interested parties. The Council believes in fair but firm enforcement of the law. Enforcement includes any criminal or civil action taken by the Council aimed at ensuring that businesses and individuals comply with the law.
- 1.3 The Council recognises that prevention is better than cure and that most businesses and individuals want to comply with the law. However, where it becomes necessary, the Council will take firm action against those who flout the law or act irresponsibly.
- 1.4 The Council has had regard to the Regulators' Code and the principles of good regulation in the preparation of this policy. This provides for an efficient and effective approach to all Council regulatory and enforcement functions to improve compliance with legislation whilst minimising the burden on businesses, individuals and organisations. The Council recognises that enforcement activities should be conducted in a way which is: proportionate, accountable, consistent, transparent and targeted. In certain instances, the Council may conclude that a provision in the Code is either not relevant or is outweighed by another provision or piece of legislation. The Council will ensure that any decision to depart from the Code is properly reasoned, based on material evidence and documented.
- 1.5 The Council is a public authority for the purposes of the Human Rights Act 1998. In consequence, the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms will be applied. This policy and all associated enforcement decisions therefore take account of the Human Rights Act 1998. In particular, due regard will be had to the right to a fair trial and the right to respect for private and family life, home and correspondence.
- 1.6 Where there is a need for the Council to share enforcement information with other agencies, the Council will follow the provisions of the General Data Protection Regulations 2018 (GDPR) and the Data Protection Act 2018 in line with the Council's Data Protection Policy.

- 1.7 When deciding whether to prosecute, the Council will have regard to the provisions of the Code for Crown Prosecutors as issued by the Director of Public Prosecutions. This 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”. In consequence, 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) and it is in the public interest. In relation to the latter, the Council will balance factors for and against prosecution carefully and fairly considering each case on its merits. The Council will use discretion in deciding whether to prosecute and may do so without prior warning taking place.
- 1.8 The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. The Council will have regard to guidance issued by the Secretary of State in relation to Primary Authority when considering taking action against any business that has a Primary Authority relationship. It is recognised that where a business has entered into a partnership then the Primary Authority will provide compliance advice and support. The Council will take such advice into account when considering the most appropriate enforcement action to take. The Council will discuss any need for compliance advice and support with the Primary Authority. The latter has a right to object to the proposed action. In such circumstances, either the Council or the Primary Authority may refer the matter to the Office for Product Safety and Standards (OPSS).

2.0 PRINCIPLES OF GOOD REGULATION

- 2.1 The Legislative and Regulatory Reform Act 2006 requires the Council to have regard to the five principles of good regulation when carrying out specific regulatory functions. For local authorities, the specified functions include: environmental health, waste enforcement, trading standards, licensing, building control and planning.
- 2.2 We will exercise our regulatory activities in a way which is:
- **Proportionate:** Activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.
 - **Accountable:** Activities will be open to public scrutiny with clear and accessible policies and a fair and efficient complaints procedure.
 - **Consistent:** Advice to those the Council regulates will be robust and reliable and the Council will respect advice provided by others. Where circumstances are similar, the Council will strive to act in similar ways to other local authorities.
 - **Transparent:** The Council will ensure that those it regulates are able to understand what is expected of them and what they can anticipate in return.
 - **Targeted:** Resources will be targeted where they would be most effective by assessing the potential impact and risk of non-compliance. Such risk

assessments will inform our approach to regulatory activity and will reflect both local need and national priorities.

3.0 APPLICATION

3.1 All Council officers, contractors and Elected Members should have regard to this policy when carrying out their day-to-day duties and making enforcement decisions. It is also designed to provide an overview of the Council's approach to those that might be affected by its use including members of the public, businesses and voluntary organisations.

3.2 This policy relates to all Council services that operate a regulatory function within or on behalf of the Council. Some examples include:

- **Environmental Health-** food safety and standards, health and safety, environmental protection, animal health, waste enforcement, public health.
- **Trading Standards-** Weights and measures, product safety, doorstep crime and scams, underage sales, product counterfeiting
- **Licensing-** Premises licences, hackney carriage and private hire vehicles, gambling, street trading, zoos, riding schools, caravan sites and HMOs.
- **Waste Management and Street Scene**
- **Housing-** Housing standards, empty homes, harassment, illegal eviction and renters' rights
- **Parking Services**
- **Financial Investigations-** Proceeds of crime, money laundering
- **Highways Enforcement**
- **Planning and Building Control**
- **Antisocial Behaviour-** Closure Notices and Orders, Community Protection Notices

4.0 APPROACH TO NON-COMPLIANCE

4.1 The Council believes that its role involves actively working with the public and businesses to advise on and assist with compliance. Officers will be courteous and efficient at all times and will identify themselves by name, showing appropriate means of identification. This is unless it has been determined that in certain situations, by disclosing their name, this might put officers in danger. In such cases, officers shall use an I.D. number.

4.2 Advice from an officer will be put clearly and simply and will be confirmed in writing on request using plain language. The advice will explain why any remedial work is necessary and over what timescale. Legal requirements will be clearly distinguished from best practice advice.

4.3 When considering enforcement action, where appropriate and reasonably practicable, the Council will provide an opportunity to discuss the circumstances of the non-compliance and will, if possible, resolve points of

difference before any formal action is taken. This is unless immediate action is required e.g. in the interests of health and safety or environmental protection or to prevent evidence being destroyed. Another exception is where legal processes that are determined by statute are applied.

- 4.4 Where immediate action is taken, an explanation will be given at the time and confirmed in writing later. Where there are rights of appeal against enforcement action, advice on the appeal mechanism will be set out.
- 4.5 All enforcement decisions will be fair, independent and objective. They will not be influenced by issues such as the ethnicity, gender, religious beliefs, political views or sexual orientation of the suspect, victim witness or offender. Such decisions will not be affected by improper or undue pressure from any source.
- 4.6 In determining the appropriate action to take in relation to non-compliance, officers will take into account the particular circumstances of the case and the approach of the business or individual to dealing with the issues. Where applicable, the views of any victim will be considered to establish the extent of any harm or loss including harm to the environment.
- 4.7 The Council will deal firmly with those that deliberately or persistently fail to comply. In contrast, the Council will recognise the willingness of businesses to seek advice without directly triggering enforcement action. Where possible, the costs of compliance for businesses and individuals will be minimised by ensuring that any action required is proportionate to the risks.
- 4.8 An exception applies to offences under or by virtue of the Renters' Rights Act 2025, which places a general duty on the Council to enforce landlord legislation in its area. In this context, enforcement means either imposing a financial penalty or bringing legal proceedings for a relevant offence, thus removing an element of discretion.
- 4.9 The following is a summary of the factors that will be taken into consideration by officers:
 - The seriousness of the compliance failure
 - The risks associated with non-compliance
 - The previous history and current actions of the business/ individual(s) concerned
 - Any obstruction of officers carrying out their duties
 - Statutory requirements or guidance
 - Codes of Practice
 - The existence of a Primary Authority agreement
 - Any legal advice
- 4.10 The Council may publish details of successful prosecutions on its website. This will be to obtain maximum positive publicity in relation to convictions and other formal enforcement action.

5.0 CONDUCT OF INVESTIGATIONS

5.1 All investigations will be conducted in a lawful manner having regard to the following legislation (as amended) and in accordance with any associated guidance or codes of practice, in so far as they relate to the Council:

- Police and Criminal Evidence Act 1984
- Criminal Procedure and Investigations Act 1996
- Regulation of Investigatory Powers Act 2000
- Investigatory Powers Act 2016
- Criminal Justice and Police Act 2001
- Human Rights Act 1998
- Proceeds of Crime Act 2002

5.2 The Acts and associated guidance control how evidence is collected and used and provide a range of protections to potential defendants. Officers will comply with the requirements of the particular legislation under which they are acting and with any associated guidance or codes of practice.

5.3 Officers are given various powers of entry, inspection and seizure under a variety of statutes. On occasion, two or more officers may work together on an exercise. Any person who prevents an officer from carrying out their powers is likely to be committing an offence of obstruction. The Council expects co-operation and will take action, where appropriate, if this is not forthcoming.

5.4 Officers will ensure that businesses or individuals and witnesses are informed of the progress of investigations. Confidentiality will be maintained and personal information about individuals will only be released to a court or tribunal when legally required and/or in accordance with the General Data Protection Regulation and the Data Protection Act 2018.

6.0 ENFORCEMENT ACTION

6.1 Where appropriate, decisions about what enforcement action to take may involve consultation between:

- Investigating Officer(s) and Managers
- Solicitors and/ or Counsel
- Senior Officers
- Elected Members of Knowsley Council
- Partner Agencies

6.2 The range of action available to the Council is as follows:

(a) **No Action:** In certain circumstances, breach of the law may not warrant any action. This may be where the breach is no fault of the individual or business

concerned or when it would be disproportionate to do so and inconsistent with the aims of this policy.

- (b) **Informal Action and Advice:** Officers may give verbal or written advice in relation to what are deemed to be minor breaches of legislation. Officers will clearly identify any contraventions of the law and give advice on how to put them right including a deadline by which this must be done. There will be a clear distinction between legal advice and good practice. If a similar breach is identified in future, then this could result in the escalation of enforcement action.
- (c) **Statutory (Legal) Notices:** For many breaches of legislation, officers have the power to issue statutory notices requiring offenders to take specific actions or cease certain activities usually within a specified time period. Notices may require activities to stop immediately where the circumstances relate to health, safety, environmental damage or nuisance. Examples include: Stop Notices, Prohibition Notices, Emergency Prohibition Notices and Improvement Notices. Such notices are legally binding. In general, failure to comply with a statutory notice renders the recipient of the notice liable for prosecution.

A statutory notice will clearly set out actions which must be taken, the timescale within which they must be taken and the consequences of not complying with the notice. 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 process will be provided to the recipient.

Certain types of notices allow works to be carried out in default. This means that if a notice is not complied with, then the Council may carry out necessary works to satisfy the requirements of the notice. Where the law allows, the Council may then charge the business or individual served with the notice for any costs incurred in carrying out the work, including administrative and supervisory costs. In some instances, where the business or individual charged for such costs fails to pay within the specified time limit, these charges may be registered against their property with the sale of such property enforced to recover costs due to the Council.

- (d) **Fixed Penalty Notices:** Certain offences are subject to fixed penalty notices where prescribed by legislation. They provide the recipient with an opportunity to avoid prosecution by payment of the penalty. If a fixed penalty notice is paid in respect of a breach, then no further action will be taken. If not paid, then the Council will consider escalation of the enforcement action. This may lead to prosecution.
- (e) **Penalty Charges Notices:** Such notices are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the Council in recognition of the breach. Failure to pay the penalty charge notice will result in the offender being pursued in the County Court for non-payment of the debt.

- (f) **Injunctive Actions, Enforcement Orders etc:** In some circumstances, such as where offenders are repeatedly found guilty of similar offences, the Council may seek a direction from the Court (in the form of an injunction or order) that a breach is rectified or prevented from recurring. The Court may also direct that specified activities are suspended until the breach has been rectified and/ or safeguards have been put in place to prevent further breaches.

Failure to comply with a court order may constitute contempt of court which is a serious offence that 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 there are serious concerns about compliance with voluntary undertakings or a notice. Such actions may be used to deal with offenders, dangerous circumstances or consumer/ environmental/ public health detriment.

Closure Notices can be issued to address premises linked to serious nuisance, disorder or criminal activity. Notices will only be issued when the Council reasonably believes that the premises are being used or are likely to be used for disorderly, offensive or criminal behaviour.

Community Protection Notices can be issued in respect of anti-social behaviour. Such a notice will be sought if the conduct of an individual or body is having a detrimental effect, of a persistent or continuing nature, on the quality of life of those in the locality and the conduct is unreasonable.

- (g) **Seizure:** Certain legislation enables authorised officers to remove or seize goods, equipment or documents. Examples include unsafe food, sound equipment that is causing a statutory nuisance, unsafe products or any goods that may be required as evidence for future court proceedings. When goods are seized, the Council will give the person from whom the goods are taken, an appropriate receipt or written record.
- (h) **Forfeiture:** This procedure may be used in conjunction with seizure and/ or prosecution where there is a need to dispose of goods to prevent them from re-entering the market or being used to cause a further problem. In appropriate circumstances, the Council may seek an order of the court for forfeiture of goods it has seized during exercise of its enforcement functions.
- (i) **Refusal/ Variation/ Suspension/ Revocation of Licences:** The Council issues a number of licences, consents, approvals and permits. The Council also has a role to play in ensuring that appropriate standards are met in relation to those issued by other agencies. Most licences, consents and permits 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. When considering applications, the Council will take previous breaches and enforcement action into account. In some cases, the Council also has a role to

play in ensuring that appropriate standards are met in relation to licences and permits issued by other agencies.

- (j) **Simple Caution:** In appropriate circumstances and as an alternative to prosecution, a simple caution may be considered as a means of formal action.

A simple caution is an admission of guilt but is not a form of sentence nor is it a criminal conviction but will form part of the offender's criminal record. If, during the time the simple caution is in force, the offender pleads guilty to, or is found guilty of, committing another offence anywhere in England and Wales, the caution may be cited in Court. This may influence the severity of the sentence that the Court may impose.

For a simple caution to be issued, the following criteria must be met:

- There is sufficient evidence to provide a realistic prospect of conviction and it is in the public interest to caution.
- There has been a reliable admission of guilt by the offender.
- The offender is over 18 years of age

The refusal of an offender to be cautioned does not preclude prosecution being considered. In fact, any such failure will be a material consideration when deciding whether the offender should be prosecuted for that offence.

Simple cautions will be issued in accordance with current guidelines including the *Director's Guidance on Charging* – issued by the Director of Public Prosecutions.

- (k) **Prosecution:** The Council may prosecute in respect of serious or recurrent breaches or where other enforcement actions have failed to secure compliance. When deciding whether to prosecute, the Council will have regard to the Code for Crown Prosecutors (see paragraph 1.7)

Prosecution will only be considered where the Council is satisfied that there will be enough evidence to provide a realistic prospect of conviction against the offender and where it is in the public interest to bring the case to court. Factors that will be relevant include:

- Where there is a history of non-compliance.
- Where the offence involves a serious and/or flagrant breach of the law.
- Where the offence involves failure to comply with a statutory notice.
- Where there is a need to provide a suitable deterrent for others to offend.
- Where there has been a disregard of legal requirements for financial reward.
- Where an officer has been intentionally obstructed in their duties.
- The age of the offender and any victims of the crime.
- Statutory requirements, guidance or Codes of Practice.

A successful prosecution will result in a criminal record. The Court may impose a fine and in the case of serious breaches, a prison sentence. The Court may order the forfeiture and disposal of non-compliant goods. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

- (l) **Proceeds of Crime Applications:** The Council may make applications under the Proceeds of Crime Act 2002 to confiscate the assets of an offender. Financial investigations may also result in the restraint of the assets of said offender. The purpose of confiscation proceedings is to recover the financial benefit that the offender has obtained from their criminal conduct. Where the use of the Proceeds of Crime Act has been considered, then the Council will seek advice from its Accredited Financial Investigator so that where appropriate, a parallel financial investigation can be undertaken.

There is a defined timescale for an application for a confiscation order can proceed, it must be made after conviction but prior to any sentencing.

7.0 DECISIONS

- 7.1 In determining the most appropriate and proportionate enforcement action, the Council will have regard to legal guidance, statutory codes, policies and procedures and professional judgement. The Council will:

- Aim to change the behaviour of the offender
- Aim to eliminate any financial gain or benefit from non-compliance
- Consider what is appropriate for the offender and the regulatory issue
- Be proportionate to the nature of the offence and the mischief caused
- Aim to rectify the harm caused by non-compliance where appropriate
- Aim to deter future non-compliance
- Aim to change the attitude of the community to certain offences which are not deemed serious and yet have a detrimental impact on society

- 7.2 If the Council intends to take formal enforcement action against a business or individual, officers will notify the business or individual as soon as is practicable unless this could impede an investigation or pose a safety risk. The Council will provide a written explanation of any rights to representation or appeal and practical information on the process involved.

8.0 OTHER AGENCIES

- 8.1 Where appropriate, enforcement activities will be co-ordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement. This includes instances where an enforcement matter affects a wide geographical area beyond Knowsley.

- 8.2 Where appropriate and in accordance with the law, the Council will share intelligence with other regulatory bodies and enforcement agencies including:

- Internal partners
- Government Agencies
- Police
- Fire Authorities
- Other Local Authorities

9.0 REVIEW OF THIS POLICY

- 9.1 The Council is committed to ensuring that the enforcement policy reflects current best practice and Government policy including the Regulators' Code. To this end, this policy will be reviewed on a regular basis and any comments or suggestions will be used to inform its future development.
- 9.2 The Council will take steps to ensure that all officers are familiar with this policy. Their activities will be monitored to ensure that the policy is being implemented in their day-to-day enforcement duties.

10.0 COMMENTS AND COMPLAINTS

- 10.1 If any person believes that they have not received fair or consistent treatment as outlined in this policy, they can access the Council's complaints procedure. The matter will be considered and if within the scope of the complaints procedure then a decision will be made as to whether the Policy has been breached. The complainant will be given a reply in writing explaining the decision. This is without prejudice to any formal appeal mechanism.
- 10.2 If you wish to contact the Council to comment or ask a question about this policy then please use the contact details below:
- Web: [KMBC - Have your say \(mendixcloud.com\)](https://mendixcloud.com)
 - Email: haveyoursay@knowsley.gov.uk
 - Post: Customer Liaison Team, Knowsley Council, Archway Road, Huyton L36 9UX
 - Telephone: 0151 443 4712

11.0 AVAILABILITY

- 11.1 This policy is available on the Council's website. If you wish to receive this policy in another format, then please contact us using the details above.

12.0 LINKS

Regulators' Code: [Regulators' Code - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/regulators-code)

Prosecution: [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](https://www.cps.gov.uk/the-code-for-crown-prosecutors)

Simple cautions: [guidance for police and prosecutors - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/simple-cautions)