



Regulatory Services Enforcement Policy 2022

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2 Introduction

This enforcement procedure sets out how the council's Regulatory Services (Trading Standards, Food and Commercial Safety, Environmental Protection and Licensing teams – but **NOT** the Strategic Housing Service, where there is a separate policy relating to housing related enforcement) :

- deal with non-compliance with the legislation we have a duty to enforce which includes but is not limited to:

the Health and Safety at Work Act 1974 and subordinate regulations, the enforcement of environmental, food, licensing and trading law.

- provides a clear and accessible complaints and appeals process for use by businesses and individuals, and establishes clear principles for how we will interact with those we are regulating.

This policy will provide transparency and consistency of enforcement activity carried out by the regulatory service teams.

The enforcement procedure has been drafted in line with the Regulators Code which came into force on 6 April 2014 and will be updated annually to ensure changes in legislation are reflected and in response to those giving feedback to this procedure.

If you would like this document in a different format please telephone North Somerset Council: 01934 888888 or write to us at Customer Services, North Somerset Council, Town Hall, Walliscote Grove Road, Weston-super-Mare, BS23 1UJ.

3 Aims and Objectives

The purpose of this document is to explain the Services' procedure to businesses, customers, consumers, individuals, our officers and others affected by our enforcement activities, when dealing with breaches of any legislation enforced by the regulatory service teams.

The Services operate based on the principles of transparent, accountable, proportionate and consistent enforcement. Our aim is to improve regulatory outcomes without creating unnecessary burdens on business. Regulation of businesses and individuals includes inspection, monitoring, sampling, testing and analysis, making test purchases, offering advice and information, issuing public warnings, use of fixed penalty notices, service of legal notices, issuing simple cautions and instituting legal proceedings.

We recognise that prevention is the preferred approach and that most individuals want to comply with the law. We will endeavour to help these individuals to meet their legal obligations without unnecessary expense.

When a person or business does break the law, we will consider all the surrounding circumstances before deciding on what action is appropriate.

4 Operational Policies and Procedures

The design and review of any existing policies and procedures will be considered in light of this enforcement procedure and will consider how they might support the Council's values of being:

- An open, fairer, greener North Somerset
- A thriving and sustainable place to work and live
- A Council which empowers and cares about people
- An open and enabling organisation where our values of acting with integrity and respecting one another are reflected.

Consideration will be given to:

- Understanding and minimising negative economic impacts of regulatory activity
- Minimising the costs of compliance for those regulated
- Improving confidence in compliance by providing greater certainty
- Encouraging and promoting compliance.

5 Enforcement

What is Enforcement Action?

Enforcement means an action carried out in exercise of, or against the background of, statutory enforcement powers. This is not limited to formal enforcement action such as prosecution or service of legal notices. It includes inspections or investigations related to property or land and any relevant person where the purpose is checking compliance with legislation, to give advice to help comply with the law, when educating or gathering information.

6 Principles of Good Enforcement Practice

Regulatory Services is committed to good enforcement practice as set out in The Legislative and Regulatory Reform Act 2006, and we aim to exercise our regulatory activity in a way which is:

Proportionate

We will ensure that enforcement action is proportionate to the risks involved and that the sanctions applied are meaningful. As far as the law allows the

Council will take account of the individual circumstances of each case when considering what action is appropriate.

We will have due regard to the compliance record and will deal with persistent or deliberate non-compliance in a firm manner.

Accountable

Our activities will be open to public scrutiny, with clear and accessible policies and fair and efficient complaints procedures.

Consistent and Fair

We will treat everyone, including businesses and consumers, fairly. We aim to give positive feedback where it is due. We will ensure that our enforcement practices are consistent within the Council and will endeavour to be consistent with other local authorities.

We will take note of national guidance in our decision-making processes.

Equal Opportunities

All officers carrying out enforcement duties will make sure that all recipients of the service whether they are suspects, victims or witnesses receive fair and equitable treatment irrespective of their race, ethnicity, gender, disability, religious beliefs, political views or sexual orientation. Enforcement decisions will be fair, impartial, independent and objective and will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Decisions will not be influenced by improper or undue pressure from any source.

Transparent and Open

We are committed to the provision of information and advice in a format that is accessible and easily understood.

We will ensure that there is a clear distinction between those actions necessary to comply with the law, and those we recommend as best practice but are not compulsory.

We will discuss general issues, specific compliance failures or problems with the business or individual being regulated to ensure that they understand the reasons for enforcement and to give opportunity for alternative compliance and to make sure that the service is acting in a proportionate and consistent manner.

If we receive information that may lead to enforcement action against a business or individual, we will notify them as soon as practicable of any intended enforcement action, unless this could impede an investigation or pose a safety risk to those concerned or the general public.

In appropriate circumstances, as part of our commitment to advice and education we will offer advice on non-compliance without directly triggering formal enforcement action where a willingness is shown to resolve the non-compliance.

Publicity

Regulatory services are committed to transparent and consistent enforcement action. We may publicise aspects of our work from time to time in accordance with data protection principles. Publicity can be a valuable tool in raising awareness and educating both the public and businesses. Press releases are regularly issued by the council communications team, particularly following court action.

We may also take part in radio interviews or television programmes and use social media platforms to promote the work of the service. Press releases will also appear on our website www.n-somerset.gov.uk/news

Targeted

We will target our regulatory actions using the Intelligence Operating Model and/or relevant risk assessment schemes, where available, such as the Food Standards Agency hygiene rating scheme and the licensed premises traffic light scheme. We will also plan our work having considered national programmes and following direction from central government.

7 Expectations

In recognition of the Regulators Code 2014 recommendation that regulators approach should be transparent, we have set clear service standards you can expect from staff undertaking the types of enforcement activity described in this policy.

8 Our Approach to Enforcement

The Regulatory Service teams will be open, act proportionately, and be consistent and helpful in their approach to enforcement. In relation to our regulatory activities you are also entitled to expect our staff to:

- give clear and simple advice

- have the necessary knowledge, skills and competency to support those we regulate
- understand the principles of good regulation and the Regulators' Code and apply them appropriately
- provide a contact point for any further dealings
- clearly distinguish between what you must do to comply with the law and what is recommended as best practice
- minimise the cost of compliance by choosing a proportionate approach based on the relevant factors of each case
- give you reasonable time to comply (unless immediate action is necessary in the interest of health, safety or to prevent evidence being lost)
- advise you of the procedure for making a complaint or representations in cases of dispute
- maintain confidentiality where this is permitted by law and in accordance with the Data Protection Act.

9 Links with other council strategies and national policies

9.1 Council strategies

This document provides a framework for Regulatory Services team activities that may be undertaken to meet priorities set out in their team plans and associated directorate delivery plans. It also reflects the national frameworks and guidelines for undertaking enforcement action.

9.2 National Policies

We support the national approach to good regulation and we are committed to the principles of good enforcement, as set out in the Legislative and Regulatory Reform Act 2006;

- regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent;
- regulatory activities should be targeted only at cases in which action is needed.

In drawing up our enforcement procedure we have had regard to the following:

Regulators Code 2014

The Legislative and Regulatory Reform Act 2006 requires that we have regard to guidance issued under section 23 of this Act. The Regulators Code came into force in Spring 2014 and we are committed to ensuring our regulatory activities comply with this Code. In certain circumstances decisions may be appropriate that deviate from the code and any such cases will be reasoned and documented.

Human Rights Act 1998

North Somerset Council is a public authority for the purposes of the Human Rights Act 1998 and we apply the principles of the European convention for the protection of Human Rights and Fundamental Freedoms . This procedure and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is given to the right for a fair trial and the right to respect for private and family life, home and correspondence.

Data Protection Act 2018

Where there is a need to share enforcement information with other agencies we will follow the provisions of the Data Protection Act.

Code for Crown Prosecutors

This code is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. It sets out two tests that must be satisfied, commonly referred to as the 'evidential test' and the 'public interest' test.

The evidential test – there needs to be enough evidence that is reliable and can be used in court to provide a realistic prospect of conviction against each alleged offender.

The public interest test – we will consider each case on its merits as to which enforcement options are appropriate and if taking a case to court it is in the public interest, bearing in mind other businesses as well as members of the public.

Regulatory Authority and Sanctions Act 2008

This act, as amended, established the primary authority scheme. Where we are considering taking enforcement action against any business or

organisation that has a primary authority, we will have regard to guidance issued in respect of the primary authority scheme.

10 Compliance with Home Authority Principle

We support the Home Authority Principle, which has been developed to promote good enforcement practice and reduce burdens on business.

We will therefore:

- Provide businesses, for whom we are the 'home authority', with appropriate guidance and advice and our officers will communicate in accordance with the guidance issued by the Office for Product Safety and Standards (OPSS). Note that, in some circumstances, the advice provided will be subject to prior payment of a fee at a published hourly rate.
- Maintain records of our contacts with 'home authority' businesses to reduce the amount of information they have to provide;
- Support efficient liaison between local authorities;
- Provide a system for the resolution of problems and disputes.

11 Supporting Economic Progress

We recognise that a key element of our activity will be to carry out our activities in a way that supports those we regulate to comply with their legal responsibilities whilst being able to grow their business, balanced against a background of public protection. Wherever possible, we will work in partnership with individuals, small businesses and with voluntary and community organisations to assist them with meeting their legal obligations without unnecessary regulatory burden and expense.

12 Engaging with Service Users

We are committed to engaging with our service users and provide a number of mechanisms to facilitate this. We support local business forums (such as Pubwatch, Radiolink, Business Matters and Citizens Panels) which provides an opportunity for: dialogue, engagement on the service direction and updating members on emerging and existing local issues within the sector.

The West of England Local Authorities work together in a Better Business for All partnership which brings together businesses and regulators in local partnerships to identify the issues facing local businesses and provide support to them.

13 Sharing Information

If there is a shared enforcement role within the Council or with external agencies, e.g. our colleagues in other directorates, Avon Fire and Rescue or the Police we will co-ordinate with these agencies to minimise unnecessary overlaps or time delays and to maximise overall effectiveness. Enforcement action will normally be led by the agency or service who have the most appropriate primary legislative powers with support from those with shared enforcement roles.

Where the law allows we will follow the principle of “collect once, use many times” by agreeing to securely share information about individuals and businesses we regulate to minimise duplication. We will also endeavour to carry out joint visits and operations with other agencies to reduce the burden on business and individuals.

14 Our Approach to Dealing with Non-compliance

Where a breach of legislation has been identified we will usually, in the first instance, offer advice and support to the business or individual. However some occasions may give rise to immediate enforcement action and each case will be dealt with according to its individual circumstances; however we will always have regard to the following aims:

- to change the behaviour to ensure compliance
- to eliminate any financial gain or benefit from non-compliance
- to be responsive and consider what is the most appropriate sanction for those who are non-compliant and the regulatory issue concerned
- for the action to be proportionate to the nature of the non-compliance and the harm/potential harm caused
- to restore the harm caused by regulatory non-compliance, where appropriate
- to deter future non-compliance or to promote public safety and/or public health

Wherever reasonable and practical we will take account of the other demands on businesses so that we deal with any non-compliance at a convenient time and way. When dealing with a business or individual in a public situation we will ensure that our approach is both confidential and courteous. We will also, in seeking compliance, take account of the size and capacity of a business to help ensure compliance is appropriate and proportionate.

Officers will clearly explain the non-compliance and any advice being given, actions required or decisions taken, with reasons for these. There will be an opportunity for dialogue in relation to this. If legal action is likely to be considered as an option then a formal recorded interview may be needed as required by the Police and Criminal Evidence Act.

Investigations are overseen by the appropriate team manager. Occasionally complex or demanding investigations affecting two or more local authorities will be investigated and enforcement dealt with by, or with the assistance of external partner agencies.

We will refer matters to other local authorities or other enforcement bodies where we believe they are the most appropriate to deal with a matter. We will also accept referrals from others where we believe we are the most appropriate enforcement body to deal with something effectively and that enforcement comes under the appropriate service plan.

In the event of a possible conflict of interest, for example where a key enforcement decision involves parts of the council or its staff, we will involve another local authority in ensuring an impartial decision is made or where this is not possible or practicable we will ask another directorate to lead.

15 Processes for investigating alleged breaches

Investigations are subject to controls as to how evidence is gathered and used and give a range of protections to citizens and potential defendants. Our investigations will be carried out in accordance with the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to this service.

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

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and have regard to associated guidance, policies or codes of practice.

Under some legislation officers are given specific powers to carry out certain activities. This can include but is not limited to test purchasing, sampling, inspection of premises, goods, equipment or premises. In certain circumstances where offences are suspected, or evidence is required legislation gives our officers powers to seize goods and documents. These powers vary depending on the legislation being used.

Where any items are seized, officers will supply a document giving written confirmation of anything taken at that time or if not practical as soon as possible afterwards.

Within the legislation that we enforce it can be an offence to obstruct officers involved in enforcement activities and this can include failure to give appropriate assistance in some circumstances.

Our officers do not have the power of arrest. However, we work with the police and in some circumstances the police may use their powers of arrest.

Where a person, company or other legal entity is suspected of breaching legal requirements and formal action remains under consideration, wherever possible they will:

- be formally interviewed in accordance with the Police and Criminal Evidence Act 1984 usually but not exclusively audio recorded
- be given the opportunity to demonstrate if a statutory defence is available to them
- have the opportunity to give an explanation or make any additional comments about the alleged breach.

Before a decision to prosecute is taken, the alleged offence(s) will be fully investigated, evidence gathered and a confidential report compiled by the investigating officer that will include the evidence obtained. The investigation will be reviewed by the appropriate manager and signed off by the relevant Director.

Where prosecution is deemed appropriate it will be managed by the appropriate manager in conjunction with the Council's Legal Services Department . Other legal representation may be appointed or advice sought if required. Regulatory Services will always seek to recover prosecution costs where possible.

16 Types of Enforcement Action

16.1 Informal Enforcement Action

Where appropriate we will seek the desired improvements or protection of the public's health and safety or local trading environment by working informally with those involved. If the risk to a person's health, safety and well-being is low, or the risk to the fairness of the trading environment is low, then it will normally be appropriate to act in this way.

Compliance advice, guidance and support

This service uses compliance advice, guidance and support as a first response in the case of most breaches of legislation that are identified. Advice is provided, sometimes in the form of signage, a warning letter or documented action plan, to assist individuals and businesses to rectify breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. Any 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, any such warning letter or action plan cannot be cited in court like a previous conviction but may be presented in evidence.

We recognise that where a business has entered into a 'primary authority' or a 'home authority' arrangement with a particular regulatory service then that primary or home authority will provide compliance advice and support. We will take such advice into account when considering the most appropriate enforcement action. We may discuss any need for compliance advice and support with the primary or home authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, we recognise that there may be an ongoing need for compliance advice and support to prevent further breaches. Ongoing advice may be subject to published charges and fees.

Voluntary undertakings

Under certain legislation voluntary undertakings may be possible. This service may accept undertakings that breaches will be rectified and/or recurrences prevented. Any failure to honour voluntary undertakings will be viewed seriously and enforcement action is likely to result.

16.2 Formal Enforcement Action

Decisions on formal enforcement action will take into account a range of factors in addition to the evidence. Formal enforcement action is more likely to be pursued where the offender has:

- Acted fraudulently
- Put the safety or health of consumers, others, or animals at risk

- Acted irresponsibly and negligently
- Failed to heed advice or warning, or
- Failed to take reasonable steps to avoid non-compliance.

The above is not intended to be an exhaustive list and each case will be considered on its individual merits.

We will consider the views of any victim, injured party, or relevant person to establish the nature and extent of any harm or loss, including potential harm and loss and its significance in making the decision to take formal action.

Enforcement decisions will be fair and objective and must not be influenced by ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness, or offender. Decisions will not be influenced by improper or undue pressure from any source.

16.3 Examples of the types of formal enforcement action we can take are given below.

Fixed Penalty Notices

Certain offences are subject to Fixed Penalty Notices (FPN) - they are recognised as a low-level enforcement tool.

Where legislation permits an offence to be dealt with by way of a Fixed Penalty Notice (FPN), we may choose to administer a FPN on a first occasion, without issuing a warning. If the FPN is paid this avoids a criminal record for the defendant. In some circumstances offenders may be warned so they may change their behaviour and thereby prevent the issue of an FPN.

Penalty Notice for Disorder

A penalty notice for disorder is (PND) is the fixed penalty option for anti-social behaviour such as the sale of alcohol to a minor. A PND may be issued by a police officer following joint work around the sales of alcohol to children since the Council's officers do not have the powers to do so.

Statutory Notices and Orders

These are used as appropriate in accordance with relevant legislation (they usually require offenders to take specific action or to cease certain activities).

Examples include improvement notices, abatement notices, community protection notices, closure notices, stop notices, prohibition notices, suspension notices.

Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/or, where appropriate carrying out the work in default.

A statutory notice would clearly set out what actions must be taken and the timescale in which they must be taken. 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.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

Seizure

Some legislation permits our officers to seize goods and documents that may be required as evidence, or as works in default in order to secure compliance with notices. When we seize goods, we will give an appropriate receipt to the person from whom they are taken, if not at the time, as soon as practicable afterwards. On some occasions, we may ask the person to voluntarily surrender the goods.

Forfeiture

Some legislation allows us to apply to the court to seek forfeiture of goods, either in conjunction with a prosecution, or separately.

Taking Animals into Possession

Under the Animal Welfare Act 2006 we have powers to seize animals under Section 18 if they are suffering or likely to suffer in their environment with an accompanying veterinary certificate and under Section 20 we would complete a hearing for possession at the Magistrates Court at the earliest opportunity.

Injunctive actions, enforcement orders etc

In some circumstances this service 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 service 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, we will usually only seek a court order if we have serious concerns about compliance with legislation, voluntary undertakings or a notice.

Simple caution

The council has the power to issue 'simple cautions' (previously known as 'formal cautions') as an alternative to prosecution for less serious offences and where a person freely admits the offence. If a simple caution is offered and declined, a prosecution will be considered.

The Ministry of Justice provides guidance on simple cautions for adult offenders which can be found by using this link:

[Simple cautions](#)

Refusal/suspension/revocation of licences

Regulatory Services issue licences to carry out certain activities. It also has a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences 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 future licence applications or similar applications this service may take previous breaches and enforcement action into account.

Proceeds of crime actions (POCA)

The purpose of proceeds of crime action is to recover the financial benefit that the offender has obtained from his criminal conduct. Applications may be made under the Proceeds of Crime Act for confiscation of assets in relevant cases. Proceedings are conducted according to the civil standard of proof. Applications are made after a conviction has been secured. We will continually review our position regarding the use of enforcement options and additional sanctions under the Regulatory Enforcement and Sanctions Act 2008.

Civil sanctions under the Regulatory Enforcement and Sanctions Act 2008

Where the Council has been issued an order allowing use of the following civil sanctions, they may be used as an alternative to criminal action to secure compliance:

- variable monetary penalty (VMP). The amount of the penalty to be determined by the council to ensure the penalty reflects the nature of the non-compliance.
- compliance notice. This is a requirement to take specified steps within a stated period to secure that an offence does not continue or happen again.

- restoration notice. This is a requirement to take specified steps within a stated period to secure that the position is restored to what it would have been, so far as possible, if no offence had been committed.

Prosecution

Prosecuting someone is a serious matter and is considered carefully on a case-by-case basis.

Where criminal offences have been committed officers may consider prosecution is an appropriate way of dealing with the offence when:

- a simple caution is not appropriate or the person accused has refused to accept the offer of a simple caution; or
- there is a risk to public health and safety or of environmental damage as a consequence of the breach; or
- it is appropriate in the circumstances as a way to draw general attention to the need for compliance with the law; or
- the breach was as a result of a deliberate act or following recklessness or neglect; or
- the approach of the offender warrants it, e.g. repeated breaches, persistent poor standards; or
- a legal notice or order has not been complied with or no reasonable progress made in relation to its requirements; or
- obstruction of an officer in the course of their duty; or
- the provision of false information.

Please note this is not an exhaustive list and each case will be considered on its individual merits.

We will generally warn the person accused that their actions or lack of action has made them liable before considering a prosecution against them. However, officers may pursue prosecution without prior warning where, for example;

- There is a serious risk to health and safety or the environment.
- There is a recent history of failure to meet requests to carry out legally required works or meet legal standards.

- There is a record of criminal convictions for failure to comply with regulatory service related offences in the last 5 years or a simple caution has been issued in the last 2 years.
- It is necessary to safeguard health and safety in the future.

This is not an exhaustive list, e.g. vulnerable victims, significant fraud etc

If an offender is prosecuted and pleads guilty or is found guilty after a trial the court may impose a fine, a prison sentence for more serious matters or select from a range of other sentencing options. Offenders will then have a criminal record. The court may order the forfeiture and disposal of goods or equipment 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.

If successful, this service will also apply to the court for an offender to pay for the costs of investigation and bringing the prosecution to court. This is usually granted by courts in full or part.

17 The Code for Crown Prosecutors

Before a decision to prosecute is taken, the alleged offence(s) will be reviewed by a duly authorised manager who must be satisfied that the case meets the requirements of The Code for Crown Prosecutors. Prosecutions will need to meet the two stages of the Full Code Test; “The Evidential Stage” followed by the “Public Interest Stage”.

18 Work in Default

The Council is given powers to carry out works in default where a person has been required to do works but has failed to do so. The works in default powers are provided in the legislation being used in relation to a case.

In most, but not all, circumstances a person will be given notice of the council's intention to carry out works in default. Once the council has started works it is an offence for that person to obstruct the council or any of the contractors that have been employed to carry out the works.

The cost of the works including reasonable costs incurred by the council in undertaking the works will be recovered in accordance with the relevant statutory provisions.

19 Recovery of Debts

Where charges for enforcement action are levied they will be registered as a local land charge against the owner's property, where possible.

This means that when the property is sold the debt has to be repaid including any interest accrued on the initial charge.

We will pursue all debts owed as a result of enforcement charges or charges for carrying out works in default (as well as any other charges).

To recover debts we will use some of the following means;

- Use tracing services to track down debtors and secure judgments to pay up debts.
- Where applicable we will recover debts using the enforced sale procedure under the Law and Property Act 1925. This allows the council to force the owner to sell their property in order to recover its costs. (This power will only normally be used where there is no other realistic likelihood of recovering debts owed to the council.)

20 Powers of Entry

In certain circumstances, Powers of Entry into a property are provided to authorised officers in accordance with the legislation under which we operate.

In general the powers will allow an officer at any reasonable time to;

- enter a property to carry out an inspection and gather evidence;
- take someone with them;
- take equipment or materials with them;
- take measurements, photographs or make recordings;
- leave recording equipment for later collection;
- take samples of articles or substances;
- and in some cases to carry out works.

In most, but not all cases, prior notice must be given to owners and to the occupiers. The notice given depends on the legislation being enforced and can range from 24 hours to 7 days. Notice that powers of entry need to be exercised will normally be in writing or by email but can in some circumstances be given verbally, depending on the relevant statutory provision.

There are specific instances, where no notice is required to be given, e.g. investigating an allegation that there is a significant risk of harm arising out of the operation of a food business or there is risk of injury or death arising out of a business undertaking and where prior notice would defeat the object of the inspection, i.e. allegation of the sale of counterfeit or illegal products, seizure of equipment used in association with the breach of an abatement notice or to determine if unlicensed activities are taking place.

Powers of Entry can be enforced in the first instance where it is necessary to;

- protect and health safety of any person or to protect the environment; without avoidable delay;
- investigate an offence;
- prevent the obstruction of officers;
- carry out a statutory duty or power.

The powers of entry can be enforced with a warrant. The Police and or security staff will accompany officers where that is appropriate. It is an offence to obstruct an officer in the course of their duty.

Officers exercising their power of entry will carry identification and details of their authorisation to carry out their action

21 Authorisation of Officers

Any officer carrying out enforcement work will be authorised to do so in line with the Constitution. Each authorised officer operating under a team within their regulatory service area will carry an identity card and authorisation card which summarises their enforcement powers. You are entitled to ask to see this card at the time of their visit.

Please note once an officer has made it clear that they are authorised to carry out an enforcement activity it is normally an offence to obstruct them in their duties for which a person is liable to enforcement action such as prosecution.

22 Officer Competency

Managers authorising regulatory functions will ensure that all officers carrying out regulatory duties will have had suitable and sufficient training to ensure that they have the competency to carry out these duties and their competencies where appropriate will be subject to annual review and analysis against the appropriate regulator's development needs analysis.

All officers will have due regard to the contents of this enforcement policy when engaged in regulatory activity and will show that they have an understanding of the principles of good enforcement as recommended by the Office for Product Safety and Standards.

23 Appeals and Complaints Procedures

We are committed to the delivery of quality services that meet your needs. If you wish to appeal or make a representation against a course of formal enforcement action that has been taken, then you should follow the appeal/representation guidelines that accompany any notices/orders etc that

may have been served on you. Certain types of appeal will normally involve a tribunal or court hearing to listen to any appeals you may wish to make.

There may be times when things go wrong and you do not receive the standard of service you expect or we do not live up to our promises. If you feel that you have good cause for complaint, then managers are always willing to discuss with you the cause of your dissatisfaction, and will try and find a solution. We will deal with your complaint confidentially unless this is not possible, for example if legislation applies.

Stage 1 – make a complaint

When you are unhappy about our services you can make a complaint. The service will investigate your complaint and aim to reply within 10 working days. You will be told when a reply will take more than 10 working days and given a date to expect a reply.

Stage 2 – ask a Council director to investigate

If you are unhappy with the outcome of your stage 1 complaint, you can ask the service director to investigate. She/he will aim to respond within 17 working days. To make a stage 2 complaint, you need to reply to the stage 1 complaint response that we have sent you. Please describe why you are not happy with the stage 1 response.

Stage 3 – contact the Ombudsman

If you are not satisfied with the response from the service director you can send your complaint to the Local Government and Social Care Ombudsman. Before referring to the Ombudsman, you must have been through the first two stages of our complaints procedure. There is a pack available to help people make complaints. Please contact our Customer Services Officer for further information.

Our response

We aim to reply to your complaint within 10 working days. If we can't reply fully within that timescale, we will let you know.

24 Further Enquiries

We are continually seeking to improve our standards and this procedure is subject to regular review and at least every two years. If you would like further information on any of the information contained within this enforcement policy

please contact Andrew Cross, the Regulatory Service Lead on the contact details below;

Public Health and Regulatory Services
North Somerset Council
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