



Bristol City Council Enforcement Policy For Regulatory Services

1. Introduction

1.1 Commitment to Principles of Good Enforcement

This document sets out what business and others can expect from Bristol City Council's regulatory services and its officers. It commits the city council to good enforcement policies and procedures. It is supplemented where necessary by other documents, which set out in greater detail the specific policies, procedures and standards of service, which apply to particular regulatory services. The Services covered by this policy and contact details are set out in Appendix A.

1.2 Why Do We Have a Written Enforcement Policy?

The primary function of local government regulatory activity is to protect the public, the environment and groups such as consumers, residents and tenants, workers and businesses. However, it is important that these enforcement functions are carried out in an equitable, practical and consistent manner, and that those subject to regulation and those on whose behalf enforcement is carried out are aware of the Council's policy on enforcement.

1.3 A Policy Consistent with Best Practice and Statutory Requirement

This Enforcement Policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens on business and others subject to regulation. This Policy has been developed with due regard to the **Principles of Good Enforcement** set out in the following guiding documents:

- **Central and Local Government Enforcement Concordat**, formally adopted by the City Council in 2001
- **The Regulators' Compliance Code**, a code issued under the Legislative and Regulatory Reform Act 2006 in respect of certain specified Council regulatory functions
- **The Code for Crown Prosecutors** issued by the Director of Public Prosecutions under the Prosecution of Offenders Act 1985

In certain circumstances we may conclude that a provision contained in one or more of these codes is either not relevant or is outweighed by another provision or relevant factor. We will ensure that any decision to depart from relevant policy guidelines will be properly reasoned and based on material evidence.

1.4 What we mean by 'Regulatory' and 'Enforcement'

Although these terms are not specifically defined in legislation:

- **'Regulatory'** encompasses the Council's numerous powers and duties enabling the behaviour of individuals and/or organisations to be controlled in the public interest.
- **'Enforcement'** includes any action carried out in the exercise of, or against the background of, statutory powers and duties of regulation. This is not limited to formal enforcement action such as prosecution in the criminal Courts or the giving of Notices. It also includes, among other things, the inspection of premises for the purpose of checking compliance with regulations or conditions, the imposition of conditions on any licence, consent or similar formal permission, the issue of fixed penalty notices, the giving of Home Office cautions and the making of applications to the Courts for Orders to control the conduct of individuals and/or organisations.

1.5 Legal Obligations

All enforcement activities, including investigations and formal actions, will always be conducted in compliance with the Council's statutory obligations. Council enforcement officers should act within the scope of their delegated authority and with due regard to all relevant legislation, such as the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996, the

Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000, the Criminal Justice and Police Act 2001, the Legislative and Regulatory Reform Act 2006 and legislation designed to tackle discrimination and promote equality. Officers will have due regard to any relevant formal procedures and codes of practice made under such legislation and will be guided in their work by the principles laid down in legislation and underpinning this policy.

2. Our Enforcement Principles

We aim to apply the principles set down in the Legislative and Regulatory Reform Act 2006 to all of our regulatory activities, including, but not limited to, those that are specified in regulations made under the Act. The principles are that:

- 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.

The following paragraphs set out how we aim to make this happen in practice.

2.1 Helping Businesses and Others to Compliance – Supporting Economic Progress

The effectiveness of legislation in protecting consumers, other businesses and the community depends crucially on the compliance of those regulated. We recognise that most people and most businesses want to comply with the law. We will, therefore, take care to help businesses and others meet their legal obligations without unnecessary expense.

We will strive to ensure that when information is needed from businesses that it is assessed to avoid duplication of requests and amended where necessary. We aim to seek feedback on the forms we use to collect information from business.

Whenever practicable we will promote positive incentives for businesses that comply, such as Scores on the Doors and the Accreditation Scheme. We will, where practicable and appropriate, provide feedback to business when there are changes in business risk ratings as a result of their performance.

2.2 Clear Standards for Service and Performance

In consultation with business and all other relevant interested parties, we will draw up clear standards setting out the level of service and performance that the public and businesses can expect from our enforcement services. We will publish these standards within individual service charters and also our annual performance as measured against them. The standards will be made available to businesses, and all who are subject to regulation, as well as to the wider public.

2.3 Openness through Clear Accessible Advice and Guidance

We will provide information and advice in plain language on the legislation that we enforce and disseminate this as widely as possible, through information leaflets, newsletters, training schemes and on the Council website at www.bristol.gov.uk.

Within any limits imposed by law, we will be open about how we carry out our work, including any charges that we make for services. We will make a point of seeking appropriate consultation with business, voluntary organisations, charities, landlords, tenants, consumers and workforce representatives about the services that we provide and about our enforcement policies and procedures. We will discuss general issues, specific compliance failures or problems with those experiencing difficulties.

2.4 Helpfulness through Clear Accessible Guidance

We believe that it is in the interests both of regulated businesses and the wider public to get things ‘right first time’, and that therefore our enforcement role should involve actively working with all those subject to regulation, especially small and medium sized businesses, to guide and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name and carry proof of their identity. We will provide a contact point and telephone number for further dealings with us and we will encourage businesses and others to seek guidance or information from us. All requests for service, including applications for approval of establishments, licences, registrations, etc, will be dealt with efficiently and promptly within the resources available. We will

ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays. This reflects our 'One Council' approach to delivering services and its effectiveness is monitored by the Council-wide Better Enforcement Group of regulatory officers

2.5 Meeting the Needs of All Our Service Users

As far as it is reasonable to do, we will make provision for the particular interests of our service users, including businesses, their employees and the public. We are committed to providing equality of access to all the services that we provide. In line with the Council's published equalities policy, we will use positive action in how we provide services, including the provision of appropriate translation and interpretation services.

2.6 Accountability – How to Make a Complaint about our Service

We want to sort your complaint out as soon as possible. If you have a problem with a council service, please talk to a member of staff or contact the Manager of the service concerned (for contact details please see Appendix A). They may be able to resolve the issue straight away.

If you are unsatisfied with the service from the council you can make a complain under our **Fair Comment** complaint procedure.

If it is not possible for you to talk to a member of staff or you prefer to contact us in a different way, you may do so:

By phone. See Appendix A for direct contact numbers of services covered by this policy or call 0117 9223838 or 0117 922 2000

In person. You can call into the office of the service concerned during working hours. If not listed at Appendix A, the address will be in the phone book or on our website www.bristol.gov.uk

By e-mail. You can e-mail us at faircomment@bristol.gov.uk

Online Complaints Form at www.bristol.gov.uk

By letter. You can write to the service concerned at the address listed at Appendix A. If you send your letter direct you will need to use a stamp. However, you can also use our Freepost address:

Fair Comment (TS/BH), Freepost BS4341,
PO BOX 595, Bristol BS99 2BR

2.7 Targeted, Proportionate and Risk-based Enforcement

We will minimise the costs of compliance by ensuring that any action we require is proportionate to the risks. We will adopt a risk-assessment approach to target resources where most needed. In line with the codes referred to above, we will take account of the circumstances of the case and the response of those subject to regulation when considering action. We will take particular care to work with small businesses and with voluntary and community organisations, to help them meet their legal obligations without unnecessary expense. At the same time we will use intelligence and direct resources to identify those who flout the law or act irresponsibly and take firm action against them, including prosecution where appropriate.

2.8 Consistent Enforcement

We will carry out our duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases and to treat each case on its own merits, we will have arrangements in place to promote consistency. We support and will promote arrangements for **effective** liaison with other authorities and enforcement bodies through schemes such as the Home Authority principle, the Lead Authority principle and the Primary Authority Principle.

2.9 Working with Other Enforcement Agencies

Some regulatory activity involves consultation with other agencies before deciding on the most appropriate course of action. Sometimes there is more than one agency that can act in response to a problem. If there is a shared enforcement role with other agencies, whenever possible our enforcement activities will be co-ordinated with these agencies in order to minimise unnecessary duplication or delays and to increase our overall effectiveness. For example, joint working may be carried out with the Police, Fire Service, Health and Safety Executive, Office of Fair Trading, Environment Agency, Revenue and Customs other local authorities and government departments.

- Wherever we have a statutory duty to report regulatory matters to another body or agency, we will have procedures in place to ensure that this happens;
- If we become aware of an enforcement issue that would be of legitimate interest to, or more properly be dealt with by, another enforcement agency, we will ensure that the information is passed to that agency in good time.

2.10 Adopting Good Enforcement Procedures

Guidance from an officer will be put clearly and simply, explaining why any remedial work or action is considered to be necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice. Such guidance will be usually be confirmed in writing.

3. How We Take Enforcement Action

3.1 Unless immediate action is necessary and proportionate (such as the need to immediately prohibit a practice in order to avoid imminent harm to health and safety), the Council will afford an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference.

3.2 Where there are statutory rights of appeal against formal action, information about those appeal rights will be given, either with the Notice governing the action taken or, where this is not appropriate or practicable, in a letter following the action to be sent as soon as reasonably practicable.

3.3 Enforcement Actions

Whenever enforcement officers deal with matters that could constitute a criminal offence, and for which legal proceedings may be taken against an individual and / or a company, such allegations will be properly investigated. Officers have a range of investigatory powers given by law that may be deployed in their investigations.

3.4 At the conclusion of an officer's enquiries, a decision will be made as to whether or not it is believed that an offence has in fact been committed, and, if this is the case, whether to deal with the matter informally, or whether to pursue a more formal course of action.

3.5 Informal Action – Advice or Warning

Minor incidents are frequently dealt with by means of informal action and would involve the officer drawing the matter to the attention of the individual or to the owner of the business or to an appropriate employee, and giving appropriate guidance. A report will be left at the time of the visit or contained within a written letter of advice or warning. Rarely will a minor or technical infringement result in more formal action being taken, particularly if it is capable of immediate rectification. A follow-up visit will be made, where circumstances demand, to ensure minor matters have been rectified. However, if previous advice has been ignored, or of there is another factor that warrants a formal response, an officer may choose to treat the incident in a formal way. As stated at paragraph 1.1 particular regulatory services may produce more detailed guidance on how the formal and informal approach may be taken in specific cases.

3.6 Formal Action – Statutory Notice

Depending on the powers of the officer under the applicable legislation, and the remedy that best protects the public from harm, the officer may issue a statutory notice requiring that certain actions should be carried out within a given timescale.

3.7 Formal Action – Investigation and Report

In other cases the officer will conduct an investigation and prepare a report for senior officers in order that they may decide the appropriate course of action.

3.8 Suspected offenders will always be allowed the opportunity to give an explanation of the circumstances surrounding the commission of any alleged offence including, where provided for by the legislation, of any statutory defences. Officers may decide to do this by inviting

the suspect to attend a formal interview, which will take the form of a question and answer discussion.

3.9 Any formal interview about offences will be conducted having regard to the Codes issued under the Police and Criminal Evidence Act 1984 (PACE) and an appropriate record will be made. Suspected offenders will be given the opportunity to seek legal advice prior to such interview taking place and may be accompanied by a legal representative at the interview itself.

3.10 Formal Action – Criteria for Assessing Action on Suspected Offences

The Council takes care to ensure an independent and consistent approach is taken to prosecution decisions. In most cases where the investigating officer recommends prosecution the Council's Head of Legal Services makes the decision whether or not to begin such proceedings. In those minority of cases where other Council officers are responsible for making the decision advice provided by the Head of Legal Services will be taken into account.

In all cases the appropriate course of action to take is decided having regard to relevant policies and the **Code for Crown Prosecutors**, which involves a two-stage decision making process:

- Firstly, an **evidential test** to ensure that there is enough evidence to provide a 'realistic prospect of conviction'. If this is lacking, then no prosecution or alternative means of disposal of criminal offences will be taken.
- Secondly, a **public interest test**, which will determine whether it is in the public interest for a prosecution to be taken.

3.11 The more serious the offence, the more likely it is that a prosecution will be needed in the public interest. A prosecution is likely to be needed if:

- a. a conviction is likely to result in a significant sentence;
- b. a conviction is likely to result in a confiscation or any other order;

- c. a weapon was used or violence was threatened during the commission of the offence;
- d. the offence was committed against a person serving the public (for example, a police or prison officer, or a nurse);
- e. the defendant was in a position of authority or trust;
- f. the evidence shows that the defendant was a ringleader or an organiser of the offence;
- g. there is evidence that the offence was premeditated;
- h. there is evidence that the offence was carried out by a group;
- i. the victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage or disturbance;
- j. the offence was committed in the presence of, or in close proximity to, a child;
- k. the offence was motivated by any form of discrimination against the victim's ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics;
- l. there is a marked difference between the actual or mental ages of the defendant and the victim, or if there is any element of corruption;
- m. the defendant's previous convictions or cautions are relevant to the present offence;
- n. the defendant is alleged to have committed the offence while under an order of the court;
- o. there are grounds for believing that the offence is likely to be continued or repeated , for example, by a history of recurring conduct;

- p. the offence, although not serious in itself, is widespread in the area where it was committed; or
- q. a prosecution would have a significant positive impact on maintaining community confidence.

3.12 A prosecution is less likely to be needed if:

- a. the court is likely to impose a nominal penalty;
- b. the defendant has already been made the subject of a sentence and any further conviction would be unlikely to result in the imposition of an additional sentence or order, unless the nature of the particular offence requires a prosecution or the defendant withdraws consent to have an offence taken into consideration during sentencing;
- c. the offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- d. the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- e. there has been a long delay between the offence taking place and the date of the trial, unless:
 - i. the offence is serious;
 - ii. the delay has been caused in part by the defendant;
 - iii. the offence has only recently come to light; or
 - iv. the complexity of the offence has meant that there has been a long investigation;
- f. a prosecution is likely to have a bad effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence;

- g. the defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is real possibility that it may be repeated;
- h. the defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution or diversion solely because they pay compensation); or
- i. details may be made public that could harm sources of information, international relations or national security.

3.13 Formal Actions following conclusion of the criminal investigation

The eventual course of action taken may be one of the following: –

- **No action**
- **Verbal or Written Advice or Warning**
- **Simple Caution in accordance with current Home Office guidance**
- **Prosecution**

However, there are other options for formal action that are available to certain regulatory officers under the legislation that they enforce on behalf of the council. These will be identified in the enforcement policies and service standards in connection with those particular services.

3.14 Simple Caution

In appropriate circumstances, where a prosecution would otherwise be justified, a Simple Caution may be issued with the agreement of the defendant. This will be done in accordance with Home Office guidelines. The purpose of these cautions is to avoid unnecessary court action, but can only be used where the defendant fully admits the offence and agrees to it being dealt with by way of caution. Simple cautions are recorded by the Council and can be cited in court should a future infringement occur. This may include an infringement prosecuted by the Police or another body; as indicated above the Council will usually share relevant information (such as the fact that a simple caution has been given) with other investigators where satisfied that this will help in the prevention and

detection of crime. No court proceedings are involved in the giving of a simple caution.

3.15 A Simple Caution will be issued in accordance with the guidance in **Home Office Circular 016/2008**. There is no legal obligation for any person to accept the offer of a simple caution and no pressure will be applied to that person to accept. If a formal caution is declined, a prosecution may follow.

3.16 Confiscation of Proceeds of Acquisitive Crime

Where a prosecution concerns offending conduct falling within the relevant tests under the Proceeds of Crime Act 2002, we will consider seeking a confiscation order to remove the benefit obtained from such criminal conduct. The making of such orders sends a clear message that ‘crime does not pay’.

3.17 Working Together to Ensure Compliance

However, we firmly believe that prevention is better than cure, so it is important to remember that

- We are here to help all businesses and others within Bristol, who need information or guidance about their obligations under the legislation that we are charged with enforcing
- Trade associations, independent consultancy services and specialist lawyers can also provide help and advice
- Closer partnerships between business and local authorities means better public protection and fairer trading. It also helps to prevent inadvertent infringement of the law.

4. How We Implement this Enforcement Policy

4.1 Implementation and Training

To update existing practices it is essential that that this policy is disseminated to all officers within those regulatory services covered by this policy. These are identified at Appendix A. Training will be provided to ensure that each officer understands and applies this policy to all enforcement activity.

4.2 Publication

Following adoption this policy will be made available to all interested parties, including businesses and consumers. It will be published on the city council's website and in printed form. It will also be made available in different formats upon request.

4.3 Service Specific Standards and Charters

As set out in Section 1.1 of this policy, it will be a priority for each of the regulatory services covered by this policy to review and, where necessary update, their current enforcement policies and procedures and service standards in order to ensure that they are consistent with this policy.

4.4 Responsibilities

Each manager of a regulatory service that is covered by this policy will be responsible for its effective implementation throughout the enforcement activities of their team. Every officer within these teams will be responsible for applying it in relation to any enforcement activity covered by this policy.

4.5 Monitoring and Review of the Policy

The operation of this policy in practice will be reviewed regularly by the Council's Better Enforcement Group. The content of the policy will be reviewed in the light of any relevant changes in legislation or updated codes of practice. Any changes will be subject to prior approval by the council's Strategic Leadership Team following consultation with relevant elected Members of the authority (e.g. relevant Executive Members and Committee Chairs).

4.6 When this Policy was Ratified

An earlier version of this Enforcement Policy was approved by the Neighbourhood and Housing Services Executive on 24 February 2003 and by the Licensing Committee on 5 March 2003. It has been considered by the Council's Strategic Leadership Team and updated as of 24 February 2009 to reflect the new legislation and codes.

Appendix A: Teams Responsible for the Council Services Covered by this Enforcement Policy

Animal Health and Welfare Services

Mike Meechem, Public Safety Officer,
Brunel House, St George's Road, Bristol, BS1 5UY
Telephone (0117) 9223946 Fax (0117) 9223803
Email trading.standards@bristol.gov.uk

ASB (Anti Social Behaviour) Team

Stuart Pattison, ASB Manager
St Anne's House, St Anne's Road, Bristol, BS4 4BA
Telephone (0117) 3525155 Fax (0117) 3525287
Email asb@bristol.gov.uk

Benefit Fraud Investigations Team

Teresa Marston, Benefit Fraud Investigations Manager
15-17 Guildford Road, St Annes, Bristol, BS4 4BE
Telephone (0117) 3005006 Fax (0117) 3005019
Benefit Fraud Hotline 0500 554535
Email: benefit.investigations@bristol.gov.uk

Building Regulations & Standards (Public Protection/Enforcement)

Paul Robson, Area Building Control Manager (Public Protection)
Brunel House, St Georges Road, Bristol BS1 5UY
Telephone (0117) 9223086 Fax (0117) 9223886
Email building.control@bristol.gov.uk

Education Welfare Service

Gill Tippetts, Principal Education Welfare Officer
Orchard House, c/o Oasis Academy Bristol
Petherton Road, Hengrove, Bristol BS14 9BF
Telephone (0117) 9031660 Fax (0117) 9031684
Email gill.tippetts@bristol.gov.uk

Highways Operations Service

Jim Creamer, Highways Operations Manager
3rd Floor Brunel House, St Georges Road, Bristol BS1 5UY
Telephone (0117) 9223128
Email highway.maintenance@bristol.gov.uk

Licensing

Nick Carter, Licensing Team Manager,
Licensing Office, Princess House,
Princess Street, Bedminster, Bristol BS3 4AG
Telephone (0117) 9142500 Fax (0117) 9142515
Email licensing@bristol.gov.uk

Pest Control Services

Richard Bevan, Pest Control Services Manager,
FREEPOST BS4341, PO Box 595, Bristol BS99 2BR
Telephone (0117) 9222500 Fax (0117) 9716001
Email pest.control@bristol.gov.uk

Planning Enforcement

Jon Bishop, Co-ordinator Planning Enforcement Team
Brunel House, St Georges Road, Bristol BS1 5UY
Telephone (0117) 9223004 Fax (0117) 9223417
Email planning.enforcement@bristol.gov.uk

Pollution Control

Tim Clarke, Pollution Control Manager
Brunel House, St George's Road, Bristol, BS1 5UY
Telephone (0117) 9222500 Fax (0117) 9223395
Email pollution@bristol.gov.uk

Private Housing

Tom Gilchrist, Private Sector Renewal Manager,
(LIPS), PO Box 595, Bristol, BS99 2AW
Telephone (0117) 5333871 Fax (0117) 3772533
Email private.housing@bristol.gov.uk
Email for private landlords: private.landlords@bristol.gov.uk

Public Health Services

(includes Food Safety Services, Infectious Disease Control and Port Health Services, Health and Safety Services)

Adrian Jenkins, Public Health Services Manager,
Brunel House, St George's Road, Bristol, BS1 5UY
Telephone (0117) 9222500 Fax (0117) 9224711
Email adrian.jenkins@bristol.gov.uk

Tenancy Relations Service

Rob Risdale, Hub Manager
13-15 Cumberland Street, St Pauls, Bristol BS2 8NL
Telephone (0117) 9141470 Fax (0117) 9141189
Email robert.risdale@bristol.gov.uk

Trading Standards Service

Stephen Meale, Trading Standards Manager
Brunel House, St George's Road, Bristol, BS1 5UY
Telephone (0117) 9223444 Fax (0117) 9223803
Email trading.standards@bristol.gov.uk

South West Trading Standards Regional Enforcement Team (South West Illegal Money Lending Team and South West Scambuster Team)

Alan Evans, South West Regional Enforcement Manager
PO Box 174, Bristol, BS20 1AR
Telephone (01275) 841742 Fax (01275) 841748
Loan Shark Hotline 0300 555 2222
Email: stoploansharks@bristol.gov.uk
Email: scambusters@bristol.gov.uk

Waste and Streetscene Enforcement Team (including Dog Wardens)

Aled Williams, Waste and Streetscene Enforcement Manager
Brunel House, St Georges Road, Bristol BS1 5UY
Telephone (0117) 3525073 Fax (0117) 9222849
Email aled.williams@bristol.gov.uk