



ENVIRONMENTAL SERVICES

REGULATORY SERVICES

INTEGRATED ENFORCEMENT POLICY

1. **INTRODUCTION**

The principal role of Regulatory Services is to provide regulatory controls in Consumer Protection, Environmental Strategy and the Renfrewshire Wardens Service.

This Enforcement Policy governs how these regulatory controls are applied across Regulatory Services in the following services:

- Consumer Protection – Food Safety, Health & Safety, Trading Standards
- Environmental Strategy – Contaminated Land, Housing Disrepair, Air Quality
- Renfrewshire Wardens Service – Community Safety, Environmental Crimes

The Policy sets out the key principles which govern the work of a range of Enforcement Officers including Environmental Health Officers, Trading Standards Officers, Technical Officers and Renfrewshire Wardens. These principles are designed to ensure that enforcement is carried out in a consistent and fair manner.

2. **AIMS**

Regulatory Services aims are to:

- Ensure that the public, visitors, workers and residents of Renfrewshire have the right to a healthy and safe work and domestic environment,
- Protect the Environment from pollution or contamination,
- Treat all regulated persons and businesses in a fair and consistent manner,
- Take proportionate enforcement action where necessary to protect public health and the wider environment,
- Protect public health and the wider environment, whilst minimising disruption to enterprise or economic activity and reducing the legislative burden on compliant businesses, and
- Ensure that this Enforcement Policy is communicated to all who are affected by it.

3. **PRINCIPLES OF ENFORCEMENT**

The guiding principles for the enforcement work undertaken by Regulatory Services are as follows:

STANDARDS – There is a Regulatory Services Integrated Operational Plan which sets clear performance standards that the service is required to achieve in order to demonstrate our performance.

CONSISTENCY – Regulatory Services will exercise its duties in a fair, equitable, non-discriminatory and consistent manner. While Enforcement Officers must be able to exercise professional judgement, they must also take in to account any local or national guidance available. Regulatory Services will ensure liaison arrangements are in place with other Local Authorities in order to maintain and promote consistency

PROPORTIONALITY – At all times Officers will take action proportionate to the level of risk presented. Our Enforcement Officers will work with businesses and the public to ensure they can meet legislative requirements without unnecessary expense. In certain situations enforcement penalties are set by legislation and as such these cannot be changed. In relation to proportionality the following factors will be considered:

- The seriousness of the breach involved,
- Any steps taken to prevent the offence or minimise the impact,
- History of compliance,
- Likelihood of recurrence of the contravention, and
- The need to deter future breaches.

OPENNESS – Regulatory Services provide clear and transparent information in relation to the enforcement activities carried out. Where Enforcement Officers decide to take enforcement action, they will ensure that the reasons are made clear and any appeal procedures are explained.

HELPFULNESS – At all times Enforcement Officers will be helpful and assist with enquiries where possible. In cases where Enforcement Officers are not able to assist they will ensure service users are directed to the appropriate alternative service. There may be occasions whereby we may not be able to undertake action as requested by service users, and in these instances these decisions will be fully explained.

FEEDBACK ABOUT THE SERVICE – Regulatory Services conduct customer satisfaction surveys across all areas of the Service. Complaints made about the Service will be dealt with in accordance with the Council's complaints procedure. This procedure ensures that where disputes cannot be resolved a Senior Manager will investigate the complaint and respond with a written detailed account of the investigation.

4. **ENFORCEMENT ACTION**

When considering exercising its regulatory powers Regulatory Services will:

- Determine whether formal enforcement action is necessary,
- Adopt the most effective approach to enforcement,
- Clearly state the differences between legislative requirements and recommendations,
- Provide an opportunity to discuss issues before formal action is taken, as appropriate,
- Where immediate action is required, provide an explanation of why such action is required, and
- Provide advice on the rights of appeal, where applicable, where formal enforcement action has been taken.

4.1 **Types of Informal Action**

Where there is evidence that there have been breaches of legal requirements, Enforcement Officers may decide that these contraventions can be rectified without the need for formal enforcement action. The following informal actions may be used by Enforcement Officers to ensure compliance:

- **Verbal Advice** – Where the non-compliance can be resolved quickly and effectively and the Officer has confidence that the person will take the necessary steps then this can be communicated verbally. The Officer may then decide to arrange a follow up to ensure the necessary measures have been taken.
- **Written Confirmation** – Written Confirmation of any contravention and any remedial work necessary to rectify this contravention may be left by Officers at time of visit, or sent out by letter. While this information will be kept on record, it

does not follow that further contraventions will necessarily incur more stringent enforcement action.

- Written Warnings – A Written Warning will be issued when the Officer wants to reiterate what has been discussed and ensure a record of the contravention is kept. The required actions and timescales will be detailed in written warnings. Further contraventions after a Written Warning may incur more stringent enforcement action.

4.2 Types of Formal Action

Due to the range of functions exercised by Regulatory Services there is a broad range of formal enforcement powers available to Enforcement Officers.

In general the following formal actions may be used where there is a significant risk to public health or there has been a significant breach of legislation:

- Formal Notice - These range from Hygiene Improvement Notices in relation to Food Hygiene contraventions, Section 80 Environmental Protection Act notices to formal notices issued by Trading Standards in relation to offences under consumer protection legislation. In general this will be in circumstances where there is a risk and informal action has been unsuccessful.
- Prohibition Notices – These notices are used in relation to breaches of Health & Safety and Food Safety legislation. In general these notices will only be used where there is an imminent risk to health.
- Fixed Penalty Notice – Specific legislation allows the use of Fixed Penalty Notices to enforce the legislation. There are set procedures in place for the service of Fixed Penalty Notices.
- Reports to the Procurator Fiscal – Consideration can be given to submitting a report to the Procurator Fiscal as a result of a serious breach of legislation or a breach which may have considerable implications for public health or economic welfare. The final decision as to whether to submit a report will be taken by the Wardens Service Manager, Consumer Protection Manager, Environmental Strategy Manager or a Senior Manager. When assessing submission of a report to the Procurator Fiscal, due consideration must be given to the balance of evidence and the public interest in taking the case.

Where appropriate, Enforcement Officers will discuss the use of enforcement action with their line managers, however in cases of Fixed Penalty Notices or Prohibition Notices, this option is not generally available and Officers must exercise professional judgement in these cases.

The Council will not carry out default works in the event of non-compliance with any formal notice unless there is an imminent safety or public health risk.

With each of the above types of formal notice there is an appeals process to enable the business or person served with the notice to appeal the decision. The rights of appeal will be clearly explained, and given in writing, at the time of service of any formal notice.

5. FORMAL COMPLAINTS PROCESS

If you are unhappy with the service you have received, and feel this is not in line with the principles of this Enforcement Policy, please contact the Public and Customer Liaison Officer, Renfrewshire House, Cotton Street, Paisley, PA1 1BR. All

complaints will be dealt with in accordance with the Renfrewshire Council Complaints Procedure. Full details of the Council's complaints procedure are available on our website or can be posted out to you if you wish a copy.

6. LIAISON WITH PARTNERS AND OTHER AGENCIES

Arrangements are in place with other local authorities and partner agencies such as SEPA and the NHS in order to share information and intelligence in relation to enforcement action, ensuring that activities are co-ordinated and as effective as possible.

Where Renfrewshire Council decide to take enforcement action against a person or business that may be located outside the Renfrewshire boundary, the Council will inform the relevant local authority of that decision. Where possible Renfrewshire Council will endeavour to follow all Primary/Home Authority arrangements that may be in place between businesses and another local authority

7. EXEMPTIONS TO THE POLICY

This Enforcement Policy should be adhered to at all times when making enforcement decisions, however it is recognised that there may be occasions where the policy may not be followed.

Should an Enforcement Officer consider it appropriate not to strictly follow this policy, then this decision must be discussed with the relevant line manager and if necessary with the Regulatory Services Manager, unless it is considered that a delay in action could pose a potential risk to public health.

Any departures from the policy must be recorded in accordance with Council or legislative procedures.

8. REVIEW OF THE POLICY

This Enforcement Policy will be subject to review and changes will be recorded. The Policy will be reviewed where:

- There are any significant legislative changes,
- There are changes in national or local priorities,
- Feedback from customers and employees indicates change is required, and
- There are changes in roles and responsibilities of Regulatory Services.

9. PUBLICATION OF THE POLICY

This Enforcement Policy will be available on the Council website at www.renfrewshire.gov.uk, and in addition the document will be available in an abridged leaflet form for anyone who requires it.