



Milton Keynes Council

Environmental Services Enforcement Policy

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1. Introduction and Scope

- 1.1. 'Enforcement' means the activities and processes available to the Council to ensure that businesses and individuals achieve and sustain compliance with relevant legislation. This is not limited to formal enforcement action such as prosecution, and includes, for example, the inspection of premises for the purpose of checking compliance with Acts and Regulations, and the provision of advice to aid compliance.
- 1.2. The Council has a statutory duty to enforce a wide range of legislation. In exercising its enforcement role the Council is not acting on behalf of any individual, but is acting in the wider public interest.
- 1.3. Consistent, fair and effective enforcement is essential to protect the environment, health, safety and interests of the residents and businesses of Milton Keynes and visitors.
- 1.4. This policy applies to the enforcement activities under the legislation enforced by the Environmental Health, Trading Standards, Building Control, and Waste Management Divisions of Environmental Services.
- 1.5. This Policy is intended to enable anyone to see the principles that Environmental Services will apply when carrying out enforcement work.

2. Endorsement

- 2.1. This policy was adopted by Milton Keynes Council on 15th December 2006

3. Access to the Policy

- 3.1. A copy of this policy is free and is available:-
- On the Council's web site at <http://www.miltonkeynes.gov.uk>
 - on the Trading Standards website at:
<http://www.tradingstandards.gov.uk/milton-keynes>
 - In hardcopy, which can be requested by telephoning 01908 252504, or writing to the Head of Environmental Services, Milton Keynes Council, PO Box 105, Civic Offices 1, Saxon Gate East, Central Milton Keynes, MK9 3HH.
- 3.2. On request, this policy may be made available on tape and CD, in Braille, large type, or in a language other than English.

4. General Principles of Enforcement

- 4.1. Although each case is unique and must be considered on its own merits, the Council is committed to taking full account of the following protocols in deciding on the appropriate enforcement action to take:
- The Government's Enforcement Concordat
 - The Code for Crown Prosecutors
 - The Home Authority Principle published by the Local Authority Co-ordinators of Regulatory Services (LACORS)
 - The Health & Safety Executive (HSE) Lead Authority Partnership Scheme
 - Local Authority Building Control (LABC) Type Approval Arrangements
- 4.2. Wherever possible we will approach enforcement in a business-friendly way, giving full consideration to alternatives before embarking on any formal action. We will take account of the cost to the business of compliance as well as the degree of risk posed to the employees of the business, the public and to competitors by any non-compliance.
- 4.3. Environmental Services employees will be fair, independent and objective. Their decisions will not be influenced by issues such as ethnicity, nationality, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness, or

offender, and will support the Council's policies on Equality and Non-Discrimination at all times. They will not be affected by improper or undue pressure from any source.

5. Service standards

- 5.1. Environmental Services is committed to producing service charters which detail the operational standards of each Division. As these are developed they will be publicised and made available on request.

6. Openness

- 6.1. If requested, we will give reasons for our decisions to any party entitled to have them.

7. Helpfulness

- 7.1. We will respond positively and promptly to requests for advice from the business community and individuals and, subject to our legal responsibilities, we will work with businesses to achieve compliance through advice and guidance.

8. Complaints about Environmental Services

- 8.1. The Council publishes and operates a clear policy for responding to complaints about its services, including if necessary an investigation by independent senior management or referral to the Local Government Ombudsman.

9. Proportionality

- 9.1. In general, the concept of proportionality is included in our regulatory system through balancing the actions taken and the costs of doing so against the risks to the community and the seriousness of any breach of the law. Decisions on formal legal action will be reached only after full consideration of the principles contained in the Code for Crown Prosecutors.

10. Consistency

- 10.1. Consistency means taking a similar approach in similar circumstances to achieve similar ends. We aim to achieve consistency in the advice given, our responses, and the use of this policy on whether or not enforcement action is appropriate.

However we recognise that consistency does not mean simple uniformity, and officers need to take account of many variable factors. Decisions on

enforcement are a matter of professional judgement. We will continue to develop arrangements to promote consistency, including arrangements for liaison with other enforcing authorities, inter-authority auditing and use of relevant national guidelines.

11. Transparency

11.1. Transparency is important in maintaining confidence in the Environmental Services' ability to regulate. It means helping those that are being regulated and others to understand what is expected of them, and what they should expect from us. It also means making it clear why an officer intends to take, or has taken, enforcement action.

11.2. We will train our employees and develop procedures to ensure that:-

- Where possible an opportunity is provided to discuss what is required to comply with the law before formal action is taken, unless urgent action is required. However there will be times when the requirements of the Police and Criminal Evidence Act, which is there to protect the legal interests of the parties involved, will mean that this cannot be achieved.
- Where remedial action is required, the reasons and timescales are clearly explained (in writing, if requested). A clear distinction will be made between 'best practice' advice, and legal compliance requirements.
- Where immediate action is required, a written explanation of the reason is provided as soon as practicable after the event.
- A written explanation of any rights of appeal against formal enforcement action is given at the time the action is taken.
- Issues which may result in enforcement action against a business or individual will be notified to that business or individual as soon as is practicable, except in circumstances where notification could impede enforcement action. In such cases notification will not take place until those circumstances no longer exist.

12. Targeting

12.1. Targeting means ensuring that our efforts are directed primarily towards those whose activities present the greatest risk of non-compliance within the professional disciplines of Environmental Services. In deciding where to focus our enforcement we will take account of:

- Business Risk assessment
- National service priorities
- Local service priorities
- Directions from Government and relevant Agencies (eg Food Standards Agency)
- Local, Regional and National Intelligence
- Level of detriment to the public and businesses.

13. Investigation Procedure

13.1. Our enforcement activities will be conducted in accordance with the requirements of:

- The Police and Criminal Evidence act 1984.
- The Regulation of Investigatory Powers Act 2000.
- The Human Rights Act 1998
- Criminal Procedure Investigations Act 1996
- Criminal Justice Act 2003
- Other relevant provisions in force at the time of the investigation.

13.2. In conducting investigations we will adhere where possible to the relevant processes contained in the SWERCOTS Enforcement & Legal Process Guidance Manual

13.3. Where an investigation is concluded by issuing a Simple Caution or Conditional Caution, this will be done in line with relevant LACORS or Home Office guidance

14. Confidentiality and Data Protection

14.1. Information, including commercially sensitive matters and personal data given to, or obtained by, officers in the course of their duties will not be disclosed to anyone, except where necessary for the proper performance of their legal role and where permitted by law.

15. Freedom of Information

- 15.1. The Freedom of Information Act 2000 gives the public a general right to have access to information held by the Council, and a right to have copies of that information. However there are a number of exemptions that apply. Further information on how to request information can be found on the Council's web site at <http://www.mkweb.co.uk/mkcouncil/home.asp> or by telephoning 01908 252752
- 15.2. Some categories of information may also be requested under the Environmental Information Regulations 2004

16. Equalities

- 16.1. All enforcement activities will be conducted in a non-discriminatory way and the outcomes will be completely unaffected by any aspects of the potential defendant's race, religion, age or sexual orientation and will be in accordance with any relevant provisions of the Council's Equalities policy.
- 16.2. An impact assessment has been carried out for this Policy under the relevant Race and Disability legislative provisions.

17. Liaison

- 17.1. Individual services within the Environmental Services will co-ordinate their enforcement activity regarding any matters that are related to more than one of the services. Similarly they may liaise with other agencies and partners to maximise the effectiveness of any action.
- 17.2. Where an enforcement matter extends beyond the Council's boundaries, or involves enforcement by one or more organisations, all relevant organisations will be informed of the matter as soon as practicable and all enforcement activity will be co-ordinated with them.

18. Considering the views of those affected by enforcement

- 18.1. Environmental Services undertakes enforcement on behalf of the public at large and not just in the interests of any particular individual, business or group. However, when considering what

action is appropriate the views of those affected, and the consequences of potential actions, will be taken into account.

18.2. Individuals affected by the enforcement action will be told about any decision that makes a significant difference to the case in which they are involved.

19. Re-starting legal action

19.1. Normally, if an individual or a business is advised that there will not be legal action in a particular case, or that the enforcement action has been stopped, that is the end of the matter and the case will not re-start. However, there are occasionally reasons why enforcement action will be re-started, particularly if the case is serious. These reasons include:

- Cases where fresh evidence emerges that shows the original decision was wrong and action can be resumed within legal time limits
- Cases where a new look at the original decision shows that it was clearly wrong and should not be allowed to stand,
- Cases which are put on hold so that more evidence, which is likely to become available in the fairly near future can be collected and prepared. In these cases, the defendant will have been told that the enforcement action may well start again
- Cases which are put on hold because of a lack of evidence but where more significant evidence is discovered later.

20. Monitoring

20.1. Quality audits will be undertaken to ensure that enforcement activity is carried out in accordance with this policy.

20.2. Any instances of significant non-compliance with this policy will be recorded and reported to the Head of Environmental Services, who will instigate appropriate action.