

## Corporate Enforcement Policy

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### 1. Introduction

Milton Keynes Council functions as a regulator and enforcement agency with a wide range of legal powers and duties. The authority has an essential role in the protection of the environment and of the health, safety and interests of residents, visitors and businesses within and where relevant outside Milton Keynes.

This enforcement policy is an overarching policy, designed to ensure a consistent, fair, proportionate and effective approach to regulatory inspection and enforcement across a number of services. The policy highlights the aims and principles each enforcement service should consider when exercising their duties.

### 2. Aims

The Council's aim is to undertake its regulatory and enforcement role in an impartial, open, and consistent manner. This is achieved through education, mediation, advice, inspections, monitoring, and by regulating the activities of individuals and business as necessary.

Securing compliance through the use of enforcement powers and sanctions, including prosecution, is sometimes necessary to achieve this. In doing this, Milton Keynes Council enforcement officers will act in accordance with the guidance and standards set out in this policy. In particular Milton Keynes Council will:

- Work with people and businesses to help them understand and comply with their legal responsibilities, obligations and whether the outcomes can be achieved by less burdensome means while supporting economic growth.
- Undertake proportionate, fair and effective enforcement activities
- Robustly challenge the actions of individuals who have a negative effect on the community

- Liaise and co-operate closely with partner agencies to ensure the most appropriate and proportionate action is taken in each case
- Ensure enforcement staff are competent, appropriately trained, and apply this policy and its principles professionally and consistently
- Make information about this policy widely available to the public and businesses within and outside Milton Keynes
- Act in accordance with the Government Enforcement Concordat, Code for Crown Prosecutors and the Regulators' Code.
- Have regard to other Council policies and procedures that sit underneath this overarching policy

A further aim of this policy is to ensure that Milton Keynes Council can tackle the needs of individual communities by engaging with them in all suitable formats, identifying issues of particular importance to them, and using enforcement sanctions appropriately to bring about compliance under specific legislation and apply the approach tailored to the relevant circumstances. This approach will provide swift resolution to community problems through the use of intelligence and effective community engagement.

### **3. Scope**

This policy applies to all enforcement functions carried out by Milton Keynes Council. It supports and supplements existing specific guidance on enforcement action contained in the statutory Code of Practice for Regulators and other statutory codes of practice, relevant guidance documents, and guidelines issued by other government departments and other bodies. Due consideration will be given to any other enforcement policy or scheme such as the Primary Authority Principle, where relevant.

### **4. General Principles of Good Enforcement**

In enforcing relevant legislation, the Council will pay due regard to the following principles of good enforcement practice.

**Standards:** where appropriate, clear standards will be drawn up to set out the level of service and performance that can be expected by service users, eg response times to service requests.

**Openness:** against whom enforcement action is considered will receive sufficient explanation in plain English to enable them to understand what is expected of them, and what they may expect from us including clear indication of any charges we set. The Council will give clear explanations of things which are legal requirements, and things which are recommendations. Our correspondence and advice, where appropriate will set out clear deadlines as to when and what appropriate action is required.

**Helpfulness:** prevention is better than cure and the Council will actively work with people and businesses to advise on and assist with compliance. The Council will provide a courteous and efficient service and our staff will identify themselves by name. The Council will provide a contact point and telephone number for further dealings with us and will encourage those to seek advice/information from us. The

Council will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

**Consistency:** Broadly similar approaches will be used in similar circumstances in order to achieve consistent ends. The Council recognises that businesses and people expect consistency from different enforcement officers with whom they come into contact eg in the investigation of complaints.

The Council will continue to take steps to promote consistency of enforcement. These will include training, effective liaison with other local authorities, enforcement bodies, and professional organisations, attending local regional and national meetings.

**Proportionality:** Enforcement action will be related to the risk and the public interest. Any action taken by enforcement officers to achieve compliance with the law will depend on the seriousness of any breach.

Any decision regarding enforcement action will be taken on the merits of each case, be impartial and objective. It will not be affected by race, disability, socio-economic factors, age, politics, gender, sexual orientation or religious beliefs of any Council employee, offender, victim or witness. However, where a victim has been targeted by an offender by virtue of their status (eg ethnicity) or where the perpetrator is young or vulnerable, consideration will be given to this when deciding on any course of action.

A copy of our equality and diversity policy can be found on our website: [Equalities Policy](#) and may also be obtained by applying in writing to: Corporate Equalities & Diversity Officer, Milton Keynes Council, Civic Offices, 1 Saxon Gate East, Milton Keynes, MK9 3EJ.

Where appropriate, we will seek to achieve compliance through early engagement, mediation, education and advice. Where this is deemed by officers to be an inappropriate route, their decisions will be recorded and justified. Further if Officers believe that any provision of the Regulators Code does not apply they will record that decision and the reasons for it

## **5. Referrals / Service Requests etc**

If we receive a complaint which may result in enforcement action against a business or individual, it will be brought to their attention as soon as practicable. We will keep complainants and witnesses informed of the progress of any enforcement action taken. In circumstances where notifying any party could impede enforcement action, notification will not take place until those circumstances no longer exist.

## **6. Enforcement actions**

The following courses of action are available to the Council:

- Use of informal warnings
- Provision of written advice and guidance
- Issuing Fixed or Variable Penalty / Monetary Notices
- Suspending, revoking, or attaching conditions to an existing licence or refusing an application for a new one
- Statutory Notices
- Stop / Prohibition Notices
- Simple Cautions
- Undertaking work in default (in appropriate cases)
- Undertakings / Injunctive Proceedings
- Prosecution
- Confiscation / Forfeiture (including Proceeds of Crime Act 2002 applications)

Any sanctions and penalties imposed will be consistent, balanced, and fairly implemented. They will relate to common standards which ensure the adequate protection of individual safety and welfare, public safety, financial security, or the environment. Where it is clear that another regulator is responsible for enforcing any matter or imposing any form of sanction, the matter will be passed across to them accordingly; however this will not preclude an investigation from taking place to ascertain relevant facts. The aim of using sanctions and penalties is to:

- Protect the public and businesses from harm
- Stop the infringing conduct immediately
- Change the behaviour of the offender
- Deter future non-compliance and reassure the community
- Restore the harm caused by regulatory non-compliance
- Eliminate any financial gain or benefit from non-compliance
- Be proportionate to the nature of the offence and the harm, or risk of harm caused and with consideration as to the public stigma that might come with receiving a criminal conviction

In deciding which sanction is appropriate, the service will have particular regard to the following criteria:

- Whether the breach was pre-meditated or committed deliberately or recklessly, or without due diligence;
- Whether there are any previous complaints, convictions, or other information relevant to the history of the individual or business;
- Inadequate mitigation or explanation given by the individual or business.
- The attitude shown by the individual or the business and in particular whether they were obstructive, or co-operative and remorseful;
- The prevalence of the type of breach and whether a particular sanction could act as a deterrent and encourage compliance generally;
- The effect of the breach on the victim or affected person, in particular where the victim or affected person is in some way vulnerable or the infringement resulted in death or serious injury.

If the Council is considering any criminal action the final decision to prosecute will be taken in accordance with the Code for Crown Prosecutors.

## **7. Publicity**

The Council will consider whether the outcome should be publicised in the media particularly in relation to prevalent or frequent issues. We may publicise a conviction in order to draw wider attention to the need to comply with the law or to deter others who may be tempted to behave in a similar way.

## **8. Recovery of costs**

Where appropriate, the Council will seek to recover all costs incurred in carrying out any proceedings (including staff time) from relevant parties to ensure that the financial burden of the infringement is not borne by the authority and ultimately the tax-payer.

## **9. Accountability**

If any person or business is unhappy with the implementation of this Policy they are invited to raise the issue with the relevant enforcement officer. If they feel this has not resolved the issue they may raise a formal complaint.

Complaints and Appeal about our service or decision regarding enforcement action will be addressed through our corporate complaints procedure, which can be found on our website: Titled [Complaints](#) and may also be obtained by applying in writing to: Milton Keynes Council, Civic Offices, 1 Saxon Gate East, Milton Keynes, MK9 3EJ.