

When is it necessary to prosecute?

Prosecution is considered when one or more of the following exist:

- Where the offence results in a serious breach of the law
- Where the offence involves failure to comply with a formal notice or order
- Where the offence results in an imminent risk to public health, safety or to the environment
- Where there is failure to correct an identified serious risk within a reasonable time
- Where there is a history of similar offences

How can you complain or appeal against enforcement action?

Those affected by enforcement decisions have a right to complain or appeal against the decision. This can be done in one of two ways.

Complaints about the Service

In these cases the Council's complaints procedure will be explained and details provided on how to complain.

Appeals

There are usually rights of appeal against formal action. Advice on how to appeal will be clearly set out in writing at the time the action is taken.

Environmental Health Enforcement Policy

Cheltenham Borough Council, Cotswold District Council, Forest of Dean District Council, Gloucester City Council, Stroud District Council and Tewkesbury Borough Council have all adopted policies which set out what businesses and others being regulated can expect from environmental health enforcement officers.

The aim of the proper enforcement is to protect the public, the environment and groups such as consumers or workers.

These policies commit us to good enforcement practices and procedures.

This leaflet sets out the basic principles followed in enforcing Environmental Health legislation in all these District Council's areas.

Where can I find more information?

For advice on the environmental health enforcement policy or to receive a copy please write to:

Environmental Health

Gloucester City Council, Herbert Warehouse
The Docks, Gloucester, GL1 2EP

T:01452 396396

F:01452 396340

E:Heretohelp@gloucester.gov.uk

www.gloucester.gov.uk

a guide to Environmental Health Enforcement and Prosecution

by
Environmental
Health Services
Throughout
Gloucestershire

Environmental Health Enforcement and Prosecution Policy

This leaflet explains what enforcement means, why we have a policy and how it works.

What is Enforcement?

Environmental Health Services are responsible for implementing and regulating a wide range of legislation. In cases where someone is not complying with the legislation we have a duty to take action - this is called enforcement.

Why do we need an Enforcement Policy?

It is important that businesses and others who may be affected by enforcement action have access to a clear statement of what they can expect from enforcement officers. It also commits us to observing good enforcement policies and procedures.

The primary function of local government enforcement work is to protect the public, the environment and groups of people such as workers and consumers. At the same time carrying out enforcement work in a fair practical and consistent manner also helps to promote a thriving local economy. We are committed to these aims and to maintaining a safe and fair trading environment.

How do we ensure that this Policy is fairly applied?

We are committed to the following principles of fairness:

Openness we will be open about how we set about our work and provide information and advice in plain language.

Consistency we will discuss (arrangements are in place to encourage discussions) and compare enforcement decisions and policies amongst our own officers and with other authorities and enforcement bodies.

Proportionate we will minimise the costs of compliance by ensuring that any action we require is in proportion to the risk.

Targeted action will be targeted at those situations that give rise to the more serious risks or the least well controlled risks.

How do we decide when to take Enforcement Action?

Enforcement officers will consider a number of factors before deciding when to act.

- The seriousness of the breach
- The track record of non-compliance
- The continued risk to health, safety or the environment
- Public expectation
- The consequences of non-compliance
- The likely effectiveness of enforcement options
- Any local or national guidance
- The needs to consult with other local authorities or enforcement bodies

We recognise that most businesses want to comply with the law. We will therefore take care to help businesses and others to meet their legal obligations but will take firm action against those who flout the law or act irresponsibly.

How do we decide what action to take?

There are several courses of action open to enforcement officers depending on the circumstances.

No action

If on investigation no breaches of legislation are established then no further enforcement action will be taken.

Informal action

If on investigation breaches of legislation are established but not serious enough to take formal action, bearing in mind the company's or individual's record of compliance then informal action will be taken. This will result in verbal and or written advice and requirements in the form of a letter, schedule or inspection report.

Formal action

If on investigation serious breaches of legislation are established, an opportunity to discuss the issues will be provided unless immediate action is required. The choice for formal action includes:

Service of formal notice or orders

Issuing a formal caution

Prosecution

Written warnings revocation or suspension Work done by the Council and re-charged

In all cases of formal action we will provide a written explanation stating:

- Why the action is necessary
- A time for completion (where appropriate)
- An explanation of the rights of appeal