



# **Corporate Enforcement Policy**

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## **A. Introduction:**

### **1. Enforcement Activity**

The Council is committed to ensuring that the district continues to be a great place to live, work, play, study and do business. Part of its role is regulatory and the Council has a duty and a power to take action to enforce a wide range of statutes relating to:

- public health and safety,
- quality of life,
- preservation of public and residential amenity,
- maintenance of the environment and
- protection of public funds.

This document represents the Council's overarching Enforcement Policy and supersedes any previous policy statements on enforcement and is supplemented by more specific Enforcement and Service Standards relating to specific service areas and legislation.

If it is concluded that, on the basis of material evidence, that a specific provision of this Policy, the Enforcement or Service Standards is either not applicable or is outweighed by another relevant consideration, the regulator is not bound to follow that provision, but should record that decision and the reasons for it.

The collection of civil debts and parking regulation should be considered out of scope of the document.

### **2. The Regulators Code**

The Regulators Code was laid before Parliament in accordance with section 23 of the Legislative and Regulatory Reform Act 2006 ("the Act") and the Council **must** have regard to the Code when developing policies and operational procedures that guide our regulatory activities.

We must also have regard to the Code when setting standards or giving guidance which will inform the regulatory activities of other regulators. If we conclude, on the basis of material evidence, that a specific provision of the Code is either not applicable or is outweighed by another relevant consideration, we are not bound to follow that provision, but should record that decision and the reasons for it.

The full code is may be found here:

[www.gov.uk/government/publications/regulators-code](http://www.gov.uk/government/publications/regulators-code)

The principals of the code are that, we should:

1. Carry out our activities in a way that supports those we regulate to comply and grow.
2. Provide simple and straightforward ways to engage with those we regulate and hear their views.
3. Base our regulatory activities on risk.
4. Share information about compliance and risk.
5. Ensure clear information, guidance and advice is available to help those we regulate meet their responsibilities to comply.
6. Ensure that our approach to their regulatory activities is transparent.

### **3. Principles of good enforcement**

The Act also states that any person exercising a regulatory function subject to the code must carry out their regulatory activities in a way which is:

- transparent
- accountable
- proportionate
- consistent

and should be targeted only at cases in which action is needed.

### **4. Scheme of Delegation**

The Council's Scheme of Delegation specifies the extent to which enforcement powers are delegated and are the responsibility of the Council, Cabinet/its Committees, Portfolio Holder or Leader, Regulatory and other Committees and Officers.

### **5. Overview**

The Council fully supports the principles outlined above and has set out within this Policy the procedures to be adopted by all services and expects all officers taking enforcement decisions to follow this Policy when making their decision.

Every case must be decided on its own individual facts and officers must ensure that, if they depart from the Policy when they make their decision, they can provide reasons for doing so.

Along with following the principals of the Code and Act we will observe the requirements of approved national bodies and, where practicable, approved national good practice guidance.

Where appropriate, services will provide enforcement advice, support and information in accessible formats.

## **B. Specific Commitments:**

### **1. We will carry out our enforcement activities in a way that supports those we regulate to comply and grow**

Where possible and appropriate we will avoid imposing unnecessary regulatory burdens through our activities and will assess whether a similar outcome could be achieved by a less burdensome method. We will consider proportionate approaches to those we regulate, based on relevant factors including, for example, business size and capacity.

When designing and reviewing policies, operational procedures and practices, we will consider how we might also support or enable economic growth for compliant businesses and other regulated entities, by:

- understanding and minimising negative economic impacts of any regulatory activity;
- minimising the cost of compliance;
- improving confidence in compliance for those we regulate, by providing greater certainty; and
- encouraging and promoting compliance.

We will also ensure that the appropriate officers:

- have the necessary knowledge and skills to support those regulated;
- have an understanding of those regulated to enable proportionate and effective approaches;
- understand the principles of good regulation, the Code and this policy and how we deliver our activities in accordance with them.

### **2. We will provide simple and straightforward ways to engage with those regulated and listen to their views**

Where appropriate before changing policies, practices or service standards, we will consider the impact on business and give them the opportunity to offer views and contribute to the development of their policies and service standards.

Where non-compliance is identified we will clearly explain:

- what the non-compliant item or activity is,
- the advice being given,
- actions required or decisions taken, and the reasons for these.

We will provide an opportunity for dialogue in relation to the advice, requirements or decisions, to ensure that we are acting in a way that is proportionate and consistent.

This however does not apply where we believe that immediate enforcement action is required to prevent or respond to a serious breach or where providing such an opportunity would be likely to defeat the purpose of the proposed enforcement action.

In all cases and where ever possible in writing we will provide an impartial, timely and clearly explained route to appeal against any regulatory decision made. This

explanation will be in plain language and if appropriate include practical information on the process involved.

Where those we regulate:

- feel we have failed to provide a service, or are dissatisfied with the way we have provided a service
- feel we have created an unreasonable delay with the provision of a service
- feel dissatisfied with the way a policy has been applied or a decision made
- feel we have failed to fulfil our statutory responsibilities
- feel we have provided inaccurate or false information and advice to them
- wish to complain regarding the inappropriate conduct of a member of staff, partner organisation or contractor.

The Council also have a formal complaints process set out here:

<http://www.eppingforestdc.gov.uk/contact-us/compliments-complaints>

And have in place a range of mechanisms to enable and regularly invite, receive and take on board customer feedback, including, for example, through customer satisfaction surveys of those they regulate.

### **3. We will base our regulatory activities on risk**

Wherever possible each service will take an evidence based approach to determine the priority risks in their area of responsibility and allocate resources appropriately.

Risk will be considered at every stage of the decision-making processes, from choosing the most appropriate type of intervention/way of working with those regulated to targeting checks on compliance and taking enforcement action.

Where a system is designed to inform targeting of regulatory activities appropriate consultation with those affected will take place and the effectiveness of the system reviewed on a regular basis.

In determining risk we will recognise the compliance record of those we regulate and consider all available and relevant data, including evidence from appropriate external bodies.

The effectiveness of our regulatory activities will be reviewed with the aim of delivering the desired outcomes and make any adjustments accordingly.

### **4. We will share information about compliance and risk with other regulators**

When the law allows, we will agree secure mechanisms to share information with other regulators about businesses and other bodies they regulate, to help target resources and activities and minimise duplication. Where possible we will follow the principle of “collect once, use many times” when requesting information from those they regulate.

**5. We will provide clear information, guidance and advice to help achieve compliance**

We will provide advice and guidance that is focused on assisting those we regulate to help them understand and meet their responsibilities. When doing so we will distinguish providing advice and guidance on good practice from legal requirements and do so in a way that does not impose unnecessary burdens in itself.

We will aim to signpost or publish guidance and information in a clear, accessible and concise format using the most media appropriate to the target audience. We will listen to those we regulate in relation to any guidance they produced to ensure that it meets their needs.

Overall we will seek to create an environment in which those regulated have confidence in the information they receive and feel able to seek advice without fear of triggering enforcement action.

Where a business or individual is regulated by more than one body we will aim to work collaboratively and provide consistent advice.

**6. We will ensure that our approach to regulatory activities is transparent**

For each service area we regulate we will aim to publish a set of clear service standards including any fees and charges that may apply (including how they are calculated where requested), how to appeal, comment or complain about the service provided and setting out to those we regulate what they should expect from us. Along with this document these will be published in the Enforcement Standards relating to specific service areas.

Information published to meet the provisions of the Regulators Code will be easily accessible and be kept up to date.

Where available, we will publish performance against service standards, including feedback received from those we regulate, such as customer satisfaction surveys, and data relating to complaints and appeals against our decisions

We have in place mechanisms to ensure that officers act in accordance with published service standards including this policy.

## **C. Other Considerations:**

### **1. Safeguarding**

*“Epping Forest District Council is committed to safeguarding and promoting the welfare of all children, young people and adults with needs for care and support, as service users, residents and visitors to the area. The Council acknowledges the importance of working with partner agencies to ensure that children have safe, healthy and happy childhoods and that young people and adults with needs for care and support are given the support they need to enjoy quality of life and well-being”.*

In the case of a person who was at the relevant time vulnerable (e.g. suffering from significant mental or physical ill health) the Council will consider the desirability of using formal enforcement balancing the need to safeguard others and taking into account the public interest.

We will consider our Safeguarding policy and procedures when determining what (if any) enforcement action to take. The Council's Safeguarding policies and procedure can be found here:

<http://www.eppingforestdc.gov.uk/residents/crime-and-safety/safeguarding>

### **2. Equality and Diversity**

*“Epping Forest District Council is committed to ensuring that all individuals and groups are treated with respect and are valued equally;”*

Promoting equality through our services is very important to us. We work closely with customers, residents and employees to make sure that everyone can access our services and these services meet their needs. We publish information about the work we are doing to reduce inequality and show the progress we are making.

We aim to provide a high standard of service which is accessible to all. Reducing inequality is an integral part of what we do and we will treat everyone and fairly according to their needs. We are actively seeking to narrow the gap between those people who are disadvantaged in comparison to others. We do this through a range of initiatives across our housing, planning, benefits, community and environmental services; and by identifying our priorities and objectives to work towards

We have a range of documents which provide more information on our equality work, including our Equality Framework which provides structure to our equality agenda and the systems to deliver it. The Frameworks and associated documents can be found here:

<http://www.eppingforestdc.gov.uk/your-council/plans-and-performance/equality>

### **3. Victims and witnesses**

We will at all times have regard to the Crown Prosecution Service (CPS) guidance relating to Victim and Witness care the basic principles of which are that each agency

involved in the criminal justice system should, where relevant, ensure that victims and witnesses:

- are free of the burden of decisions relating to the offender;
- receive timely information and explanation about the progress of their case, and have the opportunity to provide their own information about the case for use in the criminal justice process;
- are protected in any way necessary;
- receive compensation when appropriate;
- receive respect, recognition and support;
- have their fundamental human rights respected.

The CPS guidance on the care and treatment of victims and witnesses can be found here:

[http://www.cps.gov.uk/legal/v\\_to\\_z/care\\_and\\_treatment\\_of\\_victims\\_and\\_witnesses/](http://www.cps.gov.uk/legal/v_to_z/care_and_treatment_of_victims_and_witnesses/)

#### **4. The Regulation of Investigatory Powers Act 2000 (RIPA)**

The Council has various functions which involve observing or investigating the conduct of others, for example, investigating anti-social behaviour, fly tipping, noise nuisance control, planning (contraventions), benefit fraud, licensing and food safety legislation. In most cases, Council officers carry out these functions openly. However, there are rare cases where it is necessary for officers to use covert surveillance techniques to undertake a specific investigation.

The use of covert surveillance techniques is regulated by the Regulation of Investigatory Powers Act 2000 (RIPA), which seeks to ensure that the public interest and human rights of individuals are appropriately balanced. The Council's policy and procedures on the use of covert surveillance techniques and the conduct and use of a Covert Human Intelligence Source can be found here:

<http://rds.eppingforestdc.gov.uk/ieDecisionDetails.aspx?ID=2173>

#### **5. Aerial Camera**

In March 2016 Epping Forest DC purchased two Aerial Camera Systems to be available for use by all Directorates for to:

- Monitor Land, Sites and Flood Zones
- Survey Roofs, Land and Buildings
- Collect Topographic Images
- Capture Video

The operational procedures and instructions laid out in the Flights Operation Manual must be adhered to at all times by all personnel involved in the flight and use of the UAV. The Accountable Manager must sign off on all uses and activities involving the UAV at the Planning Stage and it is the responsibility of the Directorate end user of the imaging gathered to ensure that the imaging is properly and lawfully used and not used for anything other than official EFDC purposes. The Data Protection Act 1998 (DPA) and Human Rights Act 1998 (HRA) are both applicable to the use of the RPAS's.

Any use that may come within the scope of the Regulation of Investigatory Powers Act 2000 (RIPA) will be discussed prior to the flight with the Councils RIPA Officer, and if required the necessary authorisation obtained in writing before the flight takes place.

The Flights operation Manual and Aerial Camera Usage Policy can both be found here:

<http://www.eppingforestdc.gov.uk/residents/crime-and-safety/unmanned-aerial-vehicle-uav>

## 6. Body cams

In Epping Forest the North Essex Parking Partnership (NEPP) are responsible for on-street parking services, including enforcement.

The service is a partnership between Essex County Council and six district/borough councils:

- Braintree District Council
- Colchester Borough Council - who are the lead authority for the partnership
- Epping Forest District Council
- Harlow Council
- Tendring District Council
- Uttlesford District Council

Off street parking is undertaken by NSL Limited, officers from both services are equipped with body worn cameras.

The use of body worn cameras will improve the Health and Safety of parking enforcement officers by ensuring that wherever possible, video and audio evidence will be available to the Police and Courts in the event of any of their officers being subject to incidents of physical or verbal abuse, threats or aggressive behaviour.

The use of body worn cameras also protects the person subject to enforcement action in the event that that they believe they were treated improperly by the enforcement officer and reduces the number of unfounded complaints being made against the officers.

NEPP's policies and procedures relating to their use of body worn cameras can be found here:

<http://www1.parkingpartnership.org/north/bodyworncameras>

## 8. Closed Circuit Television (CCTV)

Epping Forest District Council's CCTV schemes exist in order for us to record, view and monitor activity within the intended area of coverage, for the purpose of crime detection, prevention anti-social behaviour and public safety.

It has operated since the late 1990s and since that time and with the advancement of technology our CCTV has grown and developed. Today we operate over 48 schemes with over 629 cameras across the Epping Forest District (correct at time of publication).

We use overt CCTV in pursuit of a legitimate aim; necessary to meet a pressing need; proportionate; effective, and compliant with any relevant legal obligations. As a member of the National CCTV User Group we work closely with the Surveillance Camera Commissioner in adopting the National CCTV Strategy for best practice. The aim of providing CCTV in Epping Forest DC is to:

- Help secure and maintain safe environments for those who visit, work in, trade in or enjoy leisure pursuits within the district.
- Operate the council's CCTV schemes fairly and lawfully and only for the purpose for which they were established, or subsequently agreed in accordance with the CCTV code of practice

## **What is CCTV?**

As the name implies, CCTV is a system in which the circuit is closed and all elements are directly connected. This is unlike broadcast television where any receiver that is correctly tuned can pick up a signal from the airwaves.

Some now refer to CCTV as VSS (Video Surveillance Systems), this is due to significant advances in technology that now allow video images to be streamed over the internet or through Wi-Fi and micro wave links etc.

Probably the most widely known use of CCTV is in security systems and such applications as retail shops, banks, government establishments, etc. The true scope for applications is almost unlimited...some examples are listed below:

- Automated Number Plate Recognition (ANPR)
- Environmental Services
- Transportation
- Public places such as high streets
- Casinos
- Domestic and private property.

## **How does CCTV reduce crime?**

CCTV has become an increasingly valued tool in the fight against crime and anti-social behaviour. It provides a permanent record of an incident which may be used as evidence in a court of law. Its mere presence can deter criminal activity and alert authorities to enable a faster response to an incident

The Council's code of practice for the operation of CCTV and other associated documents can be found here:

<http://www.eppingforestdc.gov.uk/index.php/residents/crime-and-safety/introduction-to-cctv>

## **9. Data Protection and Privacy**

The Data Protection Act 1998 protects the privacy of individuals and places obligations on organisations that process personal data. Personal data is any information about a living individual that can identify them. The council needs to process and store personal data in order to provide its services effectively.

Our Data Protection Policy explains the way that our councillors, employees and anyone else working with the council must handle personal information.

To view our Data Protection Policy click [here](#).

## **D. Enforcement options:**

When making enforcement decisions officers must have regard to any relevant local or national guidance (such as the Regulators Code) as well as the provisions of the Human Rights Act 1998, Equalities Act 2010 and this Policy.

For many areas of our enforcement activity government guidance already exists in the form of Codes of Practice, Planning Policy Guidance, and Government Circulars etc. and there may also be local or regional Codes of Practice which have been produced locally to promote consistency in enforcement.

### **1. Prevention**

We believe that the first step in enforcement is to promote good practice, ensure policy compliance and prevent contravention of the law by raising awareness and promoting good practice. Methods of achieving this include training courses, seminars, special promotions, the issuing of press releases, newsletters, the Council's web site, the production of leaflets and other forms of written guidance and opportunities presented by day to day contact with businesses and others that we regulate.

This approach will be applied when we are not aware of any specific contraventions of the law.

### **2. Approvals, Consents, Registrations and Licences**

We provide a range of approvals, consents, registrations and licences as specified by individual pieces of legislation. Many are compulsory in order to operate or undertake work, such as planning applications, licensing applications and building regulation approvals, but a few are optional. The approval, rejection and imposition of conditions all form part of an enforcement option.

We will work with applicants to help them to understand what is required to gain approval through pre-application advice, published guidelines, and post-application discussion.

Applications may be approved, varied by agreement and then approved, approved subject to conditions, or rejected. Applicants, or their agents, will always be notified, in writing, of the outcome of their application, including the reasons if rejected. Details of any rights of appeal will be provided at the time the decision is notified.

Examples of where an application might be approved but with the addition of conditions might include (but are not limited to):

- building work is not inherently wrong but plans need to be modified or further plans are required
- developments would be refused if conditions were not attached
- conditions are necessary to ensure that the purpose of an approval, licence or registration is adhered to (for example animal welfare conditions for a Pet Shop licence)
- where a food premises meets all the infrastructure and equipment requirements for Approval but does not fully comply with some other requirements

Examples of where it might be appropriate for an application to be refused include (but are not limited to):

- where plans do not show compliance with Building Regulations
- where a reply to a plan assessment letter is not received, is received too late to allow an adequate response, or is unsatisfactory
- where work, at inspection stage, does not meet minimum standards and remedial action is required
- where other contraventions exist
- where an application is against local or national policy
- where there is reason to believe that the applicant will not comply with the purpose of a licence or registration or any conditions attached to it (for example where there have been previous infringements)
- where a food business operator fails to meet all the structural and equipment requirements

any rejection notice will inform the applicant, or their agent, of the reasons for refusal and any right of appeal.

### **3. Informal Action**

Where appropriate we will therefore use our best efforts to resolve situations on an informal basis. Informal action may include mediation, schedules of work to be undertaken, the issuing of a warning regarding behaviour. This may not necessarily be confirmed in writing but it should be clear what is required from us in order to avoid more formal measures. We will confirm the situation in a clear manner and explain why the action is necessary and over what timescale it should be completed in and it will be clear those actions which are legal requirements and those that are recommendations.

This approach will only be appropriate where there is no statutory duty to take formal action and the consequences of non-compliance are considered acceptable. This would not for example include occasions where:

- the time period allowed to seek compliance presents a significant risk to or impact on health and safety, welfare or the environment,
- there is demonstrable harm to the amenity of the area,
- the past history (of the individual or business) suggests that informal action will not achieve legal compliance in a reasonable timescale,
- standards are generally poor, suggesting a low level of awareness of and/or compliance with statutory responsibilities,
- the action is being taken on behalf of a customer/victim, who prefers the matter to be handled informally.

### **4. Formal Action**

Circumstances where formal action will be considered include (but are not restricted to):

- there is a significant contravention of legislation
- legislation requires the Council to take a specified action
- an informal approach has failed
- there is a history of non-compliance with informal action

- there is a lack of confidence in the successful outcome of an informal approach
- standards are generally poor, suggesting a low level of awareness of, and/or compliance with, statutory responsibilities
- the consequences of non-compliance, for health, safety, the environment, or other Council priorities, are unacceptable and/or immediate
- there is clear harm to the amenity of the area
- effective action needs to be taken quickly in order to remedy conditions which are deteriorating
- formal action is expected to achieve the desired outcome without incurring expense or inconvenience that is disproportionate to risk
- legal requirements, relevant formal guidance, or other Council policies or strategies require formal action to be taken
- undertaking formal action is likely to result in improved levels of compliance in the future

Only officers who have reached a sufficient level of competence will be given the delegated authority to take formal action. The following are the most commonly used forms of formal action, it should be noted that depending on the statute each option is not mutually exclusive to another.

## **5. Non Compliance options**

### **Statutory Notices**

Much of the legislation that we enforce provide and in some cases require for the service of 'statutory notices' on individuals, businesses and other organisations requiring them to meet specific legal obligations.

Where a 'statutory notice' is served, the method of appealing against the notice and the timescale for doing so will be provided in writing at the same time. The notice will explain what is wrong, what is required to put things right and what the likely consequences are if the notice is not complied with.

In some cases a 'statutory notice' can be served to prevent the occurrence or recurrence of a problem e.g. a noise nuisance. In most cases, failure to comply with a 'statutory notice' will result in more severe formal action being taken. In some cases (such as the service of a notice under Part 1 of the Housing Act 2004) there will be a charge for serving a statutory notice.

### **Fixed Penalty Notices and Penalty Charge Notices**

These are notices that apply a penalty for specific offences (listed in each service Enforcement Standard). The standards will include details of the level of fine, any early payment discount, what will happen if offenders don't pay and, where it differs from this policy, how FPNS are issued, how to appeal, how the money received from FPNS will be spent and what records will be kept.

In general a penalty notice will only be issued when:

- an offence has been committed
- a FPN is a proportionate response
- there's evidence to support prosecution if the offender doesn't pay the fixed penalty

- the offender understands why the FPN is being issued
- you believe that the name and address offered by the offender are correct

A FPN should generally not be issued if any of the following apply:

- there is no criminal liability
- enforcement action is inappropriate or would be disproportionate for the offence
- prosecution is more suitable

#### **No criminal liability**

- the person in question is exempt, eg a blind person whose dog has fouled in an area where a public spaces protection order applies
- the offender is a child under the age of 10 (inform the child's parents instead)

#### **Enforcement action is inappropriate or disproportionate**

- it is not in the public interest to do so
- the offender is vulnerable
- the offence is trivial

#### **Prosecution is more suitable**

- the offence is major, e.g. deliberate smashing of glass or racist graffiti
- the offence is committed by a persistent offender
- the offender is violent or aggressive

#### **Work In Default**

In certain cases the Council may undertake work to achieve compliance on behalf of others. This may occur if the responsible person fails to comply, cannot comply by virtue of genuine hardship, or is unable to comply by virtue of being absent. In these cases the Council's costs will normally be recovered from the responsible person. If the costs cannot be recovered, they will usually be placed as a charge against the property, to be recovered at a later date.

This kind of formal action will be considered (but is not limited to) where:

- a 'statutory notice' requiring work to be undertaken has not been complied with,
- immediate work is required and it is not practicable to contact the responsible person, or they are not willing to respond immediately,
- there is no responsible person e.g. burial or cremation of a deceased person with no next-of-kin.

#### **Cautions**

A simple caution (previously known as a formal caution) may be issued as an alternative to a prosecution and will be considered during any decision to prosecute.

Cautions will be issued to:

- deal quickly and simply with less serious offences;

- divert less serious offences away from the courts; or
- reduce the chances of repeat offences.

To safeguard the suspected offender's interests the following conditions will be fulfilled before a caution is administered:

- there must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction; and
- the suspected offender has admitted the offence; and
- the suspected offender understands the significance of a caution and gives informed consent to being cautioned.

A caution is a serious matter, which will influence any future decision should the company or individual offend again. It can be referred to in any subsequent court proceedings, but this will not apply if the caution was issued more than 3 years before. Where the offer of a caution is refused, a prosecution will generally be pursued. No pressure will be applied to a person to accept a caution.

### **Prosecution**

The Council recognises that the decision to prosecute is significant and would be a last resort and could have far reaching consequences on the offender. The investigating officer will prepare a case for prosecution and pass to the Council's Solicitor to review the evidence and assess the viability of a prosecution.

All relevant evidence and information will be considered before deciding upon a prosecution in order to enable a consistent, fair and objective decision to be made. The Council will have regard to the Code for Crown Prosecutors, which is available here:

[https://www.cps.gov.uk/publications/docs/code\\_2013\\_accessible\\_english.pdf](https://www.cps.gov.uk/publications/docs/code_2013_accessible_english.pdf)

In summary a two stage process will be considered:

### **The evidential stage**

The Council must be satisfied that there is sufficient evidence to provide a realistic prospect of conviction against the suspect on each charge. The finding that there is a realistic prospect of conviction will be based on an objective assessment of the evidence, including the impact of any defence, and any other information that the suspect has put forward or on which he or she might rely.

It means that an objective, impartial and reasonable jury or bench of magistrates or judge hearing a case alone, properly directed and acting in accordance with the law, is more likely than not to convict the defendant of the charge. A case which does not pass the evidential stage must not proceed.

When deciding whether there is sufficient evidence to prosecute we will consider:

### **Can the evidence be used in court?**

Is there is any question over the admissibility of certain evidence. In doing so we will make an assessment of:

- the likelihood of that evidence being held as inadmissible by the court; and
- the importance of that evidence in relation to the evidence as a whole.

### **Is the evidence reliable?**

We will also consider whether there are any reasons to question the reliability of the evidence, including its accuracy or integrity.

### **Is the evidence credible?**

We will consider whether there are any reasons to doubt the credibility of the evidence.

### **Is the prosecution in in the public interest?**

In every case where there is sufficient evidence to justify a prosecution, prosecutors must go on to consider whether a prosecution is required in the public interest.

It has never been the rule that a prosecution will automatically take place once the evidential stage is met. A prosecution will usually take place unless the prosecutor is satisfied that there are public interest factors tending against prosecution which outweigh those tending in favour. In some cases the prosecutor may be satisfied that the public interest can be properly served by offering the offender the opportunity to have the matter dealt with by an out-of-court disposal rather than bringing a prosecution.

Prosecutors should consider each of the following questions:

#### **How serious is the offence committed?**

The more serious the offence, the more likely it is that a prosecution is required.

When deciding the level of seriousness of the offence committed, prosecutors should include amongst the factors for consideration the suspect's culpability and the harm to the victim.

#### **What is the level of culpability of the suspect?**

Culpability is likely to be determined by the suspect's level of involvement; the extent to which the offending was premeditated and/or planned; whether they have previous criminal convictions and/or out-of-court disposals and any offending whilst on bail; or whilst subject to a court order; whether the offending was or is likely to be continued, repeated or escalated; and the suspect's age or maturity (see below for suspects under 18).

Prosecutors should also have regard when considering culpability as to whether the suspect is, or was at the time of the offence, suffering from any significant mental or physical ill health as in some circumstances this may mean that it is less likely that a prosecution is required. However, prosecutors will also need to consider how serious the offence was, whether it is likely to be repeated and the need to safeguard the public or those providing care to such persons.

#### **What are the circumstances of and the harm caused to the victim?**

The circumstances of the victim are highly relevant. The greater the vulnerability of the victim, the more likely it is that a prosecution is required. This includes where a position of trust or authority exists between the suspect and victim.

A prosecution is also more likely if the offence has been committed against a victim who was at the time a person serving the public.

Prosecutors must also have regard to whether the offence was motivated by any form of discrimination against the victim's ethnic or national origin, gender, disability, age, religion or belief, sexual orientation or gender identity; or the suspect demonstrated hostility towards the victim based on any of those characteristics. The presence of any such motivation or hostility will mean that it is more likely that prosecution is required.

In deciding whether a prosecution is required in the public interest, prosecutors should take into account the views expressed by the victim about the impact that the offence has had. In appropriate cases, this may also include the views of the victim's family.

Prosecutors also need to consider if a prosecution is likely to have an adverse effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence. If there is evidence that prosecution is likely to have an adverse impact on the victim's health it may make a prosecution less likely, taking into account the victim's views.

However, the CPS does not act for victims or their families in the same way as solicitors act for their clients, and prosecutors must form an overall view of the public interest.

### **Was the suspect under the age of 18 at the time of the offence?**

The criminal justice system treats children and young people differently from adults and significant weight must be attached to the age of the suspect if they are a child or young person under 18. The best interests and welfare of the child or young person must be considered including whether a prosecution is likely to have an adverse impact on his or her future prospects that is disproportionate to the seriousness of the offending. Prosecutors must have regard to the principal aim of the youth justice system which is to prevent offending by children and young people. Prosecutors must also have regard to the obligations arising under the United Nations 1989 Convention on the Rights of the Child.

As a starting point, the younger the suspect, the less likely it is that a prosecution is required.

However, there may be circumstances which mean that notwithstanding the fact that the suspect is under 18, a prosecution is in the public interest. These include where the offence committed is serious, where the suspect's past record suggests that there are no suitable alternatives to prosecution, or where the absence of an admission means that out-of-court disposals which might have addressed the offending behaviour are not available.

### **What is the impact on the community?**

The greater the impact of the offending on the community, the more likely it is that a prosecution is required. In considering this question, prosecutors should have regard to how community is an inclusive term and is not restricted to communities defined by location.

### **Is prosecution a proportionate response?**

Prosecutors should also consider whether prosecution is proportionate to the likely outcome, and in so doing the following may be relevant to the case under consideration:

The cost to the CPS prosecution service and the wider criminal justice system, especially where it could be regarded as excessive when weighed against any likely penalty (Prosecutors should not decide the public interest on the basis of this factor alone. It is essential that regard is also given to the public interest factors identified when considering the other questions in paragraphs above, but cost is a relevant factor when making an overall assessment of the public interest).

Cases should be capable of being prosecuted in a way that is consistent with principles of effective case management. For example, in a case involving multiple offenders, prosecution might be reserved for the key main participants in order to avoid excessively long and complex proceedings.

### **Do sources of information require protecting?**

In cases where public interest immunity does not apply, special care should be taken when proceeding with a prosecution where details may need to be made public that could harm sources of information, international relations or national security. It is essential that such cases are kept under continuing review.

Where there has been a breach of the law leading to a work-related death, the Council will liaise with the police, coroner, the CPS and, if there is evidence of manslaughter, we will pass the case to the police or, where appropriate, to the CPS and /or the Health & Safety Executive (HSE).

## **6. Restorative Justice**

Where appropriate and available, the Council will consider the use of Restorative Justice. Restorative Justice is a process through which parties with a stake in a specific offence collectively resolve how to deal with the aftermath of the offence and its implications for the future.

## **7. Proceeds of Crime**

Where appropriate the Council will consider the use of the Proceeds of Crime Act 2002. The Proceeds of Crime Act allows Local Authorities to recover assets that have been accrued through criminal activity.

## **E. Training and appointment of officers:**

All officers undertaking enforcement duties will be suitably trained and qualified so as to ensure that they are fully competent to undertake their enforcement activities.

Officers will be mentored and shadowed to ensure that there is a consistent approach to enforcement

The Council supports the principle of continuing professional development and will ensure that all officers are given additional in-post training to maintain up to date knowledge and skills. This will be highlighted through their learning and development plan as part of their performance review

Officers may have a variety of delegated powers to assist them in carrying out investigations. For example, this can include the power to require answers to questions and the power to enter premises, usually during reasonable hours e.g. normal opening times. Officers will carry an identity card and their authorisation with them at all times. Except in the event of a serious and imminent risk to harm we will not insist on entry into a person's home without giving 24 hours notice or producing a Court Order.

In the event of any doubt as to an officer's powers, confirmation can be obtained from the Council describing their powers, or by contacting their manager at the Council. It can be an offence in itself to obstruct an authorised officer who is conducting an inspection or investigation which may lead to prosecution.

## **F. Shared Regulatory Roles:**

Where the Council has a complementary regulatory role or is required to inform an outside regulatory agency of an incident or occurrence it will do so. Such external agencies include (but are not restricted to):

Police	Health and Safety Executive
Fire Authority	Environment Agency
County Council services	Utility Providers
Other Council services	Other Councils

Officers will attempt to co-ordinate visits and actions with other agencies to achieve the most efficient and effective outcomes and to minimise inconvenience for those who are being visited, inspected, or subject to other enforcement action.

Wherever possible, in situations where there is a shared enforcement role, the most appropriate authority will, by mutual agreement, carry out the enforcement action.

Exchange of information with other enforcement teams within the Council will take place wherever applicable. Liaison will also take place between relevant services and Members within the Council to avoid potential conflicts of interest.

## **G. What You Can Expect From Us:**

We will be objective to ensure that our decisions are not influenced by gender, ethnic origin, religious or political beliefs, disability or sexual orientation

We will enter into discussion and offer advice to anyone to try to ensure that they do not unnecessarily expose themselves to the possibility of formal action through a lack of understanding or information.

We will be consistent in our approach by following the criteria and guidance set down in relevant legislation, codes of practice, and our own written procedures and work instructions.

We will ensure that before deciding to offer a caution, or take a prosecution, the case will be subject to independent review by a senior manager.

We will provide a courteous and efficient service and our staff will identify themselves by name when they visit you, or speak to you on the telephone.

We will respect confidentiality subject to any legal requirements to disclose information (for example disclosure to support a prosecution)

We are committed to making sure that this Policy is effective. To ensure that it is we would encourage businesses regulated bodies and citizens to challenge us they believe we not acting in accordance with this policy, our standards or more broadly the Regulators Code.

## **H. How to complain:**

If you are dissatisfied with the service you have received, please let us know. We are committed to providing quality services and your suggestions and criticisms about any aspect of our service will help us to do this. Most problems can be resolved with the Council employee who has been dealing with the matter in and the first instance we would encourage you to contact them, or you may wish to speak to their supervisor.

If you are still not happy, you can make a formal complaint using the Council's Complaints Procedure.

If you would then like to raise a concern with us please use our [online form](#).

You can also email us at: [contactus@epppingforestdc.gov.uk](mailto:contactus@epppingforestdc.gov.uk) or call us on 01992 564000.

The full Council complaints procedure (including what we can and cannot investigate for you) can be found here:

<http://www.epppingforestdc.gov.uk/contact-us/compliments-complaints>

## I. How to contact us:

If you need more information please visit [www.eppingforestdc.gov.uk](http://www.eppingforestdc.gov.uk) to find the information you require.

If you cannot find what you need on our site please email [contactus@eppingforesdc.gov.uk](mailto:contactus@eppingforesdc.gov.uk) and we will contact you as soon as possible.

You can also contact us via [Social media](#).

Alternatively you can call our main switchboard on 01992 564000 during office hours.

And you can also write to us at:

Epping Forest District Council,  
Civic Offices,  
323 High Street,  
Epping,  
Essex CM16 4BZ

Change log:

- |         |  |
|---------|--|
| 19.1.18 | Updated How to contact us section Para I.<br>Out of scope services/functions added to Para. A1.<br>Service specific documents added to Para A1.<br>Added data protection section and changed running order, Para C.<br>Corrected typo's Para. C7.<br>Added wording 'Non Compliance options' to Para D4<br>Renumbered bullets Para D,<br>Produced summary, plain English version. |
| 12.2.18 | Amended Body cam section, C6.<br>A1 removal of specific service area documents<br>Amended sections D3, D4 and D5<br>Amended E<br>Amended typo to H   |