

South Norfolk Council Compliance and Enforcement Policy

2015

General statement of our approach

The Council's vision

The Council plays a key role as a provider of services, enabler and by providing leadership within and beyond the South Norfolk community. Our vision in this role is:

'To retain and improve the quality of life in South Norfolk, for now and future generations, to make it one of the best places to live and work in the country'

As part of this vision our corporate priorities are:

- enhancing the quality of life and the environment we live in
- supporting communities to realise their potential
- promoting a thriving local economy
- driving services through being businesslike, efficient and customer aware

Our responsibilities

We are tasked with applying the law in a variety of ways and circumstances. Our aim is, as far as possible, to work positively with businesses, individuals and organisations to seek compliance with the law. However to be effective as a leader, shaper and protector of the local community, there will be occasions when it is necessary for us to take appropriate action to deal with matters of non-compliance. This expectation has been placed on us by Government along with that to publish a policy about how we approach compliance and enforcement.

Policy purpose

Given what we have said above, we have drawn up this policy to help our customers understand how we will approach situations involving the use of the law, in what circumstances and how we will go about it with the appropriate checks and balances. Our approach is always to try and work with our customers rather than against them but on occasions we will have no alternative but to apply the law to secure outcomes expected by society.

The purpose of this Compliance and Enforcement Policy is to describe principles, priorities and the options available to the Council to secure compliance, whilst minimising the burden on individuals and businesses.

We believe in firm but fair action to secure compliance with the law. In terms of the law that we have to apply, we are committed to the principles of 'better regulation' as prescribed by

Government and aim to achieve this by actions that are: proportionate, accountable, consistent, transparent and targeted.

In terms of statutory powers and duties we will seek to protect residents, visitors, workers, consumers, businesses, the Council's financial position and the environment of the area.

We will co-ordinate compliance and enforcement actions internally and will endeavour, where appropriate, to co-ordinate with other enforcement agencies and partner organisations. We have in place procedures for complaints and appeals to fulfil the Council's equalities objectives, human rights legislation and to meet other statutory requirements as necessary.

Working with you, working for you

We recognise that it is important that our customers understand how we will work with them and apply the law given our powers, duties and this policy.

We endeavour to carry out all our activities in a way that supports our customers to comply and benefit by:

- Ensuring that information, guidance and advice is available to help you meet legal expectations
- Carrying out our activities to check compliance in a targeted and fair way
- Dealing proportionately with breaches of the law as set out in this policy including taking action when necessary – in accordance with, as appropriate, the Regulators code.

Our staff will:

- Be courteous and polite
- Always identify themselves by name and provide you with contact details
- Seek to gain an understanding of your needs
- Agree timescales, expectations and preferred methods of communication with you
- Ensure you are kept informed of progress on any outstanding issues
- Do our best to coordinate with others both within and outside the Council by providing information, guidance and advice

Helping you to get it right

We want to work with you to help you to meet your needs and it is important to us that you feel able to come to us for advice when you need it. We won't take action just because you tell us that you have a problem.

Where you need advice that is tailored to your needs and particular circumstances we will:

- Discuss with you what is required to help you meet your legal obligations
- Provide clear easily understood advice that supports compliance and that can be relied on
- Distinguish what is required by the law and what is suggested good practice
- Ensure that any verbal advice you receive is confirmed in writing if requested
- Acknowledge good practice and compliance
- Publish on our website any fees and charges and explain them. For more information go to www.south-norfolk.gov.uk

Our visits and checks

We monitor and support compliance in a number of different ways including through inspections, sampling visits, advisory visits and complaint investigations. These visits will always be based on an assessment of risk – we won't visit without a reason. We will give you notice that we intend to visit unless we have specific reason to believe that an unannounced visit is more appropriate.

When we visit you our officers will:

- Explain the reason and purpose of the visit
- Carry their identification card at all times, and present it on request when visiting your premises
- Exercise discretion in front of your customers and staff
- Have regard to your approach to compliance, and use this information to inform future interactions with you
- Provide information, guidance and advice to support you in meeting your statutory obligations, if required
- Provide a written record of the visit if so requested or where it is deemed appropriate to do so.

Responding to problems and non-compliance

As far as possible we will seek and work with you to achieve positive compliance with the law. Where we identify failure to meet legal obligations, we will respond proportionately, taking account of the circumstances, in line with our Enforcement Policy (see Appendices 1, 2 and 3). We deal proportionately with breaches of the law as set out in our Enforcement Policy, including taking firm enforcement action when necessary.

Where we require you to take action to remedy any failings we will:

- Explain the nature of the non-compliance
- Discuss what is required to achieve compliance, taking into account your circumstances
- Clearly explain any advice, actions required or decisions that we have taken
- Provide in writing a timely explanation of how to appeal against any advice provided, actions required or decisions taken, including any statutory rights to appeal
- Explain what will happen next
- Keep in touch with you as and when necessary, until the matter has been resolved with the least practicable delay

Requests for our services

We clearly explain the services that we offer, including details of any fees and charges that apply. For more information go to www.south-norfolk.gov.uk

In responding to written requests for our services, including requests for advice and complaints about breaches of the law, we will:

- Acknowledge your request within 10 working days.
- If a full response cannot be provided within this time scale, an acknowledgement will be sent to inform you when you can expect a substantive response
- Seek to fully understand the nature of your request
- Explain what we may or may not be able to do, so that you know what to expect
- Keep you informed of progress throughout our involvement
- Inform you of the outcome as appropriate

You can contact us by emailing reception@s-norfolk.gov.uk

Developing our services with you

We will seek to work with you in the most appropriate way to meet your individual needs. We can make information available in different formats, and have access to translation and interpretation services.

If you contact us we will ask you for your name and contact details to enable us to keep in touch with you as the matter progresses. We treat all contact with the service in confidence unless you have given us permission to share your details with others as part of the matter we are dealing with on your behalf or there is an operational reason why we need to do so. We will respond to anonymous complaints and enquiries where we judge it appropriate to do so.

Personal data will be managed in accordance with the Council's Data Protection Policy. For more information go to www.south-norfolk.gov.uk

Our Team

We have a dedicated team of officers who have the appropriate qualifications, skills and experience to deliver the services provided. We have arrangements in place to ensure the ongoing professional competency of all officers.

Working with others

We work closely across the Council and our aim is to provide a streamlined service to you.

We are part of a much wider regulatory system and this enables us to deliver a more joined up and consistent service. This includes sharing information and data on compliance and risk where the law allows, to help target regulatory resources.

Our officers are familiar with the work of our partners and can signpost you to the advice and guidance you need.

Having your say - Complaints and appeals

Where we take legal action or enforcement action, there is often a statutory right to appeal and/or have your say. We will always tell you about this at the appropriate time.

We are always willing to discuss with you the reasons why we have acted in a particular way, or asked you to act in a particular way. Should complaints arise about our service, or about the conduct of our officers, we have an established Corporate Complaints Policy.

Details of the procedure can be found at www.south-norfolk.gov.uk Alternatively telephone 01508 533633 or Email feedback@s-norfolk.gov.uk We are always keen to discuss any concerns at any point irrespective of the fact we have a policy.

Having your say - Feedback

We value input from you to help us ensure our service is meeting your needs. We would like to hear from you whether your experience of us has been good or suggestions for improvement. This helps us to ensure we keep doing the right things and make changes where we need to.

You can provide feedback in the following ways:

Telephone: 01508 533633

Email: feedback@s-norfolk.gov.uk

Web: www.south-norfolk.gov.uk

By post: South Norfolk Council, South Norfolk House, Swan Lane, Long Stratton, Norfolk NR15 2XE

Or in person: at South Norfolk House Monday to Friday between 08:15 and 17:00 hours
Any feedback that we receive will be acknowledged

In terms of our approach to compliance and enforcement much is prescribed in legislation, guidance and codes of practice. This is set out in the following appendices

Appendix 1 – our overarching approach to compliance and enforcement – this section deals with the principles of how we encourage compliance with the law, the sanctions and options available to us when we have no choice but to take action.

Appendix 2 – this section details our approach to dealing with compliance and enforcement in relation to regulatory activities which include food and health and safety, licensing, waste enforcement, environmental protection and private sector housing

Appendix 3 – this section deals with the specific approach to compliance in relation to development management

This policy supersedes all earlier enforcement policies from 14 September 2015.

Appendix 1 – Our overarching approach to compliance and enforcement

1. Our commitment

1.1 South Norfolk Council is committed to avoiding, where possible, unnecessary legal and regulatory burdens, and to assessing whether similar social, environmental and economic outcomes could be achieved by less burdensome means. The Council therefore fully supports the approach to good enforcement practice advocated in the Department for Business Innovation and Skills Regulators' Code April 2014 and the Local Government Association publication "Open for business" November 2013.

2. Our commitment to the Principles of Good compliance and regulatory practice

2.1. The Council is committed to avoiding imposing unnecessary regulatory burdens, and to be assessing whether similar social, environmental and economic outcomes could be achieved by less burdensome means. Underlying the policy are the principles of good regulation set out in the Legislative and Regulatory Reform Act 2006, etc.

2.2. We will exercise our activities in a way that, as far as possible, we work with you and ensure we are:

- **Proportionate** – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.
- **Accountable** – our activities will be open to scrutiny, with clear and accessible policies and complaints procedure. To achieve this:
 - Policies are published on the Council's web site
 - Complaints about our service or action can be made in person, writing, electronically at any time by accessing the Councils web site: - www.south-norfolk.gov.uk or by telephone on 01508 533633.
- **Consistent** - enforcement will be done in a consistent and fair way. Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar we will endeavour to act in similar ways to other local authorities.
- **Transparent** – we will ensure that those we regulate are able to understand what is expected of them and what they can expect from us in return.
- **Targeted** – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

3. Our approach

3.1. The type of action taken by the Council to deal with non-compliance will depend on the nature of the case and the legislation that is appropriate to it. However, the guiding principles of this Policy apply to all Directorates and authorised officers.

3.2. Our Policy commits us to:

- Protecting residents, visitors, workers, consumers, businesses, the Council's financial position and the environment of the area
- Equitable and consistent enforcement actions
- Fostering an environment which encourages economic growth

- Helping businesses and others to understand and meet their legal obligations by reassuring them that they can approach the Council for the guidance they need
 - Reducing unnecessary burdens on businesses and individuals
 - Responding proportionately to the seriousness of regulatory breaches
 - Taking firm action, including legal action where appropriate, against those who fail to pay local taxes and charges, persistently flout the law or act negligently or irresponsibly
- 3.3. The Council recognises that most people and businesses want to comply with the law and it is our commitment that we shall help and encourage them to do this, but when it is necessary to consider taking action to secure compliance, appropriate regard will be given to:
- The seriousness of the matter;
 - The vulnerability of the individuals concerned;
 - Compliance history which may include records, relevant data, earned recognition and evidence of relevant external verification;
 - Confidence in achieving compliance;
 - Consequences of non-compliance;
 - Likely effectiveness of the various enforcement options;
 - The urgency with which corrective action is necessary;
 - Whether there is a deliberate or flagrant breach of the law;
 - Non-payment of local taxes and charges.
 - All relevant national guidance.
- 3.4. The criteria are not exclusive and those which apply will depend on the particular circumstances of each case. This does not mean that all factors must support enforcement action before it can proceed.
- 3.5. By delivering these commitments, we believe we shall help to maintain a fair and safe living and trading environment to promote the local economy and social cohesion.

4. Legal proceedings

- 4.1. The Practice Director, nplaw, is authorised to institute, defend or participate in any legal proceedings where instructed by the Council in any case where such action is necessary to give effect to decisions of the Council or in any case where the Practice Director considers that such action is necessary to protect the Council's interests.
- 4.2. There are certain specific exceptions to this principle. For instance, officers authorised under the Health and Safety at Work etc. Act 1974 have the authority to take a decision to commence legal proceedings for offences committed under that Act or under any subordinate legislation. However they must:
- Apply the principles of the Health and Safety Executive (HSE) Enforcement Management Model to guide their decision on prosecution.
 - Seek the approval of the Director regarding any expenditure involved.

5. Considering the views of those affected by “offences”

- 5.1. Officers undertake enforcement on behalf of the public at large and not just in the interests of a particular individual or group. The consequences for those affected by the offence are taken into consideration as part of the public interest test when

deciding whether or not the Council should take enforcement action. Those people directly affected by the offence will be informed about any enforcement decision that concerns them.

6. Complaints and Appeals

- 6.1. Enforcement action can sometimes raise complaints, objections and appeals. If any person is unhappy with the action taken, or information or advice given they will be given the opportunity of discussing the matter with the relevant officer. This is without prejudice to any formal appeals mechanism or to the Council's complaints procedure. Complaints can be made by telephone, in person, writing or electronically at any time by accessing the Council's web site: - www.south-norfolk.gov.uk
- 6.2. Most formal statutory enforcement actions including planning and licensing, have legal rights of appeal to an inspector, a court or tribunal etc. An explanation of the rights of appeal will be given in writing when any formal action is taken.

7. Delegation of Authority

- 7.1. The Council's scheme of delegation specifies the levels of authority given to officers.
- 7.2. Enforcement officers will be formally authorised by the Council or by the Service Director to exercise specified powers under relevant statutes. The level of authorisation for each officer will be determined by their qualifications, experience and competence having regard to any relevant national guidelines. Authorisation will be in writing and in a form which can be shown on request.

8. Legislation, guidance and codes that influenced the preparation of this Policy

8.1. Regulators Code

South Norfolk Council has had regard to the Regulators Code in the preparation of this policy. In certain circumstances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

8.2. Human Rights Act 1998

South Norfolk Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Public Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Act. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

8.3. Data Protection Act 1998

Where there is a need to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1998.

8.4. The Code for Crown Prosecutors

When deciding whether to prosecute, the Council has regard to the provisions of the Code for Crown Prosecutors as issued by the Director of Public Prosecutions

8.5. Regulatory Enforcement and Sanctions Act 2008

The Regulatory Enforcement and Sanctions Act 2008 as amended established the Primary Authority Scheme. We will comply with the requirements of the Act when considering taking enforcement action against any business or organisation that has a primary authority, and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

9. Explanation of compliance and enforcement powers available to the Council

9.1. No action

In some situations it will be inappropriate to take formal action. For example:

- Where the cost of securing compliance or the cost of enforcement action is disproportionate to the impact of the contravention.
- Where the offender is in some way highly vulnerable and/or suffering from serious ill health.

9.2. Compliance advice, Guidance and Support

Where it is appropriate, the Council uses advice, guidance and support as a first response to dealing with matters of non-compliance. In responding to non-compliance that we have identified, we shall clearly explain what the non-compliant item or activity is, the advice being given, actions required or decisions taken, and the reasons for these.

9.3. Written Warning

Advice is sometimes provide in the form of a warning letter to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible without the need for further enforcement action. A warning letter will set out what should be done to rectify the breach and to prevent re-occurrence. Written warnings are used in the circumstances where there is evidence of a contravention or offence, but in the particular circumstances of the infringement and having regard to the Policy; a written warning is in the officer's opinion a proportionate response.

9.4. Voluntary Undertakings

The Council may accept voluntary undertakings that breaches will be rectified or recurrences prevented but will take any failure to honour a voluntary undertaking very seriously and enforcement action is likely to result.

9.5. Statutory (Legal) Notices

In respect of many breaches the Council has powers to issue statutory notices. Some such notices include: 'Stop Notices', 'Prohibition Notices', 'Emergency Prohibition Notices', and 'Improvement Notices'. Such notices are legally binding. Failure to comply with an extant statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

9.6. Financial penalties

For some offences, the Council has powers to issue a Fixed Penalty Notice (FPN). A FPN is not a criminal fine and does not appear on an individual's criminal record. If a FPN is paid then no further enforcement action will be taken, but if it is not paid, the Council may commence legal proceedings or take other enforcement action.

In circumstances where consideration is being given to the issue a FPN to a person of age 17 years or less, officers will be guided by DEFRA guidance, as detailed in "Issuing Fixed Penalty Notices to Juveniles" and to any subsequent guidance from a government department.

9.7. Penalty Charge Notices

Most parking offences in the UK are now enforced as a civil matter by the use of Penalty Charge Notices (PCNs). A PCN is a penalty for a contravention of a parking restriction, but it doesn't result in a criminal record nor does it place points on a driving licence. If unpaid, a PCN will be treated as a civil debt.

9.8. Injunctive Actions, Enforcement Orders etc.

In some circumstances the Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

The Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, the Council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

9.9. Simple Caution

The Council has the power to issue simple cautions as an alternative to prosecution for some less serious offences where a person admits to the offence and consents to the simple caution. Where a simple caution is offered and declined, the Council is likely to consider prosecution.

A simple caution will appear on the criminal record of a person and it is likely to influence how the Council and others deal with any similar breach in the future. It may also be cited in court if the person is subsequently prosecuted for a similar offence. Simple cautions will be used in accordance with Ministry of Justice guidance: Simple Cautions for Adult Offenders April 2015 and other relevant guidance.

9.10. Prosecution

The Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute due regard will be given to the provisions of The Code for Crown Prosecutors as issued by the

Director of Public Prosecutions. The Code sets out two tests that must be satisfied:

- The evidential test.

When deciding whether there is enough evidence to prosecute, the Council will consider what evidence can be used in court, if it is reliable and enough to be satisfied that there is a realistic prospect of conviction.

- The public interest test

When deciding if it is in the public interest for a case to be brought to court, the Council will balance the factors for and against prosecution carefully and fairly, considering each case on its merits and will have regard to, amongst other matters, the following criteria:

- Was there a deliberate, reckless, negligent or persistent breach of legal obligations which were likely to cause material loss or harm to others?
- Were written warnings or formal notices deliberately or persistently ignored?
- Was the health and safety or wellbeing of people, animals or the environment put at risk or endangered?
- Was an attempt made to make financial gain at the expense of others?

If there are significant financial or policy implications regarding prosecution, the Director will consult the Chief Executive and the relevant portfolio holder.

In each prosecution case the Council will normally apply for an order that the Defendant pays the Council's costs (or a contribution towards them) in respect of the investigation of the case and the costs in bringing the case to court.

9.11. Refusal/Suspension/Revocation of Licences

The Council issues a number of licences and has a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment.

When considering future licence applications, the Council may take previous breaches and enforcement action into account.

9.12. Forfeiture Proceedings

These proceedings may be used in conjunction with seizure and/or prosecution where there is a need to dispose of goods in order to prevent them re-entering the marketplace or being used to commit further offences. Application for the forfeiture will be made to a criminal court.

9.13. Seizure of Goods or Equipment

Where it is permitted by legislation an appropriately authorised officer may exercise powers of detention and/or seizure of certain goods or equipment, for example sound equipment which has caused a noise nuisance. Seizure powers must be used strictly in accordance with the prescribed procedures detailed in legislation and statutory guidance.

9.14. Works in Default

Under certain statutory notices the Council may carry out specified works itself and recover the cost from an offender if an offender fails to comply with a statutory notice within the specified time scale.

9.15. Proceeds of Crime Applications

In appropriate cases an application under the Proceeds of Crime Act 2002 may be made to the Court to restrain and/or confiscate the assets of an offender.

9.16. Injunctions and other Civil Actions

Where offenders are repeatedly convicted of similar offences or where prosecution is not an adequate remedy the Council may consider making an application to the courts for an injunction to prevent further offences being committed.

Appendix 2 – Regulatory Services

This section details our approach to dealing with compliance and enforcement in relation to regulatory activities which include food and health and safety, licensing, waste enforcement, environmental protection and private sector housing. It should be read as part of the overall compliance and enforcement policy and all parts are complementary.

1. Introduction

This document explains what you can expect of Regulatory Services in South Norfolk. Whether you are run a business, are an employee or a member of the public, we are committed to providing you with an efficient, courteous and helpful service and this section tells you how we aim to do that. We are committed to good enforcement practice.

2. How we deliver our services

We make a fundamental contribution to the maintenance and improvement of public health, quality of life and wellbeing. Our aims are to:

- Protect the public, businesses and the environment from harm
- Support the local economy to grow and prosper

We determine our activities by assessing the needs of local people and our business community, and considering the risks that require addressing. In this way we ensure our resources are targeted appropriately, in the light of these local needs and of national priorities.

We are committed to being transparent in our activities and to carrying them out in a way that supports those we regulate to comply and grow:

Details of our current business plan is available at - www.south-norfolk.gov.uk

3. What is this policy for?

The Council has wide ranging duties and powers to make plans, take decisions, set standards, regulate activities and collect revenues and charges. Whilst most of these activities are conducted without the need for enforcement action there will be occasions when the Council will have to take action for non-compliance with a legal requirement. This Policy explains the Council's approach to dealing with non-compliance to:

- those affected by the Council's enforcement activities; and
- Authorised officers of the Council

4. Areas we regulate

We deliver services in a number of areas:

This aspect of the policy relates to the following areas of enforcement responsibility

Environmental Protection and ASB	Public Health	Food Safety
Health and Safety	Licensing	Private Sector Housing and Building Control

5. Explanation of our approach to dealing with non-compliance – our commitment

We will:

- Consider breaches of the law on the merits of each situation and will apply good regulatory practice given this policy overall
- Clearly explain the non-compliance and any advice being given, actions required or decisions taken, with reasons for these.
- Provide an opportunity for dialogue in relation to advice given, actions required or decisions taken in relation to non-compliance.
- Communicate openly, honestly and transparently with your business or as a 'regulated' person or organisation.
- Where appropriate we will work closely with other agencies to secure the best outcome in terms of regulatory fairness
- Manage enforcement in relation to our own establishments and activities, to ensure that decisions are free from any conflict of interest.
- Be fair and objective in any enforcement activities (link to corporate equality and diversity policy)
- Ensure that any publicity or public statements are fair and objective and consider their impact and the public interest

6. Explanation of our approach to taking action depending on the particular circumstances and the approach of the business, or regulated person to dealing with the breach.

We will:

- Deal firmly with those that deliberately or persistently fail to comply.
- Provide advice as requested on non-compliance without directly triggering enforcement action, where there is a willingness to resolve the non-compliance.

7. The factors that influence our response to breaches of the rules:

We will:

- Ensure there is a proportionate approach based on relevant factors such as business size and capacity
- Liaise and ensure we meet the requirements of the Primary Authority scheme in responses to breaches.
- Check that matters of non-compliances which were dealt with by providing advice or guidance have been rectified in a proportionate and pragmatic way.
- Consider the appropriate enforcement route with other agencies where circumstances are such that breaches may be referred to them

8. Our approach to complaints of non-compliance

We will determine whether individual complaints require investigation based on the evidence and taking into account the public interest.

9. Conduct of investigations

Investigations will be carried out with regard to relevant legislation some of which are listed below and in accordance with any associated guidance or codes of practice, in so far as they relate to the Council:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice. Officers will conduct investigations in accordance with good regulatory practice.

We are committed to keeping alleged offenders and those affected by potential breaches of the law informed of the progress of investigations.

10. Decisions on enforcement action

Decision to take enforcement action will be guided by the recommended principles set out in the Macrory Review report Regulatory Justice: Making Sanctions Effective 2006. Such action will:

- Aim to change the behaviour of the offender;
- Aim to eliminate any financial gain or benefit from non-compliance;
- Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- Be proportionate to the nature of the offence and the harm caused;
- Aim to restore the harm caused by regulatory non-compliance, where appropriate; and;
- Aim to deter future non-compliance

We will consider risk at the decision making stage when we look at the circumstances of the situation.

In relation to health and safety compliance we will use the HSE's Enforcement Management Model.

We will consult with other organisations, where appropriate before taking action, and in particular given the statutory requirement under Primary Authority to notify proposed enforcement action.

We will monitor and review decisions taken on enforcement action as part of the review of this policy.

11. How decisions are communicated to those affected

We will provide a timely explanation as a matter of course in writing of any rights to representation or rights to appeal, and practical information on the process involved to all parties subject to enforcement action.

Appendix 3 – Development Management

Development Management Enforcement within South Norfolk Council is undertaken in accordance with this Policy.

Enforcement action is a discretionary power and will be proportionate to the matter considered. We will have regard to the expediency of taking enforcement action in each case, and exercise discretion accordingly. This means that the Council and its officers may resolve matters formally, informally, or decide not to take action even if a breach of planning control exists.

We will investigate matters which include but are not limited to the following:

- Unauthorised building and engineering operations;
- Unauthorised use of land and buildings;
- Breaches of planning control, planning conditions and obligations;
- Unauthorised works to Listed Buildings and protected trees or hedges;
- Unauthorised advertisements;
- Allegations of untidy land;
- Compliance with planning conditions by selective monitoring;
- Inconsistencies between Building Control commencements and planning approvals.

We do not generally investigate:

- Anonymous complaints unless deemed appropriate;
- Neighbour disputes not involving unauthorised development;
- Boundary disputes and encroachment;
- Land ownership disputes;
- Enforcement of deeds or covenants;
- Breaches of leases/tenancies;
- Public Highway offences;
- Complaints about High Hedges (refer to Norfolk County Council).

Development Management Enforcement Priorities

- Unauthorised development causing or threatening significant harm to public health and safety.
- Cases where there is ongoing or immediate threat of irreversible harm to amenity or the environment.
- Harm to areas protected by statutory designations such as SSSIs; Conservation Areas; Archaeological sites.
- Harm to listed buildings and their setting.
- Harm to trees and hedges, especially where protected by Preservation Orders or Regulations.
- Unauthorised development likely to harm protected species or habitats.
- Monitoring of major developments.

Our approach

In the first instance we always seek to work with those seeking planning approval by early engagement and the support of compliance.

We attempt to resolve matters informally in the first instance and want to work with developers as early as possible in the planning stage to support them in securing compliance. Formal action will only be taken where there is demonstrable harm being caused to matters of public interest. This can include the service of notices, direct action, prosecution and/or the use of injunctions.

Formal action will not be taken against minor, infrequent, or trivial breaches of planning control where there is no significant harm caused and no aggravating factors. Planning legislation allows development to be regularised by application for retrospective planning permission and this is a course of action that will be encouraged where appropriate.

Work will be organized with those cases identified as Enforcement Priorities in this policy statement looked at first.

We will subsequently advise the complainant if the investigation results in receipt of a planning application, service of a notice or closure of the case.

Complainants or developers who are dissatisfied with the enforcement service provided by the Council will be directed to the Council's complaints procedure unless their concern is more appropriately dealt with under the statutory right of appeal available to those in receipt of formal notices.