

# Infrastructure and Development Select Committee

## Supplementary Agenda

**Date:** Wednesday 11 November 2020

**Time:** 10am

**Venue:** Teams Meeting

To view the meeting please follow this link: <https://youtu.be/TlcR9SfoTOM>

Members of the Committee and other attendees: **DO NOT** follow this link, you will be sent a separate link to join the meeting.

### **11 CES Enforcement Policy.**

Report by the Executive Director of Community & Environmental Services.

#### **Appendix A – CES Enforcement Policy**

**(Please note this document replaces pages 172-186 of the previously published agenda and includes the tracked changes so Members can easily identify the changes made.)**

Page **A2**

Tom McCabe  
Head of Paid Service  
Norfolk County Council  
County Hall  
Martineau Lane  
Norwich  
NR1 2DH

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**Norfolk** County Council

# Enforcement Policy

Community and Environmental Services



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800 8020

November 2020

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**Commented [A1]:** New Annex 6. Trading Standards now manage the safety of sports grounds function on behalf of NCC (previously democratic services)

# 1 Introduction

- 1.1 This document applies to the enforcement activities carried out by the Community and Environmental Services (CES) Directorate of Norfolk County Council, including Trading Standards, Highways, Planning and the Norfolk Fire and Rescue Service (Fire Safety).
- 1.2 Where appropriate, additional enforcement protocols or policy may be developed to support this policy, for example where there are national requirements regarding a particular enforcement process. These will be appended to this policy as required. When read in conjunction with Annex 1 this policy constitutes the Local Enforcement Plan for Norfolk County Council Planning Services, as recommended by Paragraph 58 of the National Planning Policy Framework.
- 1.3 This Policy has been developed in conjunction with a range of stakeholders, including business representatives and is subject to annual review and approval.
- 1.4 The purpose of this Policy is to provide a framework to ensure that local authority enforcement is delivered in an equitable, practical and consistent manner. This is in line with the principles of good enforcement, as set out in the Legislative and Regulatory Reform Act 2006, and regard has been given to the associated [Regulators' Code](#) (the Code) in the preparation of this policy. In certain instances, it may be concluded that a provision in the Code is either not relevant or is outweighed by another provision. Any decision to depart from the Code will be properly reasoned, based on material evidence and documented.
- 1.5 Compliance with this Policy will ensure that we will strive to be fair, impartial, independent and objective. We are committed to ensuring that the decisions we take and the services we deliver take proper account of equality issues and, where necessary, put actions in place to address any barriers faced by protected groups.
- 1.6 Within the context of this Policy, 'enforcement' includes action carried out in the exercise of, or against the background of, statutory enforcement powers. This is not limited to formal enforcement action, such as prosecution or issue of notices, and so includes inspection to check compliance with legal or other requirements and the provision of advice to aid compliance.
- 1.7 For the purposes of this document 'formal action' includes: Prosecution, Simple Caution, Injunctive Action, Enforcement Order, Issue of Notices, Monetary Penalties, Seizure, Suspension, Withdrawal, Recall, Forfeiture, Revocation/Suspension of a licence, registration or approval, Disqualification of weighing or measuring equipment, Works in Default, Criminal Behaviour Orders, Referral to another agency or any other criminal or civil/injunctive proceedings or statutory sanctions, applied either separately or in any other combination.
- 1.8 Where appropriate we will seek to recover our enforcement costs, including making formal applications for costs through the Courts.

## 2 Principles of Inspection & Enforcement

### 2.1 Proportionality

- 2.1.1 We are committed to avoiding the imposition of unnecessary regulatory burdens and will endeavour to minimise the cost of compliance by ensuring that any action taken, or advice offered, is proportionate to the seriousness of the breach, as well as the risk to people, businesses, other organisations, animals, property, the community or the environment. In doing so we will choose approaches that are based on relevant factors including, for example, business size and capacity.
- 2.1.2 We will usually give notice of our intention to carry out routine inspection visits, unless we are otherwise required to visit unannounced, or we have a specific reason for not giving prior notice. For example, this would include where the identity of the person or premises is unknown, or where it would defeat the objectives of the inspection visit to give such notice. Similarly, routine or reactive inspections of the highway and blue badges are not normally subject to such notice.
- 2.1.3 As far as the law allows, we will take account of the circumstances of the case and attitude of the people involved when considering action. We will take particular care to work with businesses and individuals so that, where practicable, they can meet their legal obligations without unnecessary expense, to support and enable economic growth.

**Commented [A2]:** amended to reflect that this requirement is more likely to arise from govt guidance

### 2.2 Accountability

- 2.2.1 We will actively work with businesses and individuals to advise and to assist with compliance and requests for help. Contact points and telephone numbers will be provided for business and public use.
- 2.2.2 We will aim to carry out visits and inspections at a reasonable time and where appropriate to do so. In most cases our staff will show their identification (and authority if requested) at the outset of every visit and explain the reason for the visit. However, so that we can see things from the point of view of a customer or ordinary member of the public, we may carry out informal visits or arrange to buy goods or services and not introduce ourselves. Where we must use a young person to carry out work on our behalf, such as in attempting to purchase age-restricted products, we will always use the latest Code of Best Practice.
- 2.2.3 Out of hours contact for services will be provided where there is a need for an immediate response/risk to public health, safety or damage to property, infrastructure or the environment.
- 2.2.4 The whole range of enforcement activities will be dealt with as promptly and efficiently as possible in order to minimise time delays.
- 2.2.5 Where appropriate, feedback questionnaires will be used to gather and act upon information about the services we provide.
- 2.2.6 We will include information to highlight new legal requirements on our website, with letters sent after an inspection or visit; and by providing or signposting advice and information to help businesses and individuals keep up to date.

2.2.7 We will have regard to fairness and individuals' human rights in all of our enforcement work through conforming to the European Convention on Human Rights (as implemented by the Human Rights Act 1998).

## **2.3 Consistency**

2.3.1 All officers are required to act in accordance with this enforcement policy and our published service standards.

2.3.2 We will carry out our enforcement and advisory functions in an equitable, practical and consistent manner. We will adopt and adhere to relevant policy and guidance and will ensure that our officers are suitably trained, qualified and authorised to undertake their enforcement duties, and understand the principles of good regulation.

2.3.3 Where appropriate, we will publish clear service standards providing information on:

- a) How we communicate and how we can be contacted
- b) Our approach to providing information, guidance and advice
- c) Our risk assessment methodology used to determine inspection activity, clearly setting out what can be expected from us at the time of visit
- d) Any applicable fees and charges; and
- e) How to comment or complain about the service provided and the routes to appeal.

## **2.4 Transparency**

2.4.1 In most circumstances we will seek to ensure that people affected by formal action are informed of what is planned and allow for discussion and time to respond before the action is taken. We will also give them a named officer's contact details. These arrangements must have regard to legal constraints and requirements.

2.4.2 When a notice is served it will say what needs to be done, why, and by when, and that in the officer's opinion a breach of the law has been committed and why the notice is necessary. We will also make a clear distinction between legal requirements and recommended works.

2.4.3 As part of our commitment to equality we will communicate in a clear, accessible, concise, format using media appropriate to the target audience, in plain language. We offer translation/interpretation services (language and British Sign Language) where English is not the first language.

2.4.4 This Enforcement Policy is published via the Norfolk County Council website and we may also publish further guidance about specific/technical areas, such as the use of civil sanctions.

2.4.5 The publicity generated by legal proceedings acts as a deterrent to others and reassures the general public that we take a serious view of illegal behaviour. We therefore publish the outcome of court proceedings, including undertakings; as part of this we include the name of the defendant(s), unless directed not to do so by the Courts.

- 2.4.6 We will routinely publish the names and trading addresses of traders subject to legal proceedings, including prosecutions, enforcement orders, undertakings or the administrative issue of penalties/fines.
- 2.4.7 We may also publish the names and trading addresses of traders who act in ways that represent a significant risk to consumers or the interests of legitimate businesses, subject to the following conditions:
- There is no risk of prejudice to legal proceedings or other formal enforcement action, and
  - The evidence of unfair or illegal trading is conclusive, and
  - It is in the public interest to do so, taking into account the personal circumstances of the offender and community cohesion, and
  - To do so does not breach Human Rights or Data Protection Law, or the Children and Young Persons Act 1933.
- 2.4.8 Examples of the current published enforcement action is via the [Norfolk Trading Standards web pages](#).
- 2.4.9 We obtain and process information in the course of our enforcement functions. Some of this information is personal data, and some of it is confidential or sensitive. We will process information in accordance with the law (including the Data Protection Act 2018 and the Enterprise Act 2002) and with proper regard to our privacy notices, which can be found on our website.
- 2.5 Targeted (Intelligence and Risk Led) Enforcement**
- 2.5.1 Enforcement will be primarily targeted towards those situations that give rise to the most serious risks, and against deliberate/organised crime. Other determining factors will include local priorities, Government targets and priorities, new legislation, national campaigns and public concerns.
- 2.5.2 By having a coherent and risk-based intelligence system, effective strategies can be formed to enable and co-ordinate solutions to particular problems. This enables the identification of new, current and emerging issues, allowing provision of strategic and tactical direction on how the issues can best be tackled. Subject to the provisions of Data Protection and Human Rights Law, we may also refer cases and/or share information and intelligence with other law enforcement agencies.
- 2.6 Supporting the local economy**
- 2.6.1 We recognise that a key element of our activity will be to facilitate and encourage economic progress against a background of protection.
- 2.6.2 Wherever possible, we will work in partnership with businesses and individuals, and with parish councils, voluntary and community organisations, to assist them with meeting their legal obligations without unnecessary expense.
- 2.7 Reducing enforcement burdens**

- 2.7.1 If there is a shared enforcement role with other agencies, e.g. the Police, Environment Agency or other local authorities, we will consider co-ordinating with these agencies to minimise unnecessary overlaps or time delays and to maximise our overall effectiveness. We will also liaise with the other regulators to ensure that any proceedings instituted are for the most appropriate offence.
- 2.7.2 We will follow the principle of “collect once, use many times” and, where legally permitted, share information that we collect with other local authority regulatory services to minimise business impact.
- 2.7.3 When conducting farm visits, we will have due regard to the [Farm Regulators’ Charter](#), which makes sure visits are carried out consistently across regulators. The charter covers all inspection types and visits of agricultural and aquaculture activities carried out by Farm Regulators.

### **3 Primary Authority Partnerships**

- 3.1 Primary Authority is a statutory scheme established by the Regulatory Enforcement and Sanctions Act 2008. It allows an eligible business to form a legally recognised partnership with a single local authority in relation to the provision of tailored advice, guidance and assistance relating to regulatory compliance. The single local authority (known as the “Primary Authority”) is registered with the [Office for Product Safety & Standards](#) (OPSS), via the Primary Authority Register.
- 3.2 The Primary Authority then acts as the single point of contact between its partner business and the local authorities that regulate it. The Primary Authority can issue assured advice upon which the business can rely and can also, where appropriate, devise inspection plans for businesses. The inspection plan can place specific requirements on other local authorities and can require feedback on their checks to be given to the Primary Authority.
- 3.3 Where an enforcing local authority is considering enforcement action against a business that has a Primary Authority it is required to make a statutory notification to the Primary Authority. In most cases, this notification must be made before the action can be taken. However, in certain circumstances the notification can be retrospective, including where a compliance issue is identified that requires urgent action in order to avoid a significant risk of harm to human health, the environment, or the financial interests of consumers.
- 3.4 If another local authority proposes enforcement action which the Primary Authority deems to be inconsistent with the assured advice, the Primary Authority may seek to block the enforcement action. Where this is the case but is disputed, or there is a need for further considerations, the matter would be referred to the [Office for Product Safety & Standards](#) (OPSS) for their consideration/determination.



## 4 Enforcement Actions

- 4.1 Nothing in this policy shall be taken to compel us to take enforcement action. In certain instances, we may conclude that an enforcement response is not appropriate given the circumstances.
- 4.2 In deciding what enforcement action to take, we will have regard to the following aims:
- to change the behaviour of the offender
  - to eliminate financial gain or benefit from non-compliance
  - to be responsive and consider what is the most appropriate sanction for the particular offender and the regulatory issue concerned
  - to be proportionate to the nature of the offence and the harm/potential harm caused
  - to repair the harm caused to victims, where appropriate to do so
  - to deter future non-compliance.

4.3 The Key approach in seeking compliance is to:

- Engage
- Explain
- Encourage
- Enforce

4.4 The prime objective is to obtain compliance by consent - it is anticipated that, in the vast majority of cases, businesses will comply with the legal requirements further to the provision of advice.

**Commented [A3]:** Included in line with nationally recognised stepped approach to enforcement

- 4.5 Any decision to undertake formal enforcement action will be taken in the context of operational priorities, this policy and the Council Constitution and scheme of delegations. Such decisions will include the use of intelligence in determining the nature of any response, as well as being subject to ongoing monitoring and review.
- 4.6 Where a right of appeal against a formal action exists other than through the courts, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken.
- 4.7 All investigations into alleged breaches of legislation will be conducted in compliance with statutory powers, time limits and other relevant legislation (and relevant Codes of Practice), including:
- Police and Criminal Evidence Act 1984 (PACE)
  - Criminal Procedure and Investigations Act 1996 (CPIA)
  - Regulation of Investigatory Powers Act 2000 (RIPA)
  - Investigatory Powers Act 2016 (IPA)
  - Criminal Justice and Police Act 2001 (CJPA)
  - Human Rights Act 1998 (HRA).
  - Consumer Rights Act 2015 (CRA)
- 4.8 As part of any criminal investigation process, persons suspected of having committed a criminal offence will, wherever possible,

- be formally interviewed in accordance with PACE
- be given the opportunity to demonstrate a statutory defence
- have the opportunity to give an explanation or make any additional comments about the alleged breach
- be offered translation/interpretation services (language and British Sign Language) where English is not their first language

4.9 As part of our enforcement function we may exercise a wide variety of powers, including the power to enter premises and inspect goods, to require the production of documents or records and, when necessary, the power to seize and detain such material where we believe it may be required as evidence.

4.10 We may also take with us such other persons as may be necessary as part of our enforcement function. This may include Police Officers where there is the possibility of an arrest, or a breach of the peace situation. In certain cases, we may exercise an entry warrant issued by a Magistrate to gain access to premises and may use police assistance to effect entry.

4.11 We may also use investigation equipment whilst undertaking our duties, including handheld and Body-Worn Video (BWV) cameras. BWV devices are capable of recording both visual and audio information and can provide a number of benefits to enforcement agencies, including a deterrent to aggressive, verbal and physical abuse towards officers, and in providing additional evidence to support investigations. BWV will usually be deployed on an overt basis for a specific purpose, and where it is necessary and proportionate to do so. Any decision to deploy BWV on a covert basis will be made in accordance with the Regulation of Investigatory Powers Act (RIPA), related legislation, Codes of Practice and associated Council Policy.

#### 4.12 **Immediate Formal Action**

4.12.1 Whilst recognising that most people want to comply with legal requirements, we also recognise that some will operate outside the law (both intentionally and unintentionally). Where possible, a staged approach to enforcement will be adopted, with advice and informal action explored to resolve the matter in the first instance. However, we will consider taking immediate formal action for the most serious breaches, including any of the following circumstances:

- Where the infringement causes or is likely to cause actual or emotional damage, or substantial loss or prejudice to people, businesses or other organisations
- Where there is a significant risk to public health, safety or wellbeing, or damage to property, infrastructure or the environment.
- Fraud, aggressive or misleading practices/equipment, or practices seeking an unfair 'competitive advantage'.
- Illegal practices targeted at vulnerable people, including young people and the elderly.
- For matters where there has been recklessness or negligence, or a deliberate or persistent failure to comply with advice, warnings or other enforcement action.
- Where food fails food safety requirements.

- Any act likely to affect animal health or welfare, disease prevention measures, or the integrity of the food chain.
- Obstruction or assault (including verbal assault) of an officer in the execution of their duties.

#### 4.13 Advice, Guidance and Support

4.13.1 We are committed to using advice, guidance and support as a first response to the majority of breaches of legislation, subject to any need to take immediate formal action for the most serious breaches (see paragraph 4.10 above).

4.13.2 Any initial requests for advice from individuals or businesses on non-compliance will not necessarily trigger enforcement action. In such cases we will seek to assist in rectifying such breaches as quickly and efficiently as possible, where there is a clear willingness to resolve the matter.

4.13.3 Any correspondence will clearly differentiate between legal requirements and good practice, and indicate the regulations contravened and the measures which will enable compliance.

4.13.4 Follow up checks will be carried out on a risk and intelligence-led basis and where a similar breach is identified in the future, previous advice will be taken into account in considering the most appropriate enforcement action to take on that occasion.

4.14 Where more formal enforcement action has previously been taken, such as a simple caution or prosecution, we recognise that, in some cases, there may be a need for additional compliance advice and support, to prevent further breaches.

Commented [A4]: clarification

#### 4.15 Verbal or written warning

4.15.1 Compliance advice can be provided in the form of a verbal or written warning. In doing so we will clearly explain what should be done to rectify the problem, and how to prevent re-occurrence. Warnings cannot be cited in court as a previous conviction but may be presented in evidence. Failure to comply with warnings or advice could result in more serious enforcement action being taken.

#### 4.16 Statutory (Legal) Notices

4.16.1 Statutory Notices are used as appropriate in accordance with relevant legislation. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/or, where appropriate, the carrying out of work in default.

4.16.2 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 for such notices will be provided to the recipient.

#### 4.17 Monetary penalties

- 4.17.1 Fixed or variable monetary penalties, or penalty charge notices may be issued where there is a specific power or delegated authority to do so.
- 4.17.2 Specific guidance for legislation, which includes the power to issue monetary penalties, may be produced to support this policy. Such guidance will be published via our website.
- 4.17.3 Where the offender fails to discharge their liability resulting from any monetary penalty issued, alternative enforcement action will automatically be considered under this policy. Where prosecution is brought; an assessment will be made of other offences that may also have been committed in order that those charges may be considered at the same time.

Consideration will be given to the adoption of alternative remedies to the issue of a monetary penalty, such as those involving dedicated advice and training sessions, which aim to change the behaviour of the offender, whilst remaining proportionate to the nature of the offence and the harm/potential harm caused.

#### 4.18 Licences, registrations and approvals

Local authorities have a role to play in ensuring that appropriate standards are met in relation to licences, registrations and approvals. We may refuse to grant, seek to review, temporarily remove, suspend or revoke any licence, registration or approval if we are made aware that actions have been carried out which undermine scheme objectives and/or would be unlawful. This includes those issued by other agencies.

#### 4.19 Seizure and Destruction

- 4.19.1 Some legislation permits our Officers to seize items such as goods and documents that may be required as evidence. When we seize goods, we will give an appropriate receipt or other record of seizure to the person from whom they are taken. On some occasions we may also ask a person to voluntarily surrender and transfer ownership of illegal goods to us.
- 4.19.2 Where we seize food for failing food safety requirements, or animal feed for non-compliance with feed law, an application will be made to the Court for a condemnation order, for the illegal product to be destroyed. We will provide details of where and when this application will be made to allow interested parties to attend the hearing.
- 4.19.3 Where products are found to present a serious risk, we may seek to destroy or otherwise render them inoperable, where there is legal recourse to do so.

**Commented [A5]:** clarification that the legal basis for this may change as a result of EU Exit

#### 4.20 Detention

- 4.20.1 Where food is suspected of failing food safety requirements, or where animal feed does not comply with specified feed law, it may be detained to allow further investigation.

4.20.2 When food or animal feed is detained, a notice of detention will be provided, detailing the detention arrangements, including the location where the product(s) will be detained.

#### **4.21 Forfeiture**

4.21.1 Where an accused has not agreed to voluntarily surrender any infringing goods then, on successful conclusion of legal proceedings, forfeiture may be applied for.

4.21.2 Where illegal goods have been seized but there is insufficient evidence of a defendant's identity or other circumstances which do not justify any other course of action, proceedings may be instituted for the forfeiture of those goods. This is by way of a complaint to the Magistrates Court.

4.21.3 This does not preclude us from taking forfeiture proceedings in their own right in any other appropriate circumstances. We may also seek to recover costs of forfeiture proceedings from the defendant(s).

#### **4.22 Injunctive Actions, Enforcement Orders etc**

4.22.1 We will consider formal civil enforcement action in pursuance of breaches of law which have a detrimental impact on the collective interests of consumers or businesses.

4.22.2 When considering formal civil enforcement action, an Officer will, where appropriate, first discuss the circumstances with those suspected of a breach and, through consultation, attempt to resolve any issues. Alternatively, we will look to redress detrimental practices via a range of enforcement actions. These include the following:

- informal and formal undertakings
- interim and other court orders
- contempt proceedings.

We may ask the Court to consider other remedies as part of any proceedings, including compensation for victims.

#### **4.23 Other Sanctions or Interventions**

4.23.1 We will consider other sanctions or interventions where legally available and appropriate to do so, including criminal behaviour orders under the Anti-Social Behaviour, Crime and Policing Act 2014, injunctions under the Local Government Act 1972, restriction orders under the Children & Young Persons Act 1933, and/or equivalent orders to disrupt and/or prevent activities that may contribute to crime or disorder. This may also include arranging for the removal of websites where it is clear they are being used for illegal purposes.

#### **4.24 Taking animals into possession/banning orders**

4.24.1 Under the Animal Welfare Act 2006, if a veterinary surgeon certifies that 'protected animals' are suffering or are likely to suffer if their circumstances do not change, we will consider taking them into our possession and applying for Orders for re-imbursement of expenses incurred and subsequent disposal. We may also look to other legislation

where appropriate to ensure that similar standards of care and/or control of animals are properly maintained. In some circumstances we will also consider applying to the Court to ban a person(s) from keeping animals.

#### **4.25 Simple Cautions**

4.25.1 In certain cases, a simple caution may be offered as an alternative to a prosecution, for example for first time offending. The purpose of a simple caution is to deal quickly with less serious offences, to divert less serious offences away from the Courts, and to reduce the chances of repeat offences.

4.25.2 Officers will comply with the provisions of relevant Home Office Circulars. The following conditions must be fulfilled before a caution is administered:

- The offender has made a clear and reliable admission concerning all elements of the offence(s) in question
- There is a realistic prospect of conviction
- It is in the public interest to offer a simple caution; and
- The offender is 18 years old or older at the time that the caution is to be administered.

4.25.3 A simple caution may appear on the offender's criminal record. It is likely to influence how we and other enforcement agencies deal with any similar breaches in the future and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment or wishes to travel or move to certain countries. Simple cautions will be issued with regard to Home Office and other relevant guidance.

#### **4.26 Prosecution**

4.26.1 We may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as statutory notices have failed to secure compliance. The Council recognises that the decision to prosecute is significant and could have far reaching consequences on the offender.

4.26.2 Before any decision is taken, the alleged offence(s) will be fully investigated, and a report will be compiled by the Investigating Officer/Officer in Charge of the case. The file will then be reviewed by a Senior Manager, who will consider whether the sufficiency of the evidence and the public interest falls within the guidelines as laid down by the Attorney General and Crown Prosecution Service [Code for Crown Prosecutors](#).

4.26.3 Any decision to prosecute will only be taken where it is expedient for the promotion or protection of the interests of the inhabitants of Norfolk to do so. Before deciding whether or not to prosecute, consideration will also be given to:

- How well the prosecution supports our aims and priorities
- The factors contained in paragraphs 4.2 and 4.10 of this policy
- Action taken by other enforcement agencies for the same facts

- The nature and extent of any harm or loss, including potential harm and loss, and any offer of redress made by the offender to victims
- The willingness of the alleged offender to prevent a recurrence of the infringement
- The likelihood of the alleged offender being able to establish a statutory defence
- The calibre and reliability of witnesses
- The probable public benefit of a prosecution and the importance of the case, e.g. the possibility of establishing legal precedent
- Cost effectiveness of a prosecution
- The scope for alternative routes for redress for 'victims' and their likelihood of success
- The impact of the intervention on small businesses in particular, to ensure action is proportionate.

4.26.4 A conviction can result in a criminal record and the court may impose a fine and, for particularly serious breaches, a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of assets. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors (see 4.26 below).

4.26.5 Norfolk County Council may also act as prosecuting authority for joint investigations with partner agencies, including those which are supported by National Trading Standards (NTS). NTS works in partnership with local Trading Standards authorities, regional investigation teams, and other enforcement agencies to maximise effectiveness. NTS funding supports major investigations that are detrimental to consumers or businesses that occur on a regional, cross boundary or national level, in areas such as doorstep crime, counterfeiting, and consumer and business fraud. NTS investigations are subject to the same best practice principles found in legislation and codes that are outlined within this Enforcement Policy. Any decision to prosecute in such cases will be made in accordance with paragraph 4.24 of this Policy.

#### **4.27 Proceeds of Crime Actions**

4.27.1 Where appropriate, we will seek to recover the benefit that the offender has obtained from their criminal conduct through financial investigation.

4.27.2 Financial investigations will be undertaken in accordance with the Proceeds of Crime Act 2002. Such investigations may include applications to the Court requiring financial information to be provided (production orders) or in serious cases applications to freeze and/or confiscate criminal assets (restraint and confiscation orders). Where appropriate, consideration will also be given to seeking compensation for victims or recovery of financial investigation costs as part of this process. Any funds recovered as part of the Asset Recovery Incentivisation Scheme (ARIS) will be used to support further asset recovery work, or crime reduction and community projects.

#### **4.28 Directors**

On the conviction of a Director connected with the management of a company the prosecutor will, in appropriate cases, draw to the Court's attention their powers to make a Disqualification Order under the Company Directors Disqualification Act 1986.

## **5 Complaints, Compliments and Comments**

- 5.1 If you are unhappy with the service you have received, or we have failed to live up to our promises, managers are always willing to discuss with you the cause of your dissatisfaction and will try to find a solution.
- 5.2 If you wish to make a complaint or send us a compliment or comment about our service, please use our online procedure by going to:

[www.norfolk.gov.uk/compliments and complaints](http://www.norfolk.gov.uk/compliments-and-complaints)

Complaints can also be submitted by telephone to 0344 800 8020 or in writing to the **Compliments and Complaints Team, Norfolk County Council, County Hall, Martineau Lane, Norwich, NR1 2DH.**

If you are still not satisfied, and feel you have been caused injustice, our complaints process explains how the matter will be escalated, including how to complain to the Local Government Ombudsman.

- 5.3 If you wish to appeal against enforcement action taken or have other comments, you should write to: The Executive Director, Community and Environmental Services, using the address in 5.2 above.

## **6 Conflict of Interest in Enforcement Matters**

- 6.1 Where a breach is detected in which the enforcing authority is itself the responsible operator, the following protocol will be followed:

- Where a breach of law is sufficiently serious to warrant more than the provision of advice, information, assistance or a written warning, or where the response to remedy the breach is considered insufficient, an additional authorised officer from another local authority will be requested to assist in the decision-making process. Senior Managers of the Council will be informed without delay.
- The additional officer's role is to assist and challenge the decision-making process to ensure that appropriate, proportionate and consistent action is taken to remedy the breach, prevent re-occurrence and to minimise the risk of 'conflict of interest' for the enforcing authority. An auditable record of the additional officer's involvement will also be kept.

## **7 Where to get further information**

- 7.1 Copies of this document and other information/advice are available by writing to the Trading Standards Service using the address in 5.2 above.
- 7.2 We will make this policy available on tape, in Braille, large type, or in another language on request.