



PLANNING, HEALTH AND ENVIRONMENT DIVISION
Duke House, Clensmore Street, Kidderminster, Worcs. DY10 2JX
Tel. 01562 732928 Fax. 01562 732556

AIR POLLUTION CONTROL ENFORCEMENT POLICY

1. INTRODUCTION

- 1.1 The Environmental Health and Licensing Section of the Council is responsible for many aspects of Pollution including air pollution from certain industries, noise pollution, odour from agricultural sources and smoke from bonfires and chimneys.
- 1.2 In most cases Wyre Forest District Council will only deal with pollution incidents whose source is located within its geographical area, however it is sometimes possible to deal with problems with arise in areas of neighbouring Councils. The Council also has an input on national issues by replying to consultation papers etc. put out by various Government departments.
- 1.3 The purpose of this document is to set out the Council's Enforcement Policy in relation to Local Authority Air Pollution Control and applies only to this aspect of the Council's Pollution Control work. Other policy documents are available in respect of pollution control, and in particular the Council has a 'Noise Policy' which explains how we deal with problems of noise pollution. This Policy must be read in conjunction with the Environmental Health and Licensing Enforcement Policy.

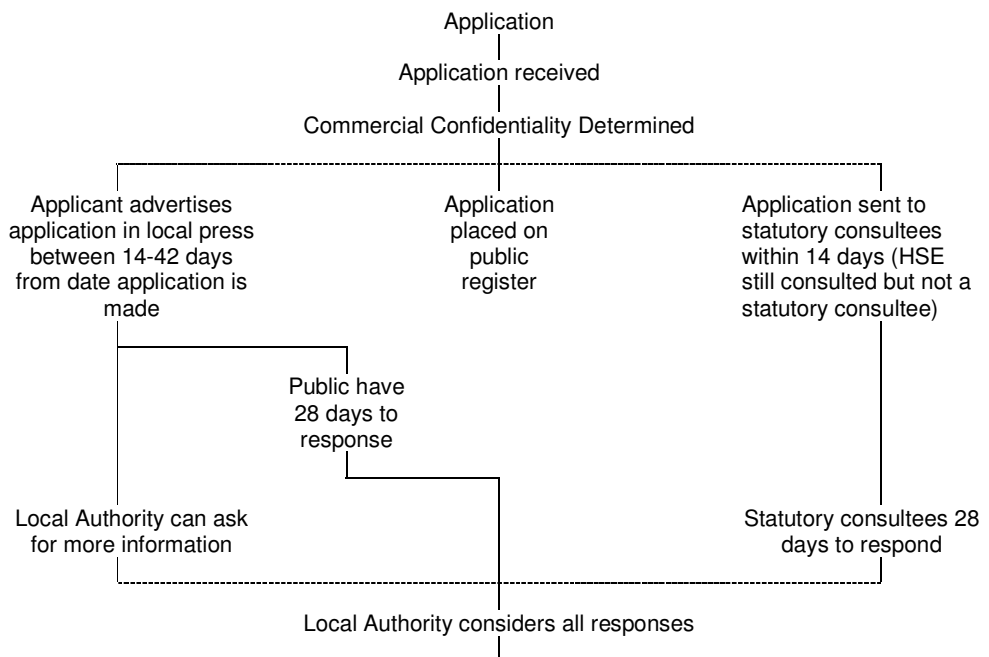
2. LOCAL AUTHORITY AIR POLLUTION

- 2.1 The Environmental Protection Act 1990 introduced Local Authority Air Pollution Control which aims to control emissions to AIR only from certain industries.
- 2.2 Regulations made under the Act identify certain processes and substances and aim to eliminate or control certain emissions into the atmosphere To this end, all 'Prescribed processes' are classified under Part A or Part B of the Regulations. Under Part A, the larger more pollution processes are administered by Her Majesty's Inspectorate of Pollution who control emissions to air, land and water, and the Part B generally the smaller less pollution processes are administered by Local Authorities who control emissions to air only.

3. AUTHORISATION

- 3.1 Under the provisions of the Act, all new 'prescribed processes;' need a 'permit' (licence) **before** they can start operating. For existing processes will have to reach a certain standard by a given date (which is different or each individual process) whilst new processes have to achieve this 'full standard' from the first day of operation.
- 3.2 For each process the Government has produced a 'process guidance note' which lays down the standards, including emissions limits into the air, with which that particular process will have to comply. This should mean that all operators are working under **ONE SET OF RULES** and ensure uniformity across the country.
- 3.3 The permit when issued contains a number of conditions aimed at reducing or eliminating emissions to the air and these are enforceable by the Local Authority.
- 3.4 The whole process of applying for and granting a permit is open to public scrutiny and members of the public can comment on any application and the Local Authority **MUST** take note of their comments. The Local Authority etc. must also consult with what are called 'Statutory consultees' who would be the Health and Safety Executive and, depending on the location of the process, Natural England or Trading Standards.

4. DIAGRAM OF PROCEDURE



5. ENFORCEMENT

- 5.1 In most cases the Local; Authority deals with breaches of permit conditions or other infringements of the Act by providing the operator with information and supporting the operator's efforts to remedy their own failings.
- 5.2 The Council has an active policy of **PROMOTION** by providing all operators with as much information as possible as soon as it becomes apparent that they may operate a 'Prescribed Process'.
- 5.3 In order to **PREVENT** the necessity for an enforcement action at a later date, the Council will consult with the applicant at every stage and a **DRAFT PERMIT** is always shown to the application for any comments they may have. The Council is not obliged to take these comments on board but is committed to listening to anything the applicant may wish to say, as this will reduce the necessity for appeals at a later date.
- 5.4 Sometimes however, co-operation is not always forthcoming from an operator and in these circumstances formal action and possible prosecution may be the only reasonable course of action.

6. INFORMATION ACTION

- 6.1 If the Local Authority has secured the co-operation of the offender and there is a positive relationship which is seen to be working towards a solution then unless the offence comes under one of the exceptions numbered 1-3 below, the occasions when formal action needs to be considered will be very low.
- 6.2 In most cases as described above, the Council will work together with the operator to ensure compliance.

7. FORMAL ACTION

7.1 Formal action and prosecution

Formal action by the Council should normally be considered only when an operator has been provided with the following and still refuses to co-operate with the Local Authority:

- a) As much information as possible to enable the operator to understand the Act and what is expected of him

- b) The Council has taken all reasonable measures to explain the nature of the offence to the operator and what is required to remedy the offence

7.2 Immediate formal action/prosecution may be necessary when:

- 1) There is a risk of serious pollution to the environment or harm to health
- 2) There is a blatant disregard of responsibilities under Environmental Protection Act legislation
- 3) The offence is such that other forms of action are inappropriate

7.3 In deciding whether or not to prosecute the Council will always consider:

- A The gravity of the offence
- B Past record of the offender
- C If there is enough evidence to secure a conviction?
- D Has there been a blatant disregard of the law or the environment:
- E Has the offence caused public alarm and is it necessary to take action to reassure the public and deter other offenders?

THE COUNCIL WILL ALWAYS TAKE INTO ACCOUNT THE ENVIRONMENTAL HEALTH AND LICENSING ENFORCEMENT POLICY AND THE PROVISIONS OF THE REGULATORS COMPLIANCE CODE

Head of Environmental Health and Licensing
Wyre Forest District Council
Planning, Health and Environment Division
Duke House
Clensmore Street
Kidderminster
Worcs. DY10 2JX
Mark.Kay@wyreforestdc.gov.uk