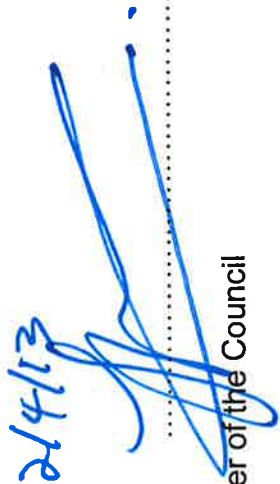


**NOTICE OF DELEGATION OF DECISION TO CABINET MEMBER BY STRONG LEADER**

Section 15(4) of the Local Government Act 2000, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

I, J-P Campion, as Strong Leader, delegate the decisions to approve the North Worcestershire Water Management Enforcement Policy detailed in the Forward Plan to the Cabinet Member/Officer detailed below:

Cabinet Member/Officer : Anne Hingley

Dated: 24/1/13  
Signed:   
Leader of the Council


**NOTICE OF DECISION OF CABINET MEMBER**

Pursuant Section 15(4) of the Local Government Act 2000, as amended by section 63 of the Local Government and Public Involvement in Health Act 2007, the senior executive member may discharge any of the functions that are the responsibility of the Cabinet or may arrange for them to be discharged by another member of the Cabinet or Officer. On 1<sup>st</sup> December 2010, the Council adopted the Strong Leader Model for Corporate Governance 2011 as required under Part 3 of The Local Government and Public Involvement in Health Act 2007 (The 2007 Act).

In accordance with the authority delegated to me by the Leader, I have made the following decision:

Subject	Decision	Reason for decision	Date for Decision to be taken
North Worcestershire Water Management Enforcement Policy	To approve the enforcement policy for the North Worcestershire Water Management Shared Service	We need to have an approved policy in place to undertake enforcement action under various acts.	

**I confirm that the appropriate statutory officer consultation has taken place with regard to this decision.**

Dated: 3/4/13  
 Signed:   
 Councillor: .....  
 Cabinet Member

## WYRE FOREST DISTRICT COUNCIL

### Strong Leader Report

#### **Enforcement Policy – North Worcestershire Water Management**

<b>OPEN</b>	
<b>SUSTAINABLE COMMUNITY STRATEGY THEME:</b>	Improved Health and Wellbeing
<b>CORPORATE PLAN PRIORITY:</b>	A Better Quality of Life
<b>CABINET MEMBER:</b>	Anne Hingley
<b>DIRECTOR:</b>	Mike Parker
<b>CONTACT OFFICER:</b>	Richard Osborne
<b>APPENDICES:</b>	1. North Worcestershire Water Management Enforcement Policy 2. Housing Enforcement Policy

#### **1. PURPOSE OF REPORT**

- 1.1 To inform the Leader of the proposed North Worcestershire Water Management Enforcement Policy and the revised Housing Enforcement Policy and to seek approval or amendments to the same.

#### **2. RECOMMENDATION**

**The Leader is asked to approve the two documents for adoption by the Council:**

- 2.1 The North Worcestershire Water Management Enforcement Policy and the Housing Enforcement Policy as set out in Appendices to this report.**

#### **3. BACKGROUND**

- 3.1 Enforcement of water management related issues such as reducing flood risk, keeping watercourses free of obstruction and obtaining consents to carry out works have previously been covered by the Housing Enforcement Policy.
- 3.2 The shared service, North Worcestershire Water Management (NWWM) covers Wyre Forest, Redditch and Bromsgrove Councils.
- 3.3 The Regulators' Compliance Code (RCC) is a statutory code that comes into force on 6 April 2008, as specified within the Legislative and Regulatory Reform Act 2006 (Section 22). This code covers how the Council should approach enforcement with businesses.
- 3.4 Wyre Forest District Council is the host for the shared service and has been delegated enforcement functions in relation to water management by Redditch Borough Council and Bromsgrove District Council.

#### **4. KEY ISSUES**

- 4.1 For any enforcement action to be credible and successful, it is essential that the Council has a policy that is clear, proportionate and meets the requirements of the Regulators' Compliance Code.
- 4.2 Although the RCC is intended as a framework for dealing with business compliance, it can also be applied to dealing with private individuals.
- 4.3 Although ignorance may be no excuse in the eyes of the law, it is fair and reasonable for enforcement action normally only to be taken following a failure to follow advice or guidance.
- 4.4 The proposed North Worcestershire Water Management Policy will be an essential tool to enable officers to consistently deal with responsible persons and businesses and reduce flood risk.
- 4.5 The Housing Enforcement Policy has also been amended to remove reference to water management issues.

#### **5. FINANCIAL IMPLICATIONS**

- 5.1 None

#### **6. LEGAL AND POLICY IMPLICATIONS**

- 6.1 Enforcement action may be jeopardised if there is not a suitable enforcement policy and procedures in place.

#### **7. EQUALITY IMPACT NEEDS ASSESSMENT**

- 7.1 Not applicable.

#### **8. RISK MANAGEMENT**

- 8.1 None

#### **9. CONCLUSION**

- 9.1 Robust enforcement policies that follow national guidelines are required for effective enforcement and also to ensure that businesses and individuals are treated fairly and consistently when the Council uses the powers it has been given.

#### **10. CONSULTEES**

- 10.1 Overview and Scrutiny Committee 14<sup>th</sup> March 2013.

#### **11. BACKGROUND PAPERS**

- 11.1 Regulators' Compliance Code can be viewed at:  
<http://www.berr.gov.uk/files/file45019.pdf>

# North Worcestershire Water Management Enforcement Policy

## 1. General

- 1.1** North Worcestershire Water Management Service is a shared service of Bromsgrove District, Redditch Borough and Wyre Forest District Councils that includes the enforcement of land drainage and related issues. The service is delivered through Wyre Forest District Council with Redditch Borough and Bromsgrove District having delegated their relevant enforcement functions to Wyre Forest District Council.
- 1.2** The content of this policy will be revised as necessary to meet changing circumstances and the Policy shall be reviewed by Officers at least every three years and proposed amendments shall be agreed with the North Worcestershire Water Management Board that oversees the service and Wyre Forest District Council.
- 1.3** All relevant officers of the North Worcestershire Water Management Service (NWWM) are required to support and comply with the Policy.
- 1.4** The Enforcement Policy takes into account and complies with the provisions of The Regulators' Compliance Code.
- 1.5** This Enforcement Policy takes into account the guidance set out in the 'Code for Crown Prosecutors'.
- 1.6** The Council recognises that there are many situations where there is a shared or complementary role with other agencies. All relevant officers will work together with other agencies to ensure that the best possible outcome is achieved within the terms of this Policy. This will require actively seeking collaboration with agencies such as the Environment Agency, Police, Health and Safety Executive as well as internal colleagues of the Councils such as Environmental Health, Housing, Development Control and Building Control. This list of agencies is indicative but it is by no means exhaustive. Enforcement activities will normally be notified to the Environment Agency and the Lead Local Flood Authority (Worcestershire County Council).
- 1.7** This Policy is available to the public on request and is also available on the Councils' websites.
- 1.8** NWWM agrees that effective and well targeted regulation is essential in promoting fairness and protection from harm. However, NWWM agrees that, in achieving these and other legitimate objectives, regulation and enforcement should be proportionate and flexible enough to allow, or even encourage, economic progress.
- 1.9** This Policy is monitored for compliance by the Management Team and any deviation from the Policy will be reported to Cabinet
- 1.10** Areas of enforcement where this Enforcement Policy applies are:
- Drainage, including Land Drainage

- Consenting of works to ordinary watercourses
- Reduction / management of flood risk
- Provision of sustainable drainage for development through the SuDs Approval Body

And all further activities related to the above

## 2. Purpose

**2.1** To ensure that enforcement decisions will be fair, consistent and undertaken in an open manner appropriate to the risk posed by non-compliance.

## 3. Choices for Action

**3.1** The choices for action are;

- To take informal action by offering information, advice and support, either face to face or in writing.
- To take more formal action through the issue of verbal warnings, requests for action and the issue of letters warning of noncompliance to try to ensure that responsible persons do not, through lack of information or understanding, unnecessarily expose themselves to the possibility of formal action.
- To use statutory notices to require compliance with the law. The statutory right of appeal against any notice served will be brought to the attention of the person served with the notice at the time of service. Statutory notices may enable works to be undertaken in default.
- The carrying out of emergency action, where necessary, for the health or safety of persons being affected. Undertaking works will not necessarily negate the need for taking other enforcement action.
- To use formal cautions, where appropriate, in order to deal quickly and simply with less serious offences, drive the less serious offences away from the courts and to reduce the likelihood of a repeat offence.
- To prosecute, the decision to prosecute an offender will only be taken in more serious cases and the decision to prosecute will be taken by the Head of Economic Prosperity and Place or his/her nominated deputy in conjunction with the Head of Community Assets and Localism.

**3.2** The criteria to be considered before reaching a decision on the use of an appropriate enforcement action includes;

- a. Has all informal action (where appropriate) to resolve the issue been exhausted
- b. Is there blatant disregard of responsibilities under the legislation
- c. The seriousness of the apparent offence
- d. The history of previous compliance with legal requirements
- e. The confidence in an individual's or a company's ability to meet legal requirements and restore the harm caused by noncompliance (where appropriate)
- f. The likely results of noncompliance (for example is there any financial gain or impact to the environment?)
- g. The benefit to public health or the health of the environment
- h. The likelihood of a recurrence
- i. The risk of pollution of the environment or harm to health
- j. Where the offence causes public alarm and it is desirable to produce a public effect which reassures the public and deters other potential offenders

#### **4. Principles of Enforcement**

4.1 The Service's approach to Enforcement of the law will be informed by the principles of;

- Proportionality in applying the law and securing compliance
- Consistency of approach
- Transparency about how the Service, as a regulator, operates and what those regulated may expect
- Targeting, using risk assessment to channel resources into high risk areas
- Helpfulness, as the Service believes that prevention is better than cure and will attempt to alter the behaviour of the apparent offenders
- Standards to be drawn up where relevant in consultation with interested parties, setting out our service levels and expected performance
- Procedures to deal with complaints of poor, inappropriate or nonexistent service; the procedure will be well publicised, effective and readily accessible to all
- It must be in the public interest to prosecute

#### **4.2 Proportionality**

Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties can expect that action taken to achieve compliance will be proportionate to any risks to public health or the environment and to the seriousness of that risk.

#### **4.3 Consistency**

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar aims. The Service will also work closely with other enforcement agencies in its efforts to achieve consistency.

#### **4.4 Transparency**

Transparency means that the Service undertakes to help those regulated to understand what is expected of them and what they in turn can expect from the Service. It also means making clear to those regulated not only what they have to do but where this is relevant, what they don't have to do. In other words, distinguish clearly between statutory requirements and advice or guidance what is desirable but not compulsory. General information and advice will be provided in clear and concise language.

#### **4.5 Targeting**

Targeting means making sure that inspections are targeted primarily towards those activities or areas where they would be most effective by assessing the risks, for example of flooding to properties. The Service will ensure that the risk assessment proceeds and informs all aspects of its approach and regulatory activity, including:

- Data collection and other information requirements
- Inspection programmes
- Advice and support programmes
- Enforcement and sanctions

Risk assessments will not necessarily be written but will be carried out according to the principles contained within 'The Regulators Compliance Code'.

#### **4.6 Helpfulness**

The Service believes that part of its role is working actively with any person affected by its services to advise on and assist with compliance. The Service will provide a friendly, courteous, easily contactable, effective service which will deal promptly with service requests whilst minimising unnecessary overlaps and time delays.

#### **4.7 Standards**

The Service will maintain or adopt clear standards setting out the level of service and performance which the public and business proprietors can expect to receive.

#### **4.8 Procedure**

Wyre Forest District Council has published details of its Corporate Complaints Procedure and all staff have been trained in its application. The procedure is aimed at dealing effectively with complaints of poor, inappropriate or non-existent service. This means making the procedure readily accessible to all services users including those regulated. The Corporate Complaints Procedure forms part of the Council's performance monitoring systems to assist in continuous improvements of the services which the Council provides. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely timescales involved.

#### **4.9 Public Interest**

When formal action is necessary the person responsible for creating the risk must be held to account for it. However, it must still be in the wider public interest that enforcement action is taken.



## **5. Enforcement Options**

### **5.1 Advice and Assistance**

Advice from an Officer will be clear, readily understandable and confirmed in writing upon request. Before formal action is taken, an opportunity will be given to discuss the circumstances of the case unless there is need for immediate action due to the severity of the situation or to prevent evidence being destroyed. Where immediate action is considered necessary an explanation will be given as soon as possible and, confirmed in writing. Any written documentation issued will contain all the information needed to understand what work is required, why it is needed and shall state the legislation contravened and measures to enable compliance with the legal requirements. Details will be given of all rights of appeal, whether to Wyre Forest District Council or to external bodies.

When conducting formal investigations, Officers will adhere to Police and Criminal Evidence (P.A.C.E), Code of Practice on Disclosure of Information.

### **5.2 Informal Action**

Informal action to secure compliance with legislation includes advice, verbal warnings and requests for action, the use of letters and inspection reports. The circumstances when it is appropriate to consider using formal action are as follows;

- The act was not sufficiently serious to require formal action
- From past history, it can be reasonable expected that informal action will achieve compliance
- The result of non compliance will not cause a significant risk to public health, safety, wellbeing or the environment
- Where informal action will be more effective than formal action

### **5.3 Statutory Notices**

Officer's will only consider the use of statutory notices, where one or more of the following apply;

- There is/are significant contraventions of legislation
- There is a lack of confidence in response to an informal approach
- There is a history of noncompliance with informal action
- There is evidence of little knowledge of statutory requirements
- The result on noncompliance could be potentially serious to public health, safety wellbeing or the environment

Statutory notices will only be issued by Officer's who have been authorised and are considered competent.

The failure to comply with a Statutory Notice served is likely to result in court proceedings where the circumstances fulfil the criteria in the Enforcement Policy.

If a right of appeal exists, details will be included with the notice.

*It should be noted that some notices are served in order to obtain specific information and, as such, do not represent enforcement action.*

The carrying out of any works in default does not prevent the consideration of other formal action such as Formal Caution or prosecution.

#### **5.4 Formal Cautions**

Formal Cautions, where appropriate, will be issued in accordance with Home Office Guidelines. A Formal Caution may be issued where there is sufficient evidence to provide a realistic prospect of conviction but because of the attitude, history and willingness to co-operate, it is considered inappropriate to prosecute.

To issue a Formal Caution the Service must be satisfied that the offender has admitted to the offence in writing and has agreed to be cautioned.

Formal cautions issued may be cited when considering any similar offences within three subsequent years.

#### **5.5 Prosecution**

Circumstances likely to warrant prosecution may be characterised by one or more of the following;

- Where the offence involves a significant breach of the law such that public health, safety, wellbeing or the environment is or has been put at risk
- Where the alleged offence involves a failure by the suspected offender to correct an identified potential risk having been given the opportunity to comply with the lawful requirements of an authorised Officer
- Where the offence involves a failure to comply in full or in part with the requirements of a Statutory Notice
- Where there is a history of similar offences related to risk to public health, safety, wellbeing or the environment

Before a prosecution goes ahead, the officer responsible for deciding on the enforcement action and the Head of Community Assets and Localism will be satisfied that there is relevant, substantial and reliable evidence that an offence has been committed.

The alleged offender will be given the opportunity to state their case and circumstances around any alleged offence prior to formal consideration of prosecution.

#### **5.6 Accountability**

The Service will review the service it provides and comments received will be used to change procedures where appropriate.

#### **5.7 Costs of Enforcement**

Where possible, the reasonable costs associated with enforcement will be charged to the responsible persons. For example any officer time costs associated with any works in default carried out.

**If you have any comments about the contents of this policy, please contact the service through [enquiries@nwwm.org.uk](mailto:enquiries@nwwm.org.uk)**

# Wyre Forest District Council Enforcement Policy for Housing 2013

## 1. General

- 1.1** The content of this policy will be revised as necessary to meet changing circumstances and the Policy shall be reviewed by Officers at least every three years and proposed amendments shall be submitted to the Council for approval.
- 1.2** All relevant officers of the Housing Section within the Economic Prosperity and Place Directorate are required to support and comply with the Enforcement Policy for Housing.
- 1.3** The Enforcement Policy takes into account and complies with the provisions of The Regulators' Compliance Code.
- 1.4** This Enforcement Policy takes into account the guidance set out in the 'Code for Crown Prosecutors'.
- 1.5** The Council recognises that there are many situations where there is a shared or complementary role with other agencies. All relevant officers of the Housing Section will work together with other agencies to ensure that the best possible outcome is achieved within the terms of this Policy. This will require actively seeking collaboration with agencies such as the Police, Fire Authority, Magistrates Courts, Trading Standards, Health and Safety Executive as well as internal colleagues of the Council such as Development Control, Building Control and the Community Assets and Localism Directorate. This list of agencies is indicative but it is by no means exhaustive.
- 1.6** This Policy is available to the public on request and is also available on the Council's website [www.wyreforestdc.go.uk](http://www.wyreforestdc.go.uk)
- 1.7** The Council agrees that effective and well targeted regulation is essential in promoting fairness and protection from harm. However, the Council agrees that, in achieving these and other legitimate objectives, regulation and enforcement should be proportionate and flexible enough to allow, or even encourage, economic progress.
- 1.8** This Policy is monitored for compliance by the Divisional Management Team and any deviation from the Policy will be reported to Cabinet
- 1.9** Areas of enforcement where this Enforcement Policy applies are:
- Housing Law
  - Public Health
  - Household Drainage

And all further activities related to the above

## 2. Purpose

**2.1** To ensure that enforcement decisions will be fair, consistent and undertaken in an open manner appropriate to the risk posed by noncompliance.

### **3. Choices for Action**

**3.1** The choices for action are;

- a. To take informal action by offering information, advice and support, either face to face or in writing.
- b. To take more formal action through the issue of verbal warnings, requests for action and the issue of letters warning of noncompliance to try to ensure that responsible persons do not, through lack of information or understanding, unnecessarily expose themselves to the possibility of formal action.
- c. To use statutory notices to require compliance with the law. The statutory right of appeal against any notice served will be brought to the attention of the person served with the notice at the time of service. Statutory notices may enable the undertaking of work in default.
- d. The carrying out of emergency action, where necessary, for the health or safety of persons being affected.
- e. To use formal cautions, where appropriate, in order to deal quickly and simply with less serious offences, drive the less serious offences away from the courts and to reduce the likelihood of a repeat offence.
- f. To prosecute, the decision to prosecute an offender will only be taken in more serious cases and the decision to prosecute will be taken by the Head of Economic Prosperity and Place or his/her nominated deputy in conjunction with the Head of Community Assets and Localism.

**3.2** The criteria to be considered before reaching a decision on the use of an appropriate enforcement action includes;

- a. Has all informal action (where appropriate) to resolve the issue been exhausted
- b. Is there blatant disregard of responsibilities under the legislation
- c. The seriousness of the offence
- d. The history of previous compliance with legal requirements
- e. The confidence in an individual's or a company's ability to meet legal requirements and restore the harm caused by noncompliance (where appropriate)
- f. The likely results of noncompliance (is there any financial gain?)
- g. The benefit to public health
- h. The likelihood of a recurrence

- i. The risk of pollution of the environment or harm to health
- j. Where the offence causes public alarm and it is desirable to produce a public effect which reassures the public and deters other potential offenders

## **4. Principles of Enforcement**

**4.1** The Council's approach to Enforcement of the law will be informed by the principles of;

- Proportionality in applying the law and securing compliance
- Consistency of approach
- Transparency about how the Council, as a regulator operates, and what those regulated may expect
- Targeting, using risk assessment to channel resources into high risk areas
- Helpfulness, as the Council believe that prevention is better than cure and will attempt to alter the behaviour of the offenders
- Standards to be drawn up in consultation with interested parties, setting out our service levels and expected performance
- Procedures to deal with complaints of poor, inappropriate or nonexistent service; the procedure will be well publicised, effective and readily accessible to all
- It must be in the public interest to prosecute

### **4.2 Proportionality**

Proportionality means relating enforcement action to the risks. Those whom the law protects and those on whom it places duties can expect that action taken by the Council to achieve compliance will be proportionate to any risks to public health or the environment and to the seriousness of that risk.

### **4.3 Consistency**

Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar aims. The Council will also work closely with other enforcement agencies in its efforts to achieve consistency.

### **4.4 Transparency**

Transparency means that the Council undertakes to help those regulated to understand what is expected of them and what they in turn can expect from the Council. It also means making clear to those regulated not only what they have to do but where this is relevant, what they don't have to do. In other words, the Council will distinguish clearly between statutory requirements and advice or guidance what is desirable but not compulsory.

General information and advice will be provided in clear and concise language using a range of appropriate formats and media.

### **4.5 Targeting**

Targeting means making sure that inspections are targeted primarily towards those activities where they would be most effective by assessing the risks to their regulatory outcomes. The Council will ensure that the risk assessment proceeds and informs all aspects of its approach and regulatory activity, including:

- Data collection and other information requirements
- Inspection programmes
- Advice and support programmes
- Enforcement and sanctions

Risk assessments will be carried out according to the principles contained within 'The Regulators Compliance Code'.

#### **4.6 Helpfulness**

The Council believes that part of its role is working actively with any person affected by its services to advise on and assist with compliance. The Council will provide a friendly, courteous, easily contactable, effective service which will deal promptly with service requests whilst minimising unnecessary overlaps and time delays.

#### **4.7 Standards**

In consultation with interested parties, the Council will draw up clear standards setting out the level of service and performance which the public and business proprietors can expect to receive.

#### **4.8 Procedure**

The Council has published details of its Corporate Complaints Procedure and all staff have been trained in its application. The procedure is aimed at dealing effectively with complaints of poor, inappropriate or non-existent service. This means making the procedure readily accessible to all services users including those regulated. The Corporate Complaints Procedure forms part of the Council's performance monitoring systems to assist in continuous improvements of the services which the Council provides. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely timescales involved.

#### **4.9 Public Interest**

When formal action is necessary the person responsible for creating the risk must be held to account for it. However, it must still be in the wider public interest that enforcement action is taken.

### **5. Enforcement Options**

#### **5.1 Advice and Assistance**

Advice from an Enforcement Officer will be clear, readily understandable and confirmed in writing upon request. Before formal action is taken, an opportunity will be given to discuss the circumstances of the case unless there is need for immediate action due to the severity of the situation or to prevent evidence being destroyed. Where immediate action is considered necessary an explanation will be given as soon as possible and, confirmed in writing. Any written documentation issued will contain all the information needed to understand what work is required, why it is needed and shall state the legislation

contravened and measures to enable compliance with the legal requirements. Financial assistance is available in certain circumstances under the Council's Private Sector Housing Assistance Policy. Details will be given of all rights of appeal, whether to Wyre Forest District Council or to external bodies.

When conducting formal investigations, Officers will adhere to Police and Criminal Evidence (P.A.C.E), Code of Practice on Disclosure of Information.

## **5.2 Informal Action**

Informal action to secure compliance with legislation includes advice, verbal warnings and requests for action, the use of letters and inspection reports. The circumstances when it is appropriate to consider using formal action are as follows;

- The act was not sufficiently serious to require formal action
- From past history, it can be reasonable expected that informal action will achieve compliance
- The result of non compliance will not cause a significant risk to public health, safety, wellbeing or the environment
- Where informal action will be more effective than formal action

## **5.3 Statutory Notices**

Enforcement Officer's will only consider the use of statutory notices, where one or more of the following apply;

- There is/are significant contraventions of legislation
- There is a lack of confidence in response to an informal approach
- There is a history of noncompliance with informal action
- There is evidence of little knowledge of statutory requirements
- The result on noncompliance could be potentially serious to public health, safety wellbeing or the environment

Statutory notices will only be issued by Officer's who have been authorised by Wyre Forest District Council and are considered competent.

The failure to comply with a Statutory Notice served under e.g. The Housing Act 2004 is likely to result in court proceedings where the circumstances fulfil the criteria in the Enforcement Policy.

If a right of appeal exists, details will be included with the notice.

*It should be noted that some notices are served in order to obtain specific information and, as such, do not represent enforcement action.*

The carrying out of any works in default does not prevent the consideration of other formal action such as Final Caution or prosecution.

## **5.4 Formal Cautions**

Formal Cautions, where appropriate, will be issued in accordance with Home Office Guidelines. A Formal Caution may be issued where there is sufficient evidence to provide a realistic prospect of

conviction but because of the attitude, history and willingness to co-operate, it is considered inappropriate to prosecute.

To issue a Formal Caution the Council must be satisfied that the offender has admitted to the offence in writing and has agreed to be cautioned.

Formal cautions issued may be cited when considering any similar offences within three subsequent years.

### **5.5 Prosecution**

Circumstances likely to warrant prosecution may be characterised by one or more of the following;

- Where the offence involves a significant breach of the law such that public health, safety, wellbeing or the environment is or has been put at risk
- Where the alleged offence involves a failure by the suspected offender to correct an identified potential risk having been given the opportunity to comply with the lawful requirements of an authorised Officer
- Where the offence involves a failure to comply in full or in part with the requirements of a Statutory Notice
- Where there is a history of similar offences related to risk to public health, safety, wellbeing or the environment

Before a prosecution goes ahead, the officer responsible for deciding on the enforcement action and the Head of Community Assets and Localism will be satisfied that there is relevant, substantial and reliable evidence that an offence has been committed.

The alleged offender will be given the opportunity to state their case and circumstances around any alleged offence prior to formal consideration of prosecution.

### **5.6 Accountability**

The Housing Section will regularly consult on the service it provides and comments received will be used to change procedures where appropriate.

### **5.7 Costs of Enforcement**

The reasonable costs associated with enforcement will be charged to the responsible persons. For example, the costs of inspection and notice being served under the Housing Act 2004 and officer time costs associated with any works in default carried out.

### **5.8 Action Against Owner Occupiers**

Although technically available as an option, enforcement action will only be taken against owner occupiers where their action, or lack of, significantly adversely affects neighbouring properties or there is a clear existent or imminent potential risk to public health, safety or the environment.

**If you have any comments about the contents of this policy, please contact the Strategic Housing Services Manager**