

# Enforcement Policy

## Building Control Service





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# 1.0

## 1.0 Introduction

- 1.1 This policy document sets out what businesses, individuals and the community as a whole can expect from Belfast City Council's ([the Council](#)), Building Control Service ([the Service](#)) [in how we carry out our statutory enforcement role](#). The Council has adopted the principles of 'Good Enforcement' as set out in the Enforcement Concordat and these are reflected in this policy.
- 1.2 The Service recognises that [the majority of individuals and most](#) businesses want to comply with the law. We will therefore take care to help businesses and the public to meet their legal obligations without necessary expense, while taking appropriate action against those who flout the law.
- 1.3 The Council is the enforcing authority for building regulations, street naming and numbering of buildings, entertainments licensing, street trading, [Sunday openings](#) [shops trading on Sundays](#), ~~hours~~, dangerous structures and places, petroleum licensing, amusement permits and cinema licensing. ~~This enforcement role has been delegated to the staff of the Service.~~
- 1.4 One of the Council's core objectives is to improve the quality of life, now and for future generations by creating a cleaner, more attractive, safer and healthier city, with a strong economy. The Service ~~hopes will~~to assist in achieving this aim by providing advice and regulating the activities of others to ensure a safer city for the public.

## 2.0 Scope

- 2.1 This policy is written as a guide for officers, businesses and the general public as to how the Service intends to apply-carry out its enforcement duty. This policy will be made available to any business representatives or members of the public on request and the policy will also be available to download on the Council's website.
- 2.2 This policy applies to all dealingsdealings; whether formal or informal, between businesses and-or members of the public with officers of the Council across the range of matters the Service is responsible for enforcing.
- 2.3 In its application of this policy the Council recognises its duty to act in accordance with the Human Rights Act 1998, Police and Criminal Evidence (NI) Order 1989 and any other statutory obligations which govern our responsibilities in relation to enforcement.
- 2.4 It is our aim that this policy will highlight the principles which will enable our officers within the Service to provide an effective and fair service, and to ensure that enforcement activities are undertaken in an open and consistent way.



## 3.0

### 3.0 Enforcement Concordat

3.1 The Council has adopted the Enforcement Concordat. This policy is based upon the principles of 'good enforcement' issued in the concordat.

#### Principles of Enforcement

3.2 The ~~council~~Council believes in firm but fair regulation. This should be informed by the principles of **proportionality** in application of the law and in securing compliance; **targeting** of enforcement action; **consistency** of approach, **transparency** about how the Council operates and what those regulated may expect from the Council, and **accountability** for the Council's actions through the existence of a clear **complaints** procedure.

3.3 The ~~council~~Council has adopted these principles by ensuring that:

- Performance will be measured against public standards
- There will be openness in dealing with businesses and individuals
- Enforcement officers will be helpful, courteous and efficient
- 
- Clear complaint procedures will be issued on request
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- Enforcement procedures will be proportionate to the circumstances
- 
- Enforcement officers will strive for high standards of consistency.

When officers are deciding on the most appropriate enforcement action, they will take account of the following:

- The degree of any risks posed.
- The seriousness of any breach of the law.
- The burden which would be placed on the business in taking action, compared with the benefit of risk reduction.
- The attitude and intent of the offender, individually or corporately.
- Foreseeability of offence or circumstances leading to it.
- The likelihood of recurrence.

- Relevant good practices as obtained in codes of practice and published guidance



## 4.0 Enforcement Actions

- 4.1 The Council recognises that it is neither possible nor necessary to investigate all issues of non-compliance with the law uncovered in the course of inspection, or in the investigation of reported events and complaints.

The Council's officers will use their discretion and have regard to the aforementioned principles in deciding whether an investigation should be initiated and in deciding the level of resources to be committed. The following factors will be taken into account:

- The severity and scale of the potential or actual harm
- The seriousness of any potential breach of the law
- Knowledge of the duty holder's past performance
- The Service enforcement priorities at that time
- The practicality of achieving results; and
- The wider relevance of the event, including serious public concern.

- 4.2 The Council recognise that most people want to comply with the law. However for those persons whose actions require some form of intervention the Council may use a number of approaches to achieve effective compliance.

- 4.3 Where appropriate officers will use a graduated approach in determining what, if any, enforcement action is appropriate, these approaches will be in accordance with the aforementioned principles and will range from advisory, informal or formal options of enforcement.

### **Advisory**

The Council recognises advisory and informal action as a means to secure compliance with the law. Advisory action includes;

Discussions and meetings.

Advisory letters where advice is being confirmed or remedial action requested informally with no intended follow-up action.

### **Informal**

Informal action is appropriate in the following circumstances:

- Where the action or omission is not serious enough to warrant formal action but shall be followed-up to ensure compliance;
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- From knowledge of past history, it can be reasonably expected that informal action will achieve compliance;
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- The consequences of non-compliance will not pose a risk to public health.

Informal action with the potential to become formal depending upon the recipient's course of action also includes:

- Verbal warning;
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- Warning/enforcement letter;
- 
- Withholding certification;
- 
- Issuing conditional approvals.

### Formal

In cases where informal action has failed to achieve the necessary outcome or where the breach is serious enough to warrant formal action in its own right, the following enforcement options will be considered:

- Contravention Notices under the Building Regulations (Northern Ireland) Order 1979
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- [Suspension or revocation of a licence under the Local Government \(Miscellaneous Provisions\) \(NI\) Order 1985](#)
- [Issuing a fixed penalty notice under the Street Trading Act \(NI\) 2001](#)
- Formal caution where an offence has been admitted but prosecution may be inappropriate. ~~A~~ ~~a~~ formal caution is a written acceptance by an offender that they have committed an offence and may only be used where a prosecution could properly have been brought
- Prosecution through the Courts
- [Seizure of goods to be used as evidence for future legal proceedings](#)
- ~~Where t~~he consequences of non-compliance could be potentially serious to public health, ~~even~~ ~~and~~ ~~at~~ though the intention is to prosecute, effective action ~~may~~ also needs to be taken as quickly as possible to remedy conditions that are serious or deteriorating.

Undertaking work in default under certain legislation, this is reserved for cases where an imminent danger to persons or property exists, and the legal process does not provide appropriate remedy.

In these circumstances ~~where work in default is carried out~~, the council will make every effort to recover the costs of the works from the relevant party.

- Injunction proceedings to prohibit individuals or businesses from continuing to breach any conditions of licence or regulations they are required to comply with.
- [Carrying out test purchasing](#)

## 5.0 Prosecution

- 5.1 The Council recognises that the institution of a prosecution is a serious matter that should only be taken after full consideration of the implications and consequences. It aims to punish wrongdoing, to avoid a recurrence and to act as a deterrent to others.
- 5.2 When circumstances warrant it, prosecution without prior warning or recourse to alternative sanctions will be pursued, this may be in relation to an offence which poses significant risk to public safety.
- 5.3 A prosecution will not be commenced or continued by the Council unless it is satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of conviction.
- 5.4 Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence and the circumstances of the offender and whether, through the conviction of the offender, others may be deterred from similar failures to comply with the law.
- 5.5 Where there is sufficient evidence the Council will normally prosecute in any of the following circumstances:

- Breaches which have serious consequences for public safety.

Where the offence involves a failure to comply in full or in part with the requirements of a statutory notice.□

[Failure to hold a licence for licensable activities which are being provided](#)

- Obstruction of Council staff in carrying out their duties.
- 5.6 Where the Service and another enforcement body both have powers to prosecute, the Service will liaise with that other body to ensure effective co-ordination, and to ensure that any proceedings brought forward are appropriate.

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## 6.0 Complaints and Appeals

### Complaints

- 6.1 The Council's formal complaints procedure will be used to investigate those complaints which relate to dissatisfaction with the [service](#). Further information about the Council's Complaints procedure is available on line at [complaints@belfastcity.gov.uk](mailto:complaints@belfastcity.gov.uk) or by phone on 028 90270270.

### Appeals

- 6.2 If a person wishes to appeal against any enforcement actions taken by our staff, the following options are available;
- (i) Officers will advise persons [against](#) whom they have [been](#) required to take any action, of their right to make representation to the officer's manager and, if not satisfied, to the Head of Building Control.
  - (ii) Officers will, when serving notices, provide with those notices any formal appeal details to be used should the recipient wish to lodge a formal appeal against same.
  - (iii) The Service will in all cases include a person's rights of appeal in all correspondence sent out in relation to enforcement or legal actions.

## 7.0 General

- 7.1 This policy will be made freely available to all members of the public on request and will be posted on the Council's website.
- 7.2 Officers will adhere to the restrictions placed on them by legislation in relation to the release of any information to a third party, obtained by them in the course of their duties. When convictions have been obtained however, the Council will, in addition to reporting the details to the appropriate authorities, consider alerting the media and making the details of the conviction public.
- Such action will serve to draw the attention of a wider audience to the need to comply with legal requirements and deter others tempted to disregard their legal duties.
- 7.3 This policy will be reviewed as necessary to ensure that it satisfies legal requirements and our customers' expectations of the service, and as a minimum every two years.
- 7.4 The Council welcomes comments on this policy and on how we can improve our services. Comments can be made in the following ways, in person, by telephone, in writing [or](#) via our website

[www.belfastcity.gov.uk/buildingcontrol](http://www.belfastcity.gov.uk/buildingcontrol)

Tel: 02890

Fax: 02890 438805

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