

Environment and Leisure & Communities Directorates Enforcement Policy





Document	Environment and Leisure & Communities Directorate Enforcement Policy
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Contents

Over Arching Policy	Page	Annexes	Page
Introduction	4	Animal Welfare Licensing	12
Enforcement	4	Caravans and other Licensable Sites	16
Principles of Enforcement	5	Communities Enforcement Options	17
Authorisation of Officers	6	Environmental Permitting	19
Offences and Penalties	6	Food Safety	21
Investigation with Other Agencies	6	Health and Safety	23
Equality and Diversity	6	Private Sector Housing	25
Consultation and Review	7	Residential Services	27
Powers of Entry	7	Skin Piercing Activities	28
No Action/Informal Action	7	Smoke Free	29
Revisits	8	Waste and Street Scene	30
Simple Cautions	8	Water Supplies	32
Prosecution	8		
Obstruction of Officers	9		
Works in Default	9		
Empty Properties/None Trading Businesses	10		
Cost Recovery	10		
Fees and Charges	10		
Primary Legislation	11		



■ | Introduction

This Enforcement Policy applies to the functions of the Environmental Health and Waste and Street Scene Services in the Environment Directorate and the Leisure & Communities Directorate. It details the overall approach to enforcement in accordance with relevant legislation, statutory codes of practice and other guidance.

The primary responsibilities of the services are the enforcement of health and environmental protection laws including those related to fly tipping, littering, pollution control, food hygiene and safety, the safety of private water supplies, workplace health and safety, housing standards, public health, nuisance, the prevention and control of infectious diseases and; licensing for the purposes of animal welfare and the safety of caravan sites; and anti-social behaviour.

The enforcement options relating to individual regularity functions are detailed in separate annexes to this policy. This policy has been prepared in accordance with relevant legislation and guidance and in particular the Regulators' Code. The policy has received Cabinet approval and will be reviewed at least every three years or at any time a significant change to the policy is required.

■ | Enforcement

Enforcement is defined as including any advice, inspection, action, instruction or warning, simple caution, prosecution (or other types of action, for example obtaining a warrant) taken in relation to a person or organisation that is or is believed to be acting unlawfully.

The Directorates will take a graduated approach to enforcement of legislation where appropriate. All person(s) and companies will be encouraged to understand the nature and extent of their responsibilities and comply voluntarily. The Directorates will use a range of investigation methods including the use of CCTV and other recording devices. The Directorates will pursue prosecution where circumstances indicate a significant risk or crime, or where formal action is in the public interest. A specific annex relates to the enforcement activities of the Communities Team. In addition to helping to reduce and prevent crime and disorder and anti-social behaviour, this annex outlines the actions relating to the enforcement of Public Space Protection Orders.

The Directorates recognises that each enforcement case is unique and may at times warrant deviation from this enforcement policy. In such cases this will be done with the approval of the Director of Environment and/or the Director of Leisure and Communities and/or the Director of Legal and Governance.

In considering whether to initiate enforcement action the Directorates will take account of the following:

- Code for Crown Prosecutors
- Regulators' Code

- Police and Criminal Evidence Act 1984 (and associated Code of Practice)
- Criminal Procedure and Investigations Act 1996 (CPIA)
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Regulatory Enforcement and Sanctions Act 2008
- Legislative and Regulatory Reform Act 2006
- Powers of Entry Code of Practice
- Human Rights Act 1998
- General Data Protection Regulations
- Other service specific codes or guidance

■ | Principles of Enforcement

The Directorates will ensure that their approach to regulation is underpinned by the principles of enforcement as follows:

(i) Proportionality in the application of the law and in securing compliance. The Directorates will ensure that any action taken to achieve compliance or bring individuals/companies to account for non-compliance will be proportionate to risks and/or to the seriousness of the breach.

(ii) Consistency of approach and application. The Directorates will carry out activities in a fair, equitable and consistent manner. In each case officers will consider a number of variables including:

- The degree of risk
- The attitude and competence of management / business operator / duty holder / individual
- The previous history of the business operator/duty holder/individual
- The seriousness of the breach.

The Directorates will ensure that procedures are in place to promote and ensure consistency between officers, other authorities and enforcement bodies.

(iii) Transparency on the operation of the services so that those whose activities are regulated by the Directorates know what they may expect from each service. Services will assist and advise duty holders to understand and fulfil their responsibilities and provide information on the Directorate role as a regulator.

Individuals or businesses have a right to query or appeal against enforcement action and fee charges where there are statutory appeal mechanisms. Details of the mechanisms for query or appeal will be provided where appropriate whether the appeal is made to the council or other bodies.

(iv) Targeting of enforcement action. The services will direct their enforcement and regulatory effort primarily towards those whose activities give rise to the most serious risk or where the risks are less well controlled. Action will be focused on those directly responsible for any breach and who are best placed to control it. Enforcement action will target the issues that most



affect the residents and the environment in Hambleton and therefore will meet all the council's priorities.

Authorisation of Officers

The council has a system of delegation to individual officers. This delegation is contained in the council's constitution which is available upon request or on line at:

<http://democracy.hambleton.gov.uk/ieListMeetings.aspx?CId=237&info=1&MD=Constitution>

Only officers or appointed/authorised delegates who are competent by qualification training and/or experience will be authorised to take enforcement action.

Offences and Penalties

Alternatives to prosecution such as fixed penalty notices or simple cautions will always be considered where the legislation allows. The courts will impose appropriate sentence/s upon conviction in accordance with provisions detailed in legislation and sentencing guidelines. The alleged offences and potential penalties will be made clear to prospective defendants throughout the investigation.

Investigation with other Agencies

Where an enforcement objective is shared with another agency, the services will undertake joint enforcement activity in order to minimise any unnecessary duplication and delay. Joint working may be undertaken with agencies including local authorities, the Police, the Food Standards Agency or any other relevant agency as appropriate; this includes the sharing of information.

Equality and Diversity

The Directorates will ensure that decisions are not influenced by the gender, disability, religion or political belief, language, ethnicity or sexual preferences of offenders, victims or witnesses.

Translators will be provided for interviews/meetings where the interviewee's first language is not English and consideration will be given to the provision of correspondence in other languages.

Officers will carry out visits outside normal office hours when the business concerned operates at those times.

When dealing with juveniles or any vulnerable persons (for example due to learning difficulties, mental illness or any other factor), due regard will be taken and support will be provided



which may involve engaging in a multi-agency approach. However enforcement action will still be taken where deemed appropriate.

■ | Consultation and Review

The Services will consult and inform stakeholders of any changes to legislation and the implications of those changes. The services will provide the mechanisms for those whose activities are regulated by the council to comment on the service they have received and/ or the actions taken by the council. The council will act upon any comments or complaints about the services or the conduct of its officers in an appropriate manner and in accordance with the policies of the council. Details of the council's complaint procedure can be found at: https://www.hambleton.gov.uk/info/20090/customer_services_and_complaints/157/customer_services_and_complaints

This policy has been prepared in accordance with relevant legislation and guidance and in particular the Regulators' Code. The policy has received Cabinet approval and will be reviewed at least every three years or at any time a significant change to the policy is required.

■ | Powers of Entry

When exercising their statutory powers officers will have regard to specific legislation and codes of practice including:

- Police and Criminal Evidence Act 1984 (and associated Code of Practice)
- Regulation of Investigatory Powers Act 2000 (RIPA)
- Powers of Entry Code of Practice
- Food Law Code of Practice
- Human Rights Act 1998.

■ | No Action/Informal Action

In all cases unless otherwise stipulated in the annexes to this policy enforcement options shall not be considered where there is no risk to public health or the environment from the regulated activities. Informal action may include advice, verbal warning, written information and inspection reports and will be taken considered when:

- The circumstances do not warrant formal action as the act or omission is relatively minor.
- From the individuals/businesses' past history it can be reasonably expected that informal action will achieve compliance.
- Confidence in the management practices is high.
- The consequence of non-compliance will not pose a significant risk to those affected by the activities of the individual/business.
- It is expected that informal action will achieve compliance.

Revisits

Revisits to premises/properties will be made to check compliance with the relevant legislation where contraventions have been previously identified and will be carried out in the following circumstances including:

- To check compliance with statutory notices.
- To monitor compliance following inspections and other interventions.
- Where there are contraventions which may lead to risks to public health and/or safety.

The same officer who undertook the original inspection/intervention will wherever practicable undertake the revisit/s.

Simple Cautions

Simple Cautions can be used in relation to all functions considered in the annexes to this policy and will be used under the following circumstances:

- To deal quickly and simply with less serious offences.
- To divert offenders where appropriate from appearing in criminal courts; and
- To reduce the likelihood of re-offending.
- Simple cautions are issued in accordance with Home Office Circular 30/2005.

Prosecution

Prosecutions may be taken in relation to all the functions considered in the annexes to this policy under one or more of the following circumstances including:

- The offence is serious.
- There is a poor history of compliance.
- There has been a repetition of a breach that was subject to a simple caution.
- False information has been supplied willfully, or there has been intent to deceive, in relation to a matter which gives rise to significant risk.
- Officers have been intentionally obstructed in the lawful course of their duties.
- There is a failure to comply with the requirements of a notice and there has been no appeal against the terms of the notice; or the appeal made has not been upheld.
- Prosecution is regarded as a more appropriate and effective remedy than works in default alone.
- A Fixed Penalty Notice has not been accepted.

Obstruction of Officers

In any circumstances where in the course of their duties an officer is obstructed the Directorates will consider the instigation of formal action against the individual/organisation. Obstruction may include:

- Aggressive/inappropriate behavior.

- Willfully withholding or refusing to provide information.
- Knowingly providing false information.
- Preventing entry to premises/property.

■ Works in Default

In circumstances where the Directorates have stipulated works to be carried out, for example by serving a legal notice and the requirements of the notice are not met, under certain regulations the Directorates are empowered to carry out the required works and recover its costs. Works in default will generally be carried out in the following circumstances including:

- Where all opportunities for appeal against the notice have expired or an appeal has not been upheld.
- Where work in default is considered as being a more appropriate or effective remedy than prosecution or where a successful prosecution has already been taken but the problem remains. The individual/organisation will be given reasonable notice of the intention to carry out the works in default.
- Where the offence involves a failure either in full or in part with the requirements of a statutory notice.
- The person served with a statutory notice starts work but then does not make satisfactory progress in accordance with stipulated timescales.
- Following inspection the works carried out are not suitable to ensure compliance with the notice.
- There is an ongoing risk to health or safety posed by continued non-compliance with the notice.
- The Directorate may also agree to carry out work in default on behalf of the person responsible where a written request and an undertaking to pay has been received from the individual.

Other factors that will also be considered include:

- The urgency to rectify the nuisance/public health hazard.
- Where known the wishes of the person responsible.
- Where the evidence available indicates a realistic prospect of recovering its reasonable costs.

Works in Default can be carried out with or without agreement of the individual/organisation responsible however in most circumstances every effort will be made to gain agreement.

The cost of the works will be recovered by placing a charge on the property or through civil debt recovery where provided for by legislation.

■ | Empty Properties/None Trading Businesses

The Environment Directorate will offer advice and assistance to empty property owners to bring particularly long term empty properties back into use. Enforcement action will be taken to prevent empty properties becoming a nuisance to surrounding properties and to secure properties that are open for access to prevent unauthorised entry.

Enforcement action will be considered against individuals and organisations that are no longer involved in a particular activity and/or have ceased trading where there is evidence to show that offences have been committed.

■ | Cost Recovery

Some offences may be discharged by payment of a Fixed Penalty Notice. This gives the offender an opportunity to avoid prosecution by paying a fine. Notices are only issued where:

- there is enough evidence to support a prosecution,
- the officer believes that it will prevent repeat offending, and
- it is in the public interest to do so.

Non-payment of Fixed Penalty Notices may be pursued through the courts.

Relevant guidance will be followed when issuing Fixed Penalty Notices to juveniles with the offender's age and the circumstances of the offence being taken into account. Notices will not be served on people who at the time are suffering from any vulnerability that could impair their understanding of the situation.

Where legislation allows the Directorates will seek to recover costs in relation to the regulated activities and in particular where there has been non-compliance.

■ | Fees and Charges

The Directorates will apply statutory fees where available; and where locally set fees and charges are applied these will be calculated using officer time, support and other procedural costs and national guidance will be followed, when available.

In certain circumstances the Directorates will produce a Statement of Principles relating to the fee charging regime of a particular service/function. These statements will be published on the council's website.

Fees will not be applied for housing enforcement action taken against owner occupiers.

Where the appropriate fee is not paid a license will not be issued or if issued will be revoked.



All Fees and Charges of Council are published on the council's website at:
https://www.hambleton.gov.uk/info/20257/council_budget_and_spending/316/budgets/3

In some cases the Directorates will apply a charge for selected advisory services. These charges are available at the web link above.

Primary Legislation

Primary Legislation includes:

European Communities Act 1972 and relevant Regulations made in accordance with the Act
Public Health (Control of Disease) Act 1984
Water Industry Act 1999
Food Safety Act 1990
Health and Safety at Work etc. Act 1974
Environmental Protection Act 1990
Environment Act 1995
Energy Act 2011
Housing Act 2004
Housing and Planning Act 2016
Animal Welfare Act 2006
Caravan Sites and Control of Development Act 1960
Mobile Homes Act 2013
Clean Neighbourhoods and Environment Act 2005
Refuse Disposal (Amenity) Act 1978
Control of Pollution (Amendment) Act 1989
Anti-social Behaviour Act 2003
Anti-social Behaviour, Crime and Policing Act 2014
Licensing Act 2003
Health Act 2006

Annexes

■ | Animal Welfare Licensing

Document	Animal Welfare Licensing
Author	Vikki Flowers
Approval Date	February 2019
Policy Reviewed	December 2019
Review Date	December 2022

Animal Welfare	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
No Action	Enforcement options shall not be considered where there is no risk to animal welfare and/or public health from the activities of the business/undertaking.
Informal action This may take the form of: Advice; Verbal warning; Inspection reports	Informal action will be initiated in circumstances including where: <ul style="list-style-type: none">• The act or omission is relatively minor, for example, there is a minor non-compliance with a licence condition.• From the operators/businesses' past history it can be reasonably expected that informal action will achieve compliance.• Confidence in the operators/businesses' management practices is high.• The consequence of non-compliance will not pose a significant risk to animal welfare and/or public health.
Statutory Action	Formal action will be initiated in circumstances including where: <ul style="list-style-type: none">• There is a contravention of a relevant statutory provision.• The licence conditions are not met.• The situation is unlikely to be remedied by informal means.• There is a risk or potential risk to animal and/or public health.• A licensable activity is operating without a licence.

Refusal of a license	<p>Licence applications can be refused on the grounds specified in the relevant legislation and the general criteria used for considering this action include:</p> <ul style="list-style-type: none"> • The licence conditions will not be met. • The appropriate fee has not been paid. • The inspection by an officer and/or an appointed veterinarian (as appropriate) of the premises/business has identified non-compliance with the licence conditions. • The applicant is not a suitable person and/or has been previously disqualified under any of the relevant legislation and/or has been convicted of an offence of any relevant legislation. • There will be a detrimental effect to the public interest on the grounds of safety, nuisance or similar. • Planning permission has not been granted or has been refused for the premises. • A zoo license will not be granted if the continuance of the zoo would injuriously affect the health and safety of persons living in the neighbourhood or seriously affect the preservation of law and order or conservation measures are not in place.
Suspension, variation, alteration or revocation of a license	<p>Licenses can be suspended, varied or revoked on the grounds specified in the relevant legislation and the general criteria used for considering these actions include:</p> <ul style="list-style-type: none"> • Licence condition/s are not being met. • There is a contravention of a relevant statutory provision. • Information supplied by the licence holder is false or misleading. • It is necessary to protect the welfare of the animal. • Legal action is being taken or considered. <p>Variation will generally be considered when adjustments need to be made to the licence or to the premises/animals referred to in the license. Alterations to zoo licences may require a section of the zoo where a licence condition is not being met to be closed to the public.</p> <p>Suspension will generally be considered when the operator fails to meet administrative conditions or provide information when requested.</p> <p>Revocation will be considered when poor standards of welfare are identified or where it would be otherwise beneficial to the welfare of the animals to be removed from the activity.</p> <p>If it is necessary to protect the animal welfare, immediate action will be taken which will be specified in any notice to vary, suspend or revoke a licence.</p> <p>Revocations for licences granted in accordance with the Dangerous Wild Animal 1976 will not include those conditions specified in the Act. The power to revoke a licence lies with the Council's Licensing and Appeals Hearings Panel.</p>

Zoo Directions	<p>Zoo directions will be made when license condition/s are not met. The direction may stipulate that the zoo or part of the zoo is closed to the public for a period time when steps are being taken to ensure the licence condition/s are met.</p> <p>Zoo directions maybe varied including increasing the time period for compliance.</p>
Zoo Closure Direction	<p>A zoo closure direction will be made when:</p> <ul style="list-style-type: none"> • A licence condition giving effect to any conservation measure which has been stipulated in a direction and has not been met within the time period specified. • The zoo licence holder cannot be found after reasonable enquiries have been made. • The zoo no longer opens on seven or more days in a twelve-month period and it will not be opening on seven or more days in any future twelve- month period. <p>A zoo closure direction may be made when:</p> <ul style="list-style-type: none"> • A licence condition other than one giving effect to any conservation measure which has been stipulated in a direction and has not been met within the time period specified. • Reasonable requirements relating to the premises or conduct of the zoo which have been notified to the licence holder following any inspection are not complied within a reasonable period of time. • The zoo has been conducted in a disorderly manner or that a nuisance has been caused, or there has been a breach of any condition of the licence. • The licence holder has been convicted of an offence referred to in section 4(4) Zoo Licensing Act 1981 or a keeper at the zoo, in the knowledge of the licence holder, has been so convicted. <p>An unlicensed zoo will be closed when:</p> <ul style="list-style-type: none"> • The operator cannot be found. • Having given the operator at least 35 days' notice that a closure direction will be made and no notice of intention to apply for a licence has been made. • An application for a licence has not been made within three months of the notice of intention to apply for licence being made. <p>When a zoo closure direction is made, the zoo's licence is automatically revoked. Therefore any decision to make a zoo closure order would be taken by the Council's Licensing and Appeals Hearings Panel.</p>
Directions applicable to permanently closed zoos	<p>Zoo directions can be made following the permanent closure of zoo to allow for arrangements to be made to ensure the welfare of the animals and for the disposal of animals if required when the operator's plans for such arrangements are not made and carried out.</p>

Prosecution	Prosecutions may be taken under one or more of the following specific circumstances and those listed in the main Policy including: <ul style="list-style-type: none"> • The licence conditions are contravened or not complied with. • An animal has been allowed to suffer unnecessarily. • A poison has been administered to an animal. • The welfare needs of animal have not been met. • Operating a licensable activity without a licence. • Failing to comply with a zoo direction and/or zoo closure direction.
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Seizure of Animals

Under section 4 of the Dangerous Wild Animals Act 1976, the Local Authority has the power to seize and dispose of animals without compensation where a person is keeping a dangerous wild animal without a licence or does not comply with licence conditions. In addition the Local Authority may recover all the costs incurred in this activity.

Caravans and other Licensable Sites

Document	Caravans and other licensable sites
Author	Vikki Flowers
Approval Date	December 2018
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Caravans and other licensable sites	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
Informal action This may take the form of: Advice; Verbal warning; Written information; Inspection reports	<ul style="list-style-type: none"> • If a non-licensed site can be licensed, the council will work with the site owner to ensure an application is submitted within 28 days. • For non-licensed sites or sites which no-longer have a valid licence or planning permission, a referral shall be made to the planning enforcement officer and joint action considered.
Compliance Notices (relevant protected sites)	<ul style="list-style-type: none"> • A breach of license condition/s which pose a significant risk. • Persistent breaches of license conditions. • An informal approach has not achieved the desired result. • A safety critical or public health issue exists.
Emergency Action (relevant protected sites)	<ul style="list-style-type: none"> • The occupier is failing or has failed to comply with condition/s of the site license and there is an imminent risk of serious harm to the health or safety of any person who is or could be on the land.

Communities Enforcement Options

Document	Communities
Author	Gina Allen
Approval Date	
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Hambleton District Council's Communities Team include a community safety function which is responsible for co-ordinating multi-agency responses to reducing, preventing and detecting crime, disorder and anti-social behaviour across the Hambleton area. The following options will be considered when dealing with crime, disorder and anti-social behaviour:

Reducing and Preventing Crime, Disorder and Anti-Social Behaviour	
No Action	<ul style="list-style-type: none"> • Enforcement options shall not be considered where there is no evidence available to identify the likely perpetrator.
Informal action	<p>Where it can be reasonably expected that informal action will achieve compliance, this action may take the form of:</p> <ul style="list-style-type: none"> • Advice; • Verbal warning; • Written information; • Joint agency visits; • Acceptable Behaviour Contracts; • Safety Agreements
Formal Action	<p>In conjunction with partners working to reduce crime, disorder and antisocial behaviour, the Communities Team will support formal action by any agency which may include tenancy enforcement action, multi-agency response protocols, and court action.</p> <p>The Communities Team will directly take formal action against individuals who continue to cause issues in the community and who have evidenced that informal action has not achieved compliance. The following action may be undertaken:</p> <ul style="list-style-type: none"> • Criminal Behaviour Order • Civil Injunction • Closure Power • Community Protection Notice

The Communities Team will consider a Public Spaces Protection Order in order to reduce and prevent anti-social behaviour in a given location. The Public Spaces Protection Order can be used to protect the public from anti-social behaviour that is having, or likely to have, a detrimental effect on the quality of life of those in the locality, where the effect (or likely effect) of the activities is or is likely to be persistent or continuing, is or is likely to be unreasonable and the restrictions within the notice are justified.

Public Spaces Protection Order Enforcement Actions	
No Action	Enforcement options shall not be considered where there is no evidence available to identify the likely perpetrator.
Informal action	Discretion may be used in extenuating circumstances and may take the form of Educational Advice, Verbal warning or other appropriate action.
Fixed Penalty Notices	<p>It is an offence for a person without reasonable excuse—</p> <p>(a) to do anything that the person is prohibited from doing by a public spaces protection order, or</p> <p>(b) to fail to comply with a requirement to which the person is subject under a public spaces protection order.</p> <p>A person guilty of breaching a Public Spaces Protection Order is liable on summary conviction to a fine not exceeding level 3 on the standard scale, however, in enforcing a Public Spaces Protection Order, the council will endeavour to give the offender an opportunity to avoid prosecution by the payment of a Fixed Penalty Notice if appropriate.</p> <p>The issuing of Fixed Penalty Notices may be undertaken by a third party with authorisation and will be considered in the following circumstances.</p> <ul style="list-style-type: none"> • where the offence has not been committed by the offender before, and • where there is sufficient evidence to prove the case. <p>Fixed Penalty Notices are not appropriate with repeat offenders and the council will seek to prosecute them through the court system.</p>
Prosecution	<p>Prosecutions will be considered under any of the following circumstances:</p> <ul style="list-style-type: none"> • There has been a repetition of breaching the Public Spaces Protection Order within the previous 6 months period. • False information has been supplied willfully, or there has been an intent to deceive. • Officers have been intentionally obstructed in the lawful course of their duties. • A Fixed Penalty Notice has not been accepted. • A Fixed Penalty Notice has not been paid within the appropriate timescales.

Environmental Permitting

Document	Environmental Permitting
Author	Vikki Flowers
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Environmental Permitting	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
Warning Letters	<ul style="list-style-type: none"> • Where a permit condition is contravened, the operator maybe given a written warning to address the contravention. • The number of warnings given to the operator will vary depending on the seriousness of the situation and the decision to prosecute can be made at any time, having regard to the risk rating of the installation and history of non-compliance.
Information Notice	<ul style="list-style-type: none"> • An Information Request Notice may be served on an operator or any other person in order to obtain information relevant to enable the enforcement of the Environmental Permitting Regulations 2016 and 2018
Enforcement Notice	<ul style="list-style-type: none"> • When an operator has contravened, is contravening or likely to contravene an environmental permit condition. • If an incident or accident significantly affecting the environment has occurred as the result of the operation of the regulated facility.
Suspension Notice	<ul style="list-style-type: none"> • The operation of an installation involves a risk of serious pollution. • A suspension notice can be served in full on the entire regulated facility or in part, known as a 'partial suspension notice', whether or not the operator has breached a permit condition. • The suspension notice ceases to authorise the operation of either the entire regulated facility or, in the case of a partial suspension notice, those activities specified in the notice.

Prevent or remedy pollution	<p>A pollution 'clean-up' may be organised under the following scenarios:</p> <ul style="list-style-type: none"> • As an alternative to a suspension notice, if in the council's opinion, the operation of a regulated facility involves the risk of serious pollution the council may arrange for steps to be taken at the operator's expense for the risk to be removed. • If an operator commits any of the following offences which causes pollution the council may arrange for steps to be taken to remedy the pollution at the operator's expense: <ul style="list-style-type: none"> • operating without a permit • contravening a permit condition • contravening an enforcement notice or suspension notice • failing to comply with an information notice • making false or misleading statements • making false entries • forging documents with intent to deceive <p>In this case the council will give the operator at least five working days advance notice in writing of the steps the council intends to take.</p>
Revocation Notice	<ul style="list-style-type: none"> • Appropriate where the exhaustive use of other enforcement tools has failed to protect the environment. • Revokes an environmental permit or part of a permit. • Non-payment of the annual subsistence charge.

Food Safety

Document	Food Safety
Author	Vikki Flowers
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Food Safety	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
Hygiene Improvement Notice	<ul style="list-style-type: none"> • Formal action is proportionate to the risk to public health. • There is a record of non-compliance with breaches of food hygiene regulations. • The authorised officer has reason to believe that an informal approach will not be successful.
Improvement Notice	<ul style="list-style-type: none"> • Formal action is proportionate to the risk to public health. • There is a record of non-compliance with breaches of food laws relating to the matters enforced by a district council. • The authorised officer has reason to believe that an informal approach will not be successful.
Voluntary Closure (food hygiene)	<ul style="list-style-type: none"> • There is an imminent risk of injury to health. • Immediate action is required to protect public health. • Officer is confident that premises will not reopen without prior consent of the officer. • Taken in agreement with the food business operator.
Hygiene Emergency Prohibition Notice	<ul style="list-style-type: none"> • There is an imminent risk of injury to health. • Immediate action is required to protect public health. • Informal voluntary closure is considered inappropriate due to the nature or severity of the health risk conditions and that the officer is not confident that the business will remain closed voluntarily. • The service of a Hygiene Emergency Prohibition Notice will be followed by an application to the Magistrates court for a Hygiene Emergency Prohibition Order.
Emergency Prohibition Notice	<ul style="list-style-type: none"> • There is an imminent risk of injury to health. • Immediate action is required to protect public health. • Informal voluntary closure is considered inappropriate due to the nature or severity of the health risk conditions and that the officer is not confident that the business operator will mitigate the risk voluntarily. • The service of an Emergency Prohibition Notice will be followed by an application to the Magistrates court for an Emergency Prohibition Order.

Remedial Action/ Detention Notices – only applicable to approved premises.	Remedial Action/Detention Notices will be considered if: <ul style="list-style-type: none"> • There is a breach of the Hygiene Regulations. • An inspection under the Hygiene Regulations has been hampered. • There are indications or suspicions that food at an establishment is unsafe and requires examination. • Immediate action is required to ensure food safety. • Continuing offences require urgent action and corrective actions have been ignored.
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Seizure and Detention of Food

Officers may detain any food they suspect fails to comply with food safety requirements or food that they suspect has not been produced or distributed in accordance with hygiene laws.

The seizure and detention of food will be carried out in accordance with the administrative provisions of Section 9 of the Food Safety Act 1990.

Officers may certify any food that has not been produced, processed or distributed in accordance with the Hygiene Regulations, by use of Regulation 29 of the Food Safety and Hygiene (England) Regulations 2013, and then seize the food by the use of Section 9 of the Food Safety Act 1990.

Revisits

Revisits to check compliance in respect of contraventions of food safety legislation will be carried out in the following circumstances:

- To check compliance with statutory notices.
- To monitor compliance following inspections and other interventions.
- Where there are contraventions which might lead to risks to food safety.
- Where food business operators have been required to provide documented procedures for assessment.

The same officer who undertook the original inspection/visit will wherever practicable will undertake the revisit/s.

Health and Safety

Document	Health and Safety
Author	Vikki Flowers
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Policy Reviewed	December 2019
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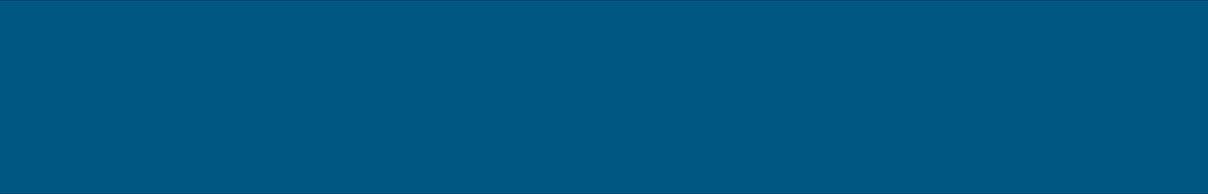
Health and safety	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
Improvement Notice	<p>The breach of the law is more serious.</p> <ul style="list-style-type: none"> • There is a lack of confidence in the proprietor responding to an informal approach. • There is a history of non-compliance with informal action. • Standards are generally poor and management is not aware of the required controls/standards. • The consequences of non-compliance could result in serious risks to health and safety or inadequate welfare provision.
Prohibition Notice	<p>An activity involves, or will involve, a risk of serious personal injury.</p> <ul style="list-style-type: none"> • A notice will either prohibit the use of a premises, piece/s of equipment or process. • Prohibition will be considered when there is no confidence that the duty holder will voluntarily close the premises or cease the use of any equipment or process.

Death at Work

Where there has been a breach of the law leading to a work-related death a charge of manslaughter or corporate manslaughter will be considered. Investigation and prosecution decisions will be coordinated following a work-related death and the 'Work-related deaths: A protocol for liaison' will be followed. This protocol has been jointly agreed by the Health and Safety Executive, the Association of Chief Police Officers, the British Transport Police, the Crown Prosecution Service, the Local Government Association and the Office of Rail Regulation. Non-signatory organisations, such as the Maritime and Coastguard Agency, Civil Aviation Authority and the Chief Fire Officers Association, have agreed that they will take account of the protocol when responding to work-related deaths.

Seizure

Inspectors have the power to seize, render harmless, and, where appropriate, sample any article or substance that the inspector has reasonable cause to believe that such an article or substance is the cause of imminent danger of serious personal injury. Seizure of articles or substances will be carried out in accordance with the administrative provisions of Regulation 20 of the Health and Safety at Work etc. Act 1974.



Revisits

Revisits to check compliance in respect of contraventions of health and safety legislation will be carried out in the following circumstances:

- To check compliance with statutory notices.
- Where there are contraventions which might lead to risks to health and safety.
- Where duty holders have been required to provide suitable and sufficient risk assessments.

The same officer who undertook the original inspection/visit will wherever practicable, undertake revisits.

Private Sector Housing

Document	Private Sector Housing
Author	Vikki Flowers/Joy Swithenbank
Approval Date	December 2018
Policy Reviewed	February 2019
Policy Reviewed	December 2019
Review Date	December 2023

Private Sector Housing	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
Obtaining information/provision of documents	<ul style="list-style-type: none"> • Any document/information required to exercise relevant functions of the Housing Act 2004 or other relevant legislation. • Any document/information required for the purpose of investigating whether an offence has been committed.
Hazard Awareness Notice	<ul style="list-style-type: none"> • Duty to serve a notice when there is a category 1 hazard/s in the property. • A notice may be served when there are category 2 hazards in the property. • Where significant progress has not been made to address the issue informally and conditions have deteriorated or pose an increased risk. • Property is owner occupied and the occupant is competent to make decisions.
Improvement Notice	<ul style="list-style-type: none"> • Duty to serve a notice when there are category 1 hazard/s in the property. • A notice may be served when there when there are category 2 hazards in the property. • Formal action is proportionate to the risk to public health. • There is a record of non-compliance. • The authorised officer has reason to believe that an informal approach will not be successful. • Significant progress has not been made to address the issue under a Hazard Awareness Notice. • Significant deterioration in the condition of the property increasing the risk rating. • Will consider service of improvement notice where concerns have been raised about retaliatory eviction.
Rent Repayment Orders	<p>Failure to comply with prescribed legislation requirements namely failure to:</p> <ul style="list-style-type: none"> • Obtain a licence for a property that was required to be licensed. • Meet requirements an improvement notice. • Meet requirements of a prohibition notice. • Breach a Banning Order

	<p>Where rent has been paid through Housing benefit or through the housing element of universal credit the council will apply to the First Tier Tribunal for an order requiring the landlord to repay a specified amount of rent.</p> <ul style="list-style-type: none"> • Where rent has been paid by the tenant themselves, the council will offer advice to assist tenants to apply for a rent repayment order.
The Smoke and Carbon Monoxide Regulations	<ul style="list-style-type: none"> • Notice and / or a monetary penalty will be imposed for non-compliance. • Enforcement action will be considered in line with other statutory provisions.
Empty properties / Buildings open for access	<ul style="list-style-type: none"> • Identify, risk assess and prioritise long term, problematic and nuisance empty properties and liaise with the owners to bring them back into use. • Serve notice to prevent properties becoming a nuisance to surrounding properties. • Secure properties if open for access to prevent to prevent unauthorised entry.
Property redress scheme	<p>Notice and / or a monetary penalty will be imposed for letting agents or property managers identified as not being registered with a property redress scheme.</p>
Supporting Tenants	<p>Where rent has been paid by the tenant themselves, the council will offer advice to assist tenants to apply for a rent repayment order.</p> <p>Issues raised regarding the Tennant Fees Act 2019 and Homes Act 2018</p> <p>Provide advice on associated legislation that protects their rights as a tenant.</p>

Residential Services

Document	Residential Services
Author	Vikki Flowers/Joy Swithenbank
Approval Date	December 2018
Policy Reviewed	December 2019
Review Date	December 2022

Residential Services	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
Statutory Notice (Including CPN)	<ul style="list-style-type: none"> • Formal action is proportionate to the risk to public health in that a serious statutory nuisance, public health issue or impact to the environment exists. • There is a history of non-compliance with the relevant regulations. • The authorised officer has reason to believe that an informal approach will not be successful. • The intended course of action will be notified to the perpetrator with the aim of resolving any points of difference that may affect legal proceedings. This will normally be done through a visit or direct discussion with the person responsible. It will detail the evidence upon which formal action is based, reasons for taking the action, if relevant the type of works that may be considered necessary and the time period considered reasonable to resolve the issue. These discussions may provide a valuable guide to effective enforcement and may result in an outcome acceptable to both parties.

■ Skin Piercing Activities

Document	Skin Piercing
Author	Linda McWilliams
Approval Date	
Review Date	December 2022

Tattooing, semi-permanent skin colouring, cosmetic piercing, acupuncture & electrolysis	Action (s) to be considered in the event of non-compliance of statutory requirements/risk to public health or un-registered premises relating to tattooing, semi-permanent skin colouring, cosmetic piercing, acupuncture or electrolysis.
Formal Action Formal Letter. Health & Safety at Work etc. Act - Improvement Notice. - Prohibition Notice. Health Protection (Part 2A Orders) to impose restrictions or requirements.	Formal action will be initiated in circumstances including where: <ul style="list-style-type: none"> • The situation is unlikely to be remedied by informal means. • There is a contravention of a relevant statutory provision or byelaw. • Registration conditions are not met. • An operator/premise(s) requiring registration is operating unregistered. • There is a risk or potential risk to public health. • There is a risk of serious personal injury. • Immediate action is necessary in relation to an imminent health risk or a failure to control risk.
Suspension, cancellation and refusal of a registration - Local Government (Miscellaneous Provisions) Act 1982 (as amended) Sec 16.	A registration of a person or premises can be suspended, cancelled or refused if The Magistrates' Court finds : <ul style="list-style-type: none"> • A person registered to practice acupuncture, tattooing, semi-permanent skin colouring, cosmetic piercing or electrolysis guilty of an offence(s). • The Court may also suspend or cancel a premises registration, of the premises where the offence(s) were committed.
Seizure of articles or substances	Articles or substances may be seized if: <ul style="list-style-type: none"> • Any article or substance is believed to be a cause of imminent danger or serious personal injury.

Smoke Free

Document	Smoke Free
Author	Linda McWilliams
Approval Date	
Review Date	December 2022

Smoke Free	Action (s) to be considered in the event of non-compliance of statutory requirements relating to smoke free legislation
Formal Action Fixed penalty notice (s)	Fixed Penalty Notices will be issued in circumstances including:- <ul style="list-style-type: none"> • Where individuals, owners, businesses, or employers choose not to, or fail to meet the criteria set out in smoke free legislation. • If a person(s) is found to be smoking in a smoke free designated workplace, vehicle or substantially enclosed area open to members of the public, a fixed penalty notice of £50 will be issued. • Where no appropriate signage has been displayed in a designated no-smoking area/vehicle, a fixed penalty notice of £200 will be issued.
Prosecution	<ul style="list-style-type: none"> • If a person(s) is found to be smoking in a smoke free designated vehicle or workplace and it is referred to court for prosecution a maximum fine of £200 may be handed down. • Where no appropriate signage has been displayed in a designated no-smoking area/vehicle and it is referred to court for prosecution a maximum fine of £1000 may be handed down. • Where employers/managers fail to provide and maintain a smoke free public or work place, the matter will automatically be referred to court for prosecution where a maximum fine of £2500 may be handed down.

Waste and Street Scene

Document	Waste and Street Scene Enforcement Options
Author	Sue Seddon
Approval Date	December 2018
Policy Reviewed	December 2019
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Hambleton District Council, as a Waste Enforcement Authority, has a duty placed on it by the Environmental Protection Act 1990 to manage and regulate waste. The council is committed to maintaining a clean and safe environment for the benefit of everyone in the district. This commitment recognises its responsibility to keep the streets and local environment clear of litter, dog fouling and other local environmental quality issues.

The council is only responsible for the cleaning of fly tipping from public land - not from private land.

The following options will be considered when enforcing this duty:

CONTROLLING WASTE including: Fly tipping; Littering; Litter clearance and Control of Street Litter; Graffiti; Flyposting; Abandoned Vehicles and Nuisance Parking; Dog Fouling	
No Action	Enforcement options shall not be considered where there is no evidence available to identify the likely perpetrator.
Informal action	May take the form of: Advice; Verbal warning; Written information <ul style="list-style-type: none"> • Where it can be reasonably expected that informal action will achieve compliance.
Fixed Penalty Notices	Where it is in the public interest to do so, the council will endeavour to give the offender an opportunity to avoid prosecution by the payment of a Fixed Penalty Notice if appropriate. The issuing of Fixed Penalty Notices will be considered by the council in the following circumstances - where the offence has been admitted to by the offender: <ul style="list-style-type: none"> • where the offence has not been committed by the offender before • where there is sufficient evidence to prove the case. Fixed Penalty Notices are not appropriate with repeat offenders and the council will seek to prosecute them through the court system.

Prosecution	<p>Prosecutions will be considered under any of the following circumstances:</p> <ul style="list-style-type: none"> • The offence is serious and/or there is a risk to the public • There is a poor history of compliance • There has been a repetition of a breach that was subject to a simple caution • There have been repeat offences • False information has been supplied willfully, or there has been an intent to deceive • Officers have been intentionally obstructed in the lawful course of their duties • A Fixed Penalty Notice has not been accepted
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MICROCHIPPING OF DOGS (ENGLAND) REGULATIONS 2015	
No Action	Enforcement options shall not be considered where there is no evidence available to identify the likely perpetrator.
Informal action	<p>May take the form of: Advice; Verbal warning; Written information</p> <ul style="list-style-type: none"> • Where it can be reasonably expected that informal action will achieve compliance.
Simple Caution	<p>Simple Cautions will be used under the following circumstances:</p> <ul style="list-style-type: none"> • To deal quickly and simply with less serious offences • To divert offenders, where appropriate, from appearing in criminal courts • To reduce the likelihood of re-offending. <p>Simple cautions are issued in accordance with Home Office Circular 30/2005.</p>
Prosecution	<p>Prosecutions will be considered under any of the following circumstances:</p> <ul style="list-style-type: none"> • The offence is serious and/or there is a risk to the public • There is a poor history of compliance. • There has been a repetition of a breach that was subject to a simple caution. • There have been repeat offences. • False information has been supplied willfully, or there has been an intent to deceive. • Officers have been intentionally obstructed in the lawful course of their duties. • A Fixed Penalty Notice has not been accepted.

Water Supplies

Document	Water Supplies
Author	Vikki Flowers
Approval Date	December 2018
Policy Reviewed	December 2019
Review Date	December 2022

Water Supplies	Qualifying Criteria for Option (please note the use of each option will only be considered when one or more of the criteria apply)
Investigation	<p>If a water sample fails to comply with the prescribed concentrations or values, defined in the regulations, an investigation will be carried out to determine the cause of the failure/s. The relevant person will then be informed of the findings of the investigation and what further action will be necessary to ensure that the water complies with the prescribed concentration or value.</p> <p>Such an investigation will involve the taking of resamples from the private water supply. Depending on circumstances such samples maybe taken from points on the private water supply other than was sampled previously.</p>
Informal action This may take the form of: Advice; Verbal warning; Written information; Inspection reports; Risk Assessments	<p>Informal action is the first enforcement action to be considered where the water is unwholesome but not a potential danger to human health and in particular where:</p> <ul style="list-style-type: none"> • The risk to human health is not serious enough to warrant formal action (low or medium as defined in the Drinking Water Inspectorate (DWI) Risk Assessment Tool). • The previous record of the supply is such that it would be reasonable to expect compliance when informal action is taken. • Confidence in the supply's management is high. • The risk to public health as a result of non-compliance is not significant. • The action is part of an ongoing project to improve standards. • The supply is for a single domestic dwelling.
Issue 'boil- notice' (Regulation 18, The Private Water Regulations 2009).	<p>If the private supply of water intended for human consumption constitutes a potential danger to human health, then a notice must be served on the relevant person and the notice must:</p> <ul style="list-style-type: none"> • Identify the private supply to which it relates. • State the grounds for serving the notice. • Prohibit or restrict the use of that supply. • Specify what other action is necessary to protect human health. <p>The consumers of the supply will be informed of the notice and provided any necessary advice.</p> <p>If insufficient information is available to determine if the water constitutes a potential danger to human health, advice will be sought from Public Health England.</p>

Serve a notice (Section 80, The Water Industry Act 1991).

- The water is unwholesome or is likely to be supplied in an unwholesome state and there is potential danger to human health.
- The risk to human health is serious enough to warrant formal action (high or very high risk as defined in the Drinking Water Inspectorate (DWI) Risk Assessment Tool)
- There is a lack of confidence in the ability or will of the relevant person or person in control to respond to informal action.
- There is previous history of non-compliance with informal action.
- Standards are generally poor and there is low management awareness. This notice will specify what steps are necessary to ensure that the water supplied is wholesome.

The consumers of the supply will be informed of the notice and provided any necessary advice.

If insufficient information is available to determine if the water constitutes a potential danger to human health, advice will be sought from Public Health England.



HAMBLETON
DISTRICT COUNCIL

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This information is available in alternative formats and languages

