



Policy and Resources Committee – 4 November 2013

Environmental Services Enforcement Policy Review

Purpose of Report

This report reviews and consolidates into one document all of the Environmental Services Enforcement Policies

Attachment(s)

Appendix One – Environmental Services Enforcement Policy Document
Appendix Two – Equalities Impact Assessment

1.0 Enforcement Policies

- 1.1 Environmental Services is responsible for enforcing a range of major regulatory controls. It is good practice that the Council has agreed enforcement policies in place for exercising these controls and that they are reviewed every three years.
- 1.2 This review has included updating all of the relevant regulation and ensuring they refer to current best practice in enforcement activity such as the Primary Authority Scheme and the Regulators Code of Compliance. There used to be 12 separate enforcement policies and these have been consolidated into one document that covers all regulatory functions within Environmental Services.
- 1.3 These policies have been the subject of a public consultation for 12 weeks through the Councils website and through direct contact with those affected and no comments have been received.

2.0 Equality and Diversity Implications

- 2.1 The equalities impact assessment is attached and has not highlighted any equalities issues associated with this revised policy.

3.0 Legal Implications

- 3.1 There are no new legal implications arising from the report

4.0 Risk Management

- 4.1 There are no specific risk management matters arising from this report. The policies will be reviewed every three years to ensure they reflect current practice and relevant guidance.

5.0 Financial Implications

- 5.1 There are no financial implications associated with this report.

6.0 Corporate Outcomes

6.1 The Corporate Outcomes affected by this policy are:

- Good Quality of Life
- Effective Management
- High Quality Service Delivery
- Knowledge of Customers and Communities.

7.0 Recommendations

7.1 Members are recommended to adopt the Environmental Services Enforcement Policy.

Legal	Power: As specified within policies.				
	Other considerations:				
Background Papers:					
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Date: 8 October 2013					
CFO		MO		CX	



East
Northamptonshire
Council

Environmental Services Enforcement Policy Statement



November 2013

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Change History

Issue	Date	Comments
0.1	29/7/2013	Amendments by JW
0.2	30/7/2013	Amendments by CT
0.3	30/7/2013	Amendments by JS
0.4	31/7/2013	Amendments by CT
0.5	15/10/2013	Amendments following consultation including MD

NB: Draft versions 0.1 - final published versions 1.0

Consultees

Internal	External
e.g. Individual(s) / Group / Section	e.g. Stakeholders / Partners /Organisation(s)
Environmental Services	Public
Policy and Performance	
CMT	

Distribution List

Internal	External
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Businesses	
Members of the public	
Councillors	

Links to other documents

Document	Link
Empty Property Strategy	
Private Sector Housing Grants Policy	
Environmental Services Service Plan	
Health Protection Team Plan	
Regulators Compliance Code	
Investigation Manual	
Health and safety service plan	
Food safety service plan	
Statement Licensing Policy	
Gambling Policy	
Liquor Licensing Policy	
Enviro Crime Strategy	
Wheeled Bin Policy	

Additional Comments to note

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1.0 Introduction

East Northamptonshire Council's Environmental Services inspect, provide advice, guidance and enforce a number of different pieces of legislation. Environmental Services deals with the following areas:

Health Protection Team

- Food Safety
- Health and Safety
- Licensing
- Infectious Diseases
- Health Promotion

Waste Management Team

- Littering
- Dog Fouling
- Fly Tipping
- Wheeled Bin Policy Enforcement
- Abandoned Vehicles
- Graffiti
- Stray Dogs

Environmental Protection Team

- Environmental Permitting
- Contaminated Land
- Statutory Nuisances (Odour, Noise, Light, Accumulations, Dust Smoke etc.)
- Public Health
- Private Sector Housing (Housing disrepair, Disabled Facilities Grants etc.)
- Houses in Multiple Occupation

1.1 This Enforcement Policy sets out the general principles and approach which East Northamptonshire Council will follow when enforcing legislation to which Environmental Services is responsible for. It will be used in conjunction with all relevant statutory Codes of Practice and guidance issued by Central Government Departments such as Department of Environment Farming and Rural Affairs (DEFRA), Food Standards Agency (FSA), Health and Safety Executive (HSE) and Department of Communities and Local Government (DCLG) among others.

1.2 The above will be achieved both through education, by providing advice and by enforcement of regulations. Securing compliance with statutory requirements and using enforcement powers, including prosecution is an important part of this enforcement policy.

1.3 East Northamptonshire Council will ensure that all appointed officers are competent and are trained in the use of this policy. East Northamptonshire Council will work with all other related external agencies to include but not limited to Central Government Departments such as DEFRA, FSA and HSE, in addition, to other agencies such as Public Health England, Environment Agency, Fire Authority, Northamptonshire County Council and the Police as well as working with internal council departments such as planning and building control sections to ensure joined up regulation.

- 1.4 East Northamptonshire Council regards prevention as better than cure and as such offer information and advice to those we regulate and seek to secure compliance avoiding bureaucracy or excessive cost. Individuals and businesses are encouraged to work with the Council and to employ best practice into their normal working practices.
- 1.5 East Northamptonshire Council will operate in accordance with the Regulatory Reform Act and the Primary Authority requirements, where a partnership exists.
- 1.6 East Northamptonshire Council will operate in accordance with the Regulators Compliance Code.

2.0 Policy outcomes

Outcomes and links to the corporate outcomes

The policy contributes to the following corporate outcomes:

- Good reputation with customers and regulators
- Good quality of life in East Northamptonshire – cleaner, safer, prosperous, healthier and sustainable
- High quality service delivery
- Effective partnership working
- Effective management

3.0 The Purpose and Method of Regulation and Enforcement

- 3.1 The need for enforcement can occur for a number of reasons and may stem from a lack of knowledge or a deliberate or negligent act. The term enforcement has a wide meaning and applies to all dealings between East Northamptonshire Council and those on whom the law places a duty.
- 3.2 The purpose of enforcement is to:
 - ensure that immediate action is taken where there are serious risks to the health and safety of members of the public, which includes consumers, employees, tenants etc
 - promote and achieve sustained compliance with the law;
 - ensure that those who breach the legal requirements are held to account, which may include bringing alleged offenders before the courts.
- 3.3 Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be pursued, nor to assist such claims.
- 3.4 East Northamptonshire Council has a range of tools at their disposal in seeking to secure compliance with the law and to ensure a proportionate response to criminal offences. Officers may offer businesses and individuals information, mediation opportunities and advice, both face to face and in writing. This may include a warning that in the opinion of the officer, they are failing to comply with the law. Where appropriate, officers may also serve legal notices, which include Improvement Notices, Emergency Prohibition Orders, Abatement Notices, Fixed Penalty Notices (FPNs) in addition to undertaking seizures, issuing of simple cautions², revoking licences and permits and prosecutions.

- 3.5 Simple cautions and prosecutions are important ways to bring individuals and businesses to account for alleged breaches of the law. Where it is appropriate to do so in accordance with this policy, East Northamptonshire Council will use one of these measures in addition to, revoking a licence or approval, issuing an improvement or emergency prohibition notice etc.
- 3.6 Investigating the circumstances encountered during inspections or following incidents or complaints is essential before taking any enforcement action. In deciding what resources to devote to these investigations, East Northamptonshire Council will have regard to the principles of enforcement set out in this statement.
- 3.7 East Northamptonshire Council will use discretion in deciding when to investigate or what enforcement action may be appropriate. East Northamptonshire Council will set down in writing the decision-making process which officers will follow when deciding on enforcement action, and make this publicly available. Officers must utilise this policy when determining enforcement action. Such judgements will be made in accordance with the following principles. These are in accordance with the *Enforcement Concordat, the Regulators Compliance Code and the regulatory principles required under the Legislative and Regulatory Reform Act 2006*

4.0 The Principles of Enforcement

- 4.1 East Northamptonshire Council believes in firm but fair enforcement of the law. This should be informed by the principles of *proportionality* in applying the law and securing compliance; *consistency* of approach; *targeting* of enforcement action; *transparency* about how the regulator operates and what those regulated may expect; and *accountability* for the regulator's actions. These principles should apply both to enforcement in particular cases and to the management of regulatory and enforcement activities as a whole.

4.2 Proportionality

- 4.2.1 Proportionality means relating enforcement action to the risks. Those whom the law protects and those whom it places duties, expect the action taken by the enforcing authority to be proportionate to the seriousness of any breach. In reaching any decision, many criteria must be considered including the:

- seriousness of offence;
- the past history (if any);
- confidence in management (if applicable);
- the consequence of non-compliance;
- likely effectiveness of the various enforcement options.

²A simple caution is a statement by an officer, which is accepted in writing by the duty holder, that the duty holder has committed an offence for which there is a realistic prospect of conviction. A simple caution may only be used where a prosecution could be properly brought. 'Simple cautions' are entirely distinct from a caution given under the Police and Criminal Evidence Act by an inspector before questioning a suspect about an alleged offence. Enforcing authorities should take account of current Home Office guidelines when considering whether to offer a simple caution.

- 4.2.2 Having considered all relevant information and evidence, the choices for action are to:
- take no action;
 - take informal action such as a verbal or written warning;
 - use statutory notices;

- use simple cautions;
- prosecute;
- and/or carry out work in default.

4.3 Targeting

4.3.1 Targeting means making sure that regulatory effort is directed primarily towards those whose activities give rise to the most serious problems. Action will be primarily focused on breaches of the law or those directly responsible for the risk and who are best placed to control it.

4.4 Consistency

4.4.1 Consistency of approach does not mean uniformity. It means taking a similar approach in similar circumstances to achieve similar ends. Duty holders managing similar risks can expect a consistent approach from East Northamptonshire Council in the advice tendered; the use of enforcement notices; decisions on whether to prosecute; and in the response to incidents and complaints.

4.4.2 East Northamptonshire Council recognises that in practice consistency is not a simple matter. Officers are faced with many variables including the degree of risk, the attitude and competence of management, any history related to the business, previous enforcement action and the seriousness of any breach, which includes any potential or actual harm arising from a breach of the law.

4.4.3 An investigation manual is in place and regularly updated, this manual relates to all enforcement policies in place for Environmental Services and provides a consistent approach for all officers across the service when undertaking enforcement action. This manual includes the processes for issuing simple cautions, obtaining a warrant, conducting PACE interviews and completing prosecution case files.

4.5 Transparency

4.5.1 Transparency is important in maintaining public confidence in the Council's ability to regulate. It is about helping those regulated and others, to understand what is expected of them and what they should expect from the Council. It means making clear why an officer intends to take and has taken enforcement action. It also means distinguishing between statutory requirements and advice or guidance about what is desirable or good practice but not compulsory.

4.5.2 Transparency is an integral part of the role of the Enforcement Function. Staff are trained and procedures developed to ensure that:

- where action is required, it is clearly explained (in writing, if requested) why that action is necessary and when it must be carried out; a distinction being made between best practice advice and legal requirements;
- opportunity is provided to discuss what is required to comply with the law before formal enforcement action is taken, unless urgent action is required;
- a written explanation is given of any rights of appeal against formal enforcement action at the time the action is taken.

4.6 Accountability

- 4.6.1 Regulators are accountable to the public for their actions. This means that East Northamptonshire Council has policies and standards (such as the enforcement principles above) against which they can be judged, and an effective and easily accessible mechanism for dealing with comments and handling complaints. The Council will ensure that officers who are authorised to initiate enforcement action are competent, suitably qualified and have relevant experience. All officers shall be fully conversant with the requirements of this policy and any service level enforcement policies.
- 4.6.2 East Northamptonshire Council has procedures in place for dealing with comments and handling complaints, information is available on the council's [website](#).
- 4.6.3 Every legal notice issued will be accompanied, where appropriate with appeal notes to detail how an appeal against the notice can be made and within what timeframe.

5.0 Prosecution

- 5.1 East Northamptonshire Council will use discretion in deciding whether to bring a prosecution. However, the following general guidance must be read and interpreted having full regard to the following principles:
- **Reasonableness** – is the proposed course of action reasonable in terms of cost, likely outcome and appropriateness of offence?
 - **Ultra Vires** – does legal or delegated authority exist for the proposed course of action and is it vested in the Council or any individual officer concerned? If formal action is contemplated, have all the legal and evidence requirements been met?
 - **The Crown Prosecution Service Code** – this code sets out two clear principles or tests, which should be considered before any prosecution is embarked upon. These are the evidential test and the public interest test. The evidential test requires there to be a “realistic prospect of conviction” based upon reliable and admissible evidence. The public interest is concerned with balancing the possible “for” and “against” factors, which may exist. This may mean balancing the cost of legal action against the likely outcome, the seriousness of the offence against a possible disproportionately harmful effect on the defendant, and so on.
- 5.2 The decision to initiate Court proceedings will be taken by the Head of Environmental Services following consultation with the investigating officers. The guidelines contained in any relevant Codes of Practice must be taken into consideration and the investigating officer must be able to clearly show there is relevant, admissible, substantial and reliable evidence to support legal action. The Council's Legal Services will be consulted as necessary and where appropriate will be referred to the relevant committee.
- 5.3 Prosecution will, in general, be restricted to those persons who blatantly disregard the law, refuse to achieve basic minimum requirements or who place the public at risk. The circumstances which warrant prosecution will normally be characterised by one or more of the following:
- an alleged offence involves a flagrant breach of the law such that public health, safety and wellbeing is at risk. The seriousness of the alleged offence will take into regard the risks or harm to public health, identifiable victims, failure to comply with Statutory notices or disregard of public health for financial reward;

- the alleged offence involves a failure to correct an identified serious risk and the offender has been given reasonable opportunity to comply with the lawful requirements of an enforcement officer;
- the offence involves the failure to comply in full or in part with the requirements of the statutory notice;
- there is a history of similar offences related to risk to public health;
- there are any overriding factors, which must be taken into account.

6.0 Public Interest Factors

6.1 East Northamptonshire Council will consider the following factors in deciding whether or not to prosecute:

- seriousness of the offence;
- foreseeability of the offence or the circumstances leading to it;
- intent of the offender, individually and/or corporately;
- history of offending;
- attitude of the offender;
- deterrent effect of a prosecution, on the offender and others;
- personal circumstances of the offender;
- likelihood of the offender being able to establish a due diligence defence.

6.2 These factors are not exhaustive and those, which apply, will depend on the particular circumstances of each case. Deciding on the public interest is not simply a matter of adding up the number of factors on each side. We will decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

7.0 Enforcement

7.1 The type of enforcement action to be taken is determined on a case by case basis and in accordance with the most appropriate pieces of legislation. The appendices to this policy detail the specific enforcement types of each of the teams within Environmental Services in greater detail.

8.0 Primary Authority Partnership Scheme and its Enforcement Provisions

8.1 When we have come to the decision to take enforcement action against a business and:-

- (1) The business operates in more than one Local Authority and has chosen to have a registered Primary Authority Partnership under The RES Act; and
- (2) The enforcement action we propose to take is covered by the definition of enforcement action for the purposes of Part 2 of The RES Act.

We will, where required to do so by that Act, comply with the agreement provisions for enforcement and notify the Primary Authority of the action we propose to take. The Primary Authority has the right to object to our proposed action in which circumstances either they or we may refer the matter to the Better Regulation Delivery Office (BRDO).

9.0 Authorisation of Officers

- 9.1 The Council's Scheme of Delegation details which officers have been authorised to enforce the specific piece of legislation. The Scheme of Delegation is contained within the Council Constitution and is available on the Council's website.

10.0 Witnesses

- 2.1 The suitability of witnesses and their willingness to give evidence may be another deciding factor in whether to prosecute or not. Where a prosecution may result in unjustified risk or harm to witnesses or complainants, advice will be sought from Legal Services and relevant external bodies on whether or not to proceed.

Appendix A – Food Safety Enforcement Statement

In addition to the General Enforcement Policy the following section applies to food safety enforcement specifically.

1.0 Prosecution of Individuals

- 1.1 Criminal proceedings will be taken against those persons responsible for the offence. Where a Company is involved, it will be usual practice to prosecute the Company where the offence resulted from the Company's activities. However, we will also consider any part played in the offence by the officers of the Company, including Directors, Managers and the Company Secretary. Action may also be taken against such officers (as well as the Company) where it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part and where it would be appropriate to do so in accordance with this policy.
- 1.2 Prosecution will be restricted to persons who blatantly disregard the law, refuse to achieve even the basic minimum legal requirements, often following previous contact with the Authority and who put the public at serious risk.

Regard should be had for the Crown Prosecution Service's Code for Crown Prosecutors which gives guidance on the decision making process for prosecutions.

<http://www.cps.gov.uk/publications/docs/codeeng.pdf>

Circumstances which are likely to warrant prosecution are where:-

- a. the alleged offence involves a flagrant breach of the law such that public health, safety or well being is or has been put at risk.
 - b. the alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to food safety having been given a reasonable opportunity to comply with the lawful requirements of an authorised officer.
 - c. the offence involves a failure to comply in full or in part with the requirements of a statutory notice.
 - d. there is a history of similar offences related to risk to public health.
- 1.3 The decision to prosecute must be taken at the earliest opportunity.

When circumstances have been identified which may warrant a prosecution all relevant evidence and information will be considered to ensure a consistent, fair and objective decision be made. Suspected offenders will be invited to offer an explanation before proceedings are commenced.

- 1.4 Before a prosecution proceeds the officer will ensure that there is relevant, substantial and reliable evidence that an offence has been committed by an identifiable person or company. There must also be a realistic prospect of conviction; a bare prima facie case is insufficient.

- 1.5 Once the decision to prosecute has been made the matter should be referred to the Legal Officer without undue delay.
- 1.6 When a proprietor or manager has been convicted of an offence the Court may prohibit them from the management of a food business. The prosecution must draw the Court's attention to this power. To enable the Court to make a Hygiene Prohibition Order the officer must provide the necessary information and evidence to support this action. The circumstances which may lead to this action include repeated serious offences, blatant disregard for health risks or putting the public at risk by knowingly using unfit food.
- 1.7 Where a Hygiene Prohibition Order is issued the officer shall notify the Chartered Institute of Environmental Health as soon as possible.

2.0 Simple Cautions

2.1 A simple caution will be considered by East Northamptonshire Council in the following circumstances:

- there is sufficient evidence to prove the case;
- the offender has admitted the offence;
- the offender has agreed to be cautioned;
- the offence has not been committed by the offender before.

2.2 Reference should be made to Home Office Circular 30/2005 and officers should consider the use of simple cautions as an alternative to prosecutions.

<http://www.justice.gov.uk/downloads/oecd/adult-simple-caution-guidance-oecd.pdf>

2.3 The purpose of the simple caution is to:-

- to offer a proportionate response to low level offending where the offender has admitted the offence;
- To deliver swift, simple and effective justice that carries a deterrent effect;
- To record an individual's criminal conduct for possible reference in future criminal proceedings or in criminal record or other similar checks;
- To reduce the likelihood of re-offending;
- To increase the amount of time officers spend dealing with more serious crime and reduce the amount of time police officers spend completing paperwork and attending court, whilst simultaneously reducing the burden on the courts.

2.4 In considering whether a Simple Caution is appropriate, the investigating officer must consider the following facts:

- Is there sufficient evidence of the suspect's guilt to meet the Evidential Test (as outlined in the Director's Guidance)?
- Is the offence indictable only?
- Has the suspect made a clear and reliable admission of the offence (either verbally or in writing)? An admission of the offence, corroborated by some other material and significant evidential fact will be sufficient evidence to provide a realistic prospect of conviction. This corroboration could be obtained from information in the crime report or obtained during the course of the investigation. A Simple Caution will not be appropriate where a person has not made a clear and reliable admission of the

offence (for example if intent is denied or there are doubts about their mental health or intellectual capacity, or where a statutory defence is offered).

- Is it in the public interest to use a Simple Caution as the appropriate means of disposal? Officers should take into account the public interest principles set out in the Code for Crown Prosecutors.
- Is the suspect 18 years or over? Where a suspect is under 18, a reprimand or final warning would be the equivalent disposal.

If all the above requirements are met, the officer must consider whether the seriousness of the offence makes it appropriate for disposal by a Simple Caution. To safeguard the suspected offender's interests, the following conditions should be fulfilled before a caution is administered:-

- a. There must be evidence of the suspected offender's guilt sufficient to give a realistic prospect of conviction.
- b. The suspected offender must admit the offence.
- c. The suspected offender must understand the significance of a formal caution and give an informed consent to being cautioned.

The persons authorised to issue the cautions will be ***as per the scheme of delegation..***

3.0 Enforcement Notices

- 3.1 Notices include hygiene improvement notices and hygiene emergency prohibition notices and are served to require offenders to cease contravening activities, or give offenders reasonable time to rectify a contravention.

4.0 Remedial Action Notices and Detention Notices

- 4.1 The Remedial Action and Detention Notices are only applicable in premises where approval has been issued.
- 4.2 Non compliance in approved establishments should initially be remedied through a graduated enforcement approach and Hygiene Improvement and Hygiene Prohibition Notices should also be considered.
- 4.3 Circumstances that may lead to the issue of a Remedial Action Notice being issued include:-
 - failure of any equipment or part of an establishment to comply with the 'Hygiene regulations';
 - The need to impose conditions upon or the prohibition of the carrying on of any process breaching the requirements of the regulations or hampering adequate inspection in accordance with the regulations;
 - Where the rate of operation of the business is detrimental to its ability to comply with the regulations.
- 4.4 Circumstance which may lead to the issue of a Detention Notice include:-

- Where there are indications or suspicions that food at an establishment is unsafe and therefore examination is necessary, including the taking of samples.

5.0 Hygiene Improvement Notices

- 5.1 Before an Authorised Officer recommends service of a Hygiene Improvement Notice they must be satisfied of one or more of the following:
- that formal action is in proportion to the risk to public health;
 - there is a record of non-compliance with breaches of the food hygiene regulations;
 - that informal action will not be successful.
- 5.2 A Hygiene Improvement Notice shall only be signed by a properly authorised officer who has witnessed the contraventions and is satisfied that the foregoing criteria are met.
- 5.3 When deciding upon the time period in which the Hygiene Improvement Notice must be complied with, the Officer must discuss with the Proprietor or his representative to seek agreement on a suitable period. If agreement cannot be reached then the Officer must consider the cost of the works required, the ease of remedying the non-compliance and the availability of suitable equipment before determining the period for compliance.
- 5.4 Failure to comply with a Hygiene Improvement Notice will in general result in prosecution and officers must therefore be able to justify their actions in accordance with the legislation, this policy and any other relevant guidance.

6.0 Hygiene Emergency Prohibition Notices

- 6.1 When considering the service of an Hygiene Emergency Prohibition Notice the officer may initially seek assistance from the Health Protection Manager
- 6.2 Consideration must be given to the consequences of not taking immediate and decisive action if the health risk condition is fulfilled and there would be no confidence in the an offer made by a proprietor to voluntarily close the premises or cease an operation.
- 6.3 Any accepted voluntary closure must be confirmed in writing by the proprietor and in the knowledge that the voluntary closure will stay in effect until the officer is satisfied that the premises no longer present a serious risk to public health or food safety.
- 6.4 Guidance on circumstances when an Emergency Prohibition Notice might be served can be found in the Food Law Code of Practice.
- 6.5 The use of Section 12 FSA 1990 Emergency Prohibition Procedures are only necessary in specialised cases relating to specific processes or treatments. Further guidance can be found in the Food Law CoP.

7.0 Seizure and Detention

- 7.1 East Northamptonshire Council have powers to seize unwholesome or contaminated food to prevent them causing harm to consumers. When goods are seized an officer will always leave an appropriate receipt. When food is seized East Northamptonshire Council will produce it before a magistrate as soon as possible for them to confirm the seizure and consider the food unfit. If the magistrate does not condemn the food, it will be returned to the owner who will be entitled to compensation for any loss suffered.
- 7.2 Unless immediate action is required, any decision to detain food must be taken after discussion with the owner or person in charge of the food and, if appropriate the manufacturer.
- 7.3 Place of detention will be a case of professional judgement and must ensure the ongoing safety, security and physical care of the food.
- 7.4 Detained food should not be left in the care of any person who may be prosecuted for an offence under food law.
- 7.5 The quantity and nature of food to be detained will determine the storage facilities required. Small quantities may be held in facilities at the offices. Storage of larger quantities will need to be discussed with the Health Protection Manager
- 7.6 Prior to seizing any food consideration must be given to whether the food in question can be made safe for consumption by treatment or processing.
- 7.7 Any treatment or processing agreed must be subject to a written undertaking by the owner or person having control of the food.

8.0 Revocation of Approvals

- 8.1 In order to warrant revocation of an approval, the individual or organisation must meet one or more of the following:-
- engaged in fraudulent activity;
 - deliberately or persistently breached legal obligations, which were likely to cause harm to others;
 - deliberately or persistently ignored written warnings or formal notices;
 - obstructed an officer during their duties;
 - endangered, to a serious degree, the health, safety or well being of the public.

9.0 Written warning and advice

- 9.1 For some contraventions the offender will be sent a firm but polite letter clearly identifying the contraventions, giving advice on how to put them right and include a deadline by which this must be done. Failure to comply could result in a notice being served.
- 9.2 Informal action should be considered when:-

- a. Past history is good;
- b. The contravention is insufficiently serious to warrant formal action;
- c. Confidence in the individual/management;
- d. Non-compliance will not pose a significant risk to public health.

10.0 No Action

- 10.1 In exceptional circumstances, contraventions may not warrant any action. This is likely to be when the cost of compliance to the offender outweighs the impact of the offence. A decision of no action may also be taken when a trader has ceased to trade. The decision to take no action will be recorded detailing the decision making process.

11.0 Conflicts of Interest

- 11.1 There may be occasions where the food business is operated by the Council and issues of compliance are identified.
- 11.2 After visit reports and follow up letters will be issued in accordance with this policy to the Head of Service directly responsible for the food business, copied to the Head of Environmental Services.
- 11.3 Serious breaches of food law will be brought to the attention of the Chief Executive without delay..
- 11.4 All correspondence will clearly state the level of enforcement action that would be taken and the reason for that action in the same way as if the premises was outside of local authority control.
- 11.5 Contracted services will be dealt with in accordance with this policy, CoP and other relevant guidance. The relevant local authority officer responsible for the contract will be kept advised of any action.
- 11.6 The Food Authority must ensure that there are no conflicts of interest arising from its activities e.g. training. Similarly authorised officers must ensure that at all times a conflict of interest does not arise as a result of their actions and activities

12.0 Publicity

- 12.1 East Northamptonshire Council will make arrangements for the publication annually of the names of all the companies and individuals who have been convicted in the previous 12 months of breaking food safety law. East Northamptonshire Council will also consider making publicly available information on revoking of licences and approvals, improvement and emergency prohibition notices served.
- 12.2 East Northamptonshire Council will also consider publicising any conviction which could serve to draw attention to the need to comply with food safety requirements, or deter anyone tempted to disregard their duties under food safety law.

13.0 Actions by the Courts

13.1 In cases of sufficient gravity, for example where serious injury or ill health has resulted, consideration will be given to requesting the Magistrates to refer the case to the Crown Court. The same factors as listed in paragraph 28 (above) are to be used, but will include consideration of the sentencing powers of the Magistrates' Court.

14.0 Penalties

14.1 The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the higher courts. The Council will continue to raise the awareness of the courts to the gravity of offences and will encourage them to make full use of their powers. Examples of penalties presently available to the courts for certain offences are: -

- Magistrates' Courts; up to 6 months imprisonment and/or £20,000 fine;
- Crown Court: up to 2 years imprisonment and/or an unlimited fine.

The Council will always seek to recover the costs of investigation and Court proceedings.

Appendix B – Health and Safety Enforcement Policy Statement

In addition to the General Enforcement Policy the following section applies to health and safety enforcement specifically.

The purpose of health and safety enforcement is to:

- ensure that duty holders take action to deal immediately with serious risks;
- promote and achieve sustained compliance with the law;
- ensure that duty holders who breach health and safety requirements, and directors or managers who fail in their responsibility, may be held to account, which may include bringing alleged offenders before the courts.

Enforcement is distinct from civil claims for compensation and is not undertaken in all circumstances where civil claims may be pursued, nor to assist such claims.

1.0 Investigation

As with prosecution, East Northamptonshire Council uses discretion in deciding whether incidents, cases of ill health, or complaints should be investigated. This is detailed in East Northamptonshire Council's Health and Safety Service Plan.

1.1 Investigations are undertaken in order to determine:

- causes;
- whether action has been taken or needs to be taken to prevent a recurrence and to secure compliance with the law;
- lessons to be learnt and to influence the law and guidance;
- what response is appropriate to a breach of the law.

To maintain a proportionate response, most resources available for investigation of incidents will be devoted to the more serious circumstances. East Northamptonshire Council recognises that is neither possible nor necessary for the purposes of the Act to investigate all issues of non-compliance with the law which are uncovered in the course of preventive inspection, or in the investigation of reported events.

1.2 East Northamptonshire Council will carry out a site investigation of a reportable work-related death, unless it is an instance of adult trespass or there are other specific reasons for not doing so, in which case those reasons should be recorded.

1.3 In selecting which complaints or reports of injury or occupational ill health to investigate and in deciding the level of resources to be used, East Northamptonshire Council will take account of the following factors;

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

2.0 Prosecution

- 2.1 East Northamptonshire Council will use discretion in deciding whether to bring a prosecution.
- 2.2 The decision whether to prosecute will take account of the evidential test and the relevant public interest factors set down by the Director of Public Prosecutions in the Code for Crown Prosecutors. No prosecution may go ahead unless East Northamptonshire Council finds there is sufficient evidence to provide a realistic prospect of conviction, and decides that prosecution would be in the public interest.
- 2.3 While the primary purpose of East Northamptonshire Council is to ensure that duty holders manage and control risks effectively, thus preventing harm, prosecution is an essential part of enforcement. Where in the course of an investigation East Northamptonshire Council has collected sufficient evidence to provide a realistic prospect of conviction and has decided, in accordance with this policy and taking account of the Code for Crown Prosecutors, that it is in the public interest to prosecute, then that prosecution will go ahead. Where the circumstances warrant it and the evidence to support a case is available, East Northamptonshire Council will prosecute without warning or recourse to alternative sanctions.

3.0 Prosecution of Individuals

- 3.1 Subject to the above, East Northamptonshire Council will identify and prosecute or recommend prosecution of individuals if they consider that a prosecution is warranted. In particular, they should consider the management chain and the role played by individual directors and managers, and should take action against them where the inspection or investigation reveals that the offence was committed with their consent or connivance or to have been attributable to neglect on their part and where it would be appropriate to do so in accordance with this policy. Where appropriate, enforcing authorities should seek disqualification of directors under the Company Directors Disqualification Act 1986.

4.0 Simple Cautions

- 4.1 A simple caution will be considered by East Northamptonshire Council in the following circumstances:
 - there is sufficient evidence to prove the case
 - the offender has admitted the offence
 - the offender has agreed to be cautioned
 - the offence has not been committed by the offender before

5.0 Enforcement Notices

- 5.1 Notices include improvement notices and prohibition notices and are served to require offenders to cease contravening activities, or give offenders reasonable time to rectify a contravention.

6.0 Seizure

- 6.1 East Northamptonshire Council have powers to seize unsafe equipment to prevent them causing harm to people. When goods are seized an officer will always leave an appropriate receipt.

7.0 Written warning and advice

- 7.1 For some contravention's the offender will be sent a firm but polite letter clearly identifying the contravention's, giving advice on how to put them right and include a deadline by which this must be done. Failure to comply could result in a notice being served.

8.0 No Action

- 8.1 In exceptional circumstances, contraventions may not warrant any action. This is likely to be when the cost of compliance to the offender outweighs the impact of the offence. A decision of no action may also be taken when a trader has ceased to trade. The decision to take no action will be recorded detailing the decision making process.

Appendix C – Noise Enforcement Statement

In addition to the General Enforcement Policy the following section applies to noise enforcement specifically.

Enforcement Notices, Prosecution and Simple Cautions

1.0 No Action

- 1.1 In certain circumstances, contraventions may not warrant any action. This may be when the cost of compliance to the offender outweighs the impact of the offence. A decision of no action may also be taken when a trader has ceased to trade. However, it must be noted there are statutory defences in law which may influence a decision whether to serve an abatement notice or not. The decision to take no action will be recorded detailing the decision making process.

2.0 Written Warning and Advice

- 2.1 For some contraventions the offender will be sent a firm but polite letter clearly identifying the contravention and giving advice on how to put things right and include a deadline by when this must be done. Failure to comply could result in a notice being served or formal enforcement action.

3.0 Abatement Notices

- 3.1 Where a statutory nuisance has been established the Council may serve an abatement notice on the person responsible for the nuisance or the owner or occupier of the premises. The notice may simply require the nuisance to stop and not recur or specify steps to be taken to abate the nuisance. Someone who receives an abatement notice has a period of 21 days to appeal to a Magistrates Court against it.
- 3.2 Failure to comply with an abatement notice is a criminal offence and the offender could be subject to a fine of up to £5,000 for a domestic premises and £20,000 for a commercial or industrial activity.

4.0 Notices Served under the Control of Pollution Act 1974

- 4.1 Notices served under this legislation apply to noisy activities associated with demolition and construction This seeks to reasonably control the activity though the use of 'best practical means' rather than attempt to prevent disturbance as the works are usually necessary. Prior consent can be sought from the Council to carry out the works, that may cause disturbance, or the Council can use reactive powers to impose conditions on the activity. Such as restricting working hours, siting of equipment and appropriate silencing.
- 4.2 Failure to comply with a condition attached to a prior consent or a notice is a criminal offence and on conviction an offender may be subject to maximum fine of £10,000.

5.0 Prosecution of Individuals and companies

- 5.1 Criminal proceedings will be taken against those persons responsible for an offence. Where this involves a private individual this will be against a named person or persons where the offence results from their individual or joint activities. Where an Abatement Notice was served several years ago and no breaches have resulted in the intervening years a decision shall be taken in consultation with the Head of Environmental Services and Legal Services on the enforceability of the original notice. In such circumstances it may no longer be appropriate to take a prosecution for breaches and consideration may have to be given to the requirement for a new Abatement Notice to be served or to start a new noise investigation to determine statutory nuisance.
- 5.2 Where an Abatement Notice has been served and at the time of the breach the individual(s) on whom the notice was originally served are no longer responsible for the premises a new noise investigation shall take place to determine statutory nuisance.
- 5.3 Where a Company is involved, it is usual practice to prosecute the Company where the offence resulted from the Company's activities. However, we will also consider any part played in the offence by the officers of the Company, including Directors, Managers and the Company Secretary.
- 5.4 Action may also be taken against such officers (as well as the Company) where it can be shown the offence was committed with their consent or connivance or to have been attributable to neglect on their part and where it would be appropriate to do so in accordance with this policy.
- 5.5 Where an Abatement Notice has been served and at the time of breach the company to which it was originally served has fundamentally changed, directors have left or the company is being liquidated, further advice as to the enforceability of the original notice will be sought from Legal Services. In such circumstances it may no longer be appropriate to take a prosecution for breaches and consideration may have to be given to the requirement for a new Abatement Notice to be served or to start a new noise investigation to determine statutory nuisance.

6.0 Prosecution General

- 6.1 Whilst the primary concern of the Council is to ensure that businesses and individuals do not cause a nuisance, prosecution is an essential part of enforcement. The Council will use discretion in deciding whether to bring a prosecution. Any decision will take account of 'the evidential test' and 'the public interest test' set down by The Code for Crown Prosecutors. No prosecution may go ahead unless there is sufficient evidence to provide a realistic prospect of conviction and that prosecution would be in the public interest.
- 6.2 Where in the course of an investigation sufficient evidence has been collected to provide a realistic prospect of conviction, in accordance with this policy and taking account of the Code for Crown Prosecutors, that it is in the public interest to prosecute, then that prosecution will go ahead. Where the circumstances warrant it and the evidence to support a case is available the Council will prosecute without warning or recourse to alternative sanctions.

Appendix D – Licensing Enforcement Policy Statement

In addition to the General Enforcement Policy the following section applies to licensing enforcement specifically.

1.0 Introduction

- 1.1 East Northamptonshire Council's policy is to protect the safety, welfare and wellbeing of all persons and animals subject to licensing legislation within East Northamptonshire.
- 1.2 East Northamptonshire Council enforces Licensing legislation in the district of East Northamptonshire. This Enforcement Policy Statement sets out the general principles and approach that East Northamptonshire Council will follow when enforcing Licensing Legislation. It will be used in conjunction with guidance issued from the Home Office, Police, Fire Authorities, Department of Culture, Media and Sport and Department of Transport (DFT). In addition, the Statement of Licensing policy and the Enforcement Protocol complement this policy and provide more detailed information on enforcement roles, information sharing and decision making.
- 1.3 The Council has the responsibility to advise, determine and enforce a number of licensing regimes. The areas covered by this policy include:

Alcohol, Regulated Entertainment and Late Night Refreshment	Sale and Supply of all alcohol, whether for consumption on or off the premises Regulated Entertainment involving Music, Singing and Dancing, Indoor Sports, Films, Plays; and Late Night Refreshment after 23:00 hours.
Animal Health and Welfare	Animal Boarding Establishments, Dangerous Wild Animals, Dog Breeding Establishments, Pet Shops, Riding Establishments, Game Dealers.
Charitable Collections	House to House and Street Collections.
Gaming	Amusement Arcades, Small Lotteries, Amusement with Prize Machines, Track Betting.
Hackney Carriage and Private Hire Vehicles	Hackney Carriage and Private Hire drivers, proprietors and operators.
Miscellaneous	Sex Establishments, Scrap Metal Dealers, Street Trading.

- 1.4 The scheme of delegation and relevant policies will determine the correct route for decision making with respect to licensing matters as this can vary from officer decisions to licensing panels.

2.0 Prosecution of Individuals

- 2.1 Criminal proceedings will be taken against those persons responsible for the offence. Where a Company is involved, it will be usual practice to prosecute the Company where the offence resulted from the Company's activities. However, we will also consider any part played in the offence by the officers of the Company, including Directors, Managers

and the Company Secretary. Action may also be taken against such officers (as well as the Company) where it can be shown that the offence was committed with their consent or connivance or to have been attributable to neglect on their part and where it would be appropriate to do so in accordance with this policy.

3.0 Simple Cautions

3.1 East Northamptonshire Council will consider offering a simple caution in the following circumstances:

- there is sufficient evidence to prove the case
- the offender has admitted the offence
- the offender has agreed to be cautioned
- the offence has not been committed by the offender before

4.0 Enforcement Notices

4.1 Notices such as suspension are served to remove the licence until the reasons for suspension have been rectified. These will be considered where there is a risk to safety of the public or the welfare of animals.

5.0 Revocation of Licences or Approvals

5.1 In order to warrant revocation of a licence, the individual or organisation must meet one or more of the following criteria:-

- engaged in fraudulent activity
- deliberately or persistently breached legal obligations, which were likely to cause material loss or harm to others.
- deliberately or persistently ignored written warnings or formal notices
- obstructed an officer during their duties
- endangered, to a serious degree, the health, safety or well being of people or animals.

6.0 Review of Licence

6.1 A Licensing Act 2003 licence can be reviewed at any time at the request of the public or a statutory body as specified under the legislation. As a result of the review the licence is placed before the Licensing Panel which is able to vary, revoke and/or suspend the licence, remove the designated premises supervisor, or remove licensable activities from a licence. In making decisions with respect to these licences the Statement of Licensing Policy will be referred to by the Licensing Panel in addition to the enforcement policy.

6.2 A Licensing Act 2003 premises licence can have an expedited review when a senior police officer has issued a certificate stating that in his/her opinion the premises are associated with serious crime or serious disorder (or both); On receipt of the application and the certificate the licensing authority must within 48 hours consider whether it is necessary to take interim steps pending determination of the review of the premises licence – the authority must in any event undertake a review within 28 days of receipt of the application. The authority may:-

- modify the conditions of the premises licence;
- exclude of the sale of alcohol by retail (or other licensable activities) from the scope of the licence;
- remove the designated premises supervisor from the licence; and
- suspend the licence.

7.0 Penalty Points, Written warning and advice

- 7.1 For some contravention's the offender will be sent a firm but polite letter clearly identifying the contravention's, giving advice on how to put them right and include a deadline by which this must be done. Failure to comply could result in further enforcement action being taken.
- 7.2 Taxi matters also allow the administering of penalty points for breaches of conditions, bylaws and legislation to drivers and operators of hackney carriage and private hire vehicles.

8.0 No Action

- 8.1 In exceptional circumstances, contraventions may not warrant any action. This is likely to be when the cost of compliance to the offender outweighs the impact of the offence. A decision of no action may also be taken when a trader has ceased to trade. The decision to take no action will be recorded detailing the decision making process.

9.0 Publicity

- 9.1 East Northamptonshire Council will make arrangements for the publication annually of the names of all the companies and individuals who have been convicted in the previous 12 months of breaking licensing law. East Northamptonshire Council will also consider making publicly available information on revoking of licences.
- 9.2 East Northamptonshire Council will also consider publicising any conviction, which could serve to draw attention to the need to comply with licensing requirements, or deter anyone tempted to disregard their duties under licensing law

10.0 Penalties

- 10.1 The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the higher courts. The Council will continue to raise the awareness of the courts to the gravity of offences and will encourage them to make full use of their powers.
- 10.2 The Council will always seek to recover the costs of investigation and court proceedings.

Appendix E – Housing Enforcement Statement

In addition to the General Enforcement Policy the following section applies to housing enforcement specifically.

1.0 Local Government (Miscellaneous Provision) Act 1982 Protection of Buildings

- 1.1 Section 29 of this Act enables a local authority to carry out work to effectively secure a building against unauthorised entry or to prevent it from becoming a danger to public health.
- 1.2 A local authority may serve a notice that they propose to undertake work or may carry out work immediately in urgent circumstances. In each case the cost of the work is recharged on the owner of the property.
- 1.3 In view of the nature of this enforcement action authority has been delegated to officers for both the service of notices and to carry out works.

2.0 Statutory Notices, Orders and Directions

2.1 A Statutory Notice, Order or Direction will be the first formal sanction issued by the Council. The Statutory Notices, Orders and Directions detailed below may be appropriate in any of the circumstances listed or combination thereof:

2.2 Housing Act 2004, Part 2 Licensing of Houses in Multiple Occupation:

- there are significant contravention(s) of legislation;
- there is a lack of confidence in the successful outcome of an informal approach;
- there is a history of non-compliance with informal action;
- standards are generally poor with little management awareness of statutory requirements;
- the consequence of non-compliance could be potentially serious to public health;
- effective action is needed to be taken quickly in order to remedy conditions which are serious or deteriorating.

2.3 Housing Act 2004, Part 1- Housing Conditions:

2.3.1 Part 1 of the Housing Act 2004 made significant changes to how houses are inspected and expanded the range of enforcement powers available to officers. All properties are inspected to identify the presence of hazards, there are 29 hazard categories. A risk rating system the Housing Health and Safety Rating System (HHSRS) is used to determine if the hazards in the property are category 1 or category 2. Every local authority has a duty to deal with category 1 hazards when they have been identified. East Northamptonshire Council will also deal with category 2 hazards, taking enforcement action where appropriate.

2.3.2 East Northamptonshire Council has adopted Section 49 of the Housing Act 2004, which allows a local authority to charge for the service of enforcement notices under the Act. The charge for the service of a notice is based on the time spent by the officer in preparing and serving the notice, as a result there is no fixed cost. Hazards Awareness

Notices, which do not carry a requirement for completion and therefore be liable for prosecution or for works in default to be undertaken have not been included in this charging regime. Owner occupiers are also exempt from these charges.

2.3.3 The range of notices that are provided in the Act include the following, all can be used for category 1 or category 2 hazards or combined if both hazards are present:

- Hazard Awareness Notices (Section 28 and 29)
- Improvement Notices (Section 11 and Section 12)
- Prohibition Orders (Section 20 and 21)

2.3.4 The legislation also gives a local authority emergency powers, these include:

- Emergency Remedial Action Notice (Section 41)
- Emergency Prohibition Order (section 43)

2.3.5 All appeals for Housing Act 2004 notices are now heard by the Residential Property Tribunal. Details of how to appeal are contained in the notes that accompany the notice.

2.3.6 Before a legal notice is served the following should be considered:

- the significance of the contravention(s) of legislation;
- the confidence in the successful outcome of an informal approach;
- any history of non-compliance with informal action;
- if the standards are generally poor with little management awareness of statutory requirements;
- the consequence of non-compliance could be potentially serious to public health;
- if the effective action is needed to be taken quickly in order to remedy conditions which are serious or deteriorating.

2.4 *Housing Act 1985, Sections 265 Demolition Orders (As amended by Section 46 of the Housing Act 2004)*

- the dwelling contains one of more category 1 hazards;
- repair of the dwelling is not a financially viable option;
- there is a lack of confidence in the owner satisfactorily resolving the problem.

2.5 Housing Act 2004, Part 4 Chapter 1 - Interim and Final Management Orders –

Houses in Multiple Occupation

- there is no reasonable prospect of it being licensed in the near future or;
- the consequence of non-compliance could be potentially serious to the health and safety of any occupants or visitors to the premises

2.6 Housing Act 2004, Part 4 Chapter 2 Interim and Final Empty Dwelling Management Orders

- The dwelling is wholly unoccupied; and
- There is no reasonable chance that it will be occupied in the near future
- there is a lack of confidence in the successful outcome of an informal approach;
- there is a history of non-compliance with informal action;
- For more information please view the [Empty Property Strategy](#)

2.7 Housing Act 2004 – Section 139 Overcrowding notices (HMOs only)

2.7.1 The Council will serve a notice under this section where;

- there are significant contravention(s) of legislation;
- there is a lack of confidence in the successful outcome of an informal approach;
- there is a history of non-compliance with informal action;
- the consequence of non-compliance could be potentially serious to public health;
- effective action is needed to be taken quickly in order to remedy conditions which are serious or deteriorating.

2.8 Housing Act 1985 – Part 10 Overcrowding

2.8.1 The standards for determining if a property (not HMO) is statutory overcrowding were not updated in the Housing Act 2004 and Part 10 of the 1985 Act is still in force. If a property is found to be overcrowded both the occupier and the landlord/owner will be issued with a notice requiring both parties to take reasonable steps to resolve the overcrowding problem. For tenants this can mean actively seeking a larger property, through the bidding process for social housing or private rented sector, for landlords/owners assisting the tenants to find a larger property, allow them to leave their tenancies early or if necessary instigate eviction proceedings.

2.9 Environmental Protection Act 1990 – Section 80 Nuisances

2.9.1 The Council will consider serving Notices under this section where:

- the significance of the contravention(s) of legislation;
- the confidence in the successful outcome of an informal approach;
- any history of non-compliance with informal action;
- if the standards are generally poor with little management awareness of statutory requirements;
- the consequence of non-compliance could be potentially serious to public health;
- if the effective action is needed to be taken quickly in order to remedy conditions which are serious or deteriorating.

3.0 Other Notices

3.1 The Council will consider all relevant legislation to help protect occupiers of dwellings and protect their health and safety. When considered appropriate action the above legislation will be the primary approach but there may be times when other legislation outside those above must be considered. In such cases the officers must justify why different legislation is being considered and why it is preferable to use it in individual cases. In every case the general rules of enforcement above must be followed and there must be;

- a significant contravention(s) of legislation;
- no confidence in the successful outcome of an informal approach;
- history of non-compliance with informal action or;
- if the standards are generally poor with little management awareness of statutory requirements;
- the consequence of non-compliance could be potentially serious to public health;
- if the effective action is needed to be taken quickly in order to remedy conditions which are serious or deteriorating.

4.0 Guidance

- 4.1 There is a wide range of government guidance that cover our enforcement activities from Government and it's agencies. We will consider this guidance when formulating our policies and procedures. Enforcement officers will follow our policies and procedures and where appropriate will take the relevant government guidance into account on a case-by-case basis. The Department of Communities and Local Government (DCLG) produce a number of leaflets, available on their [website](#), that explain in simple terms the legislation, disrepair, Empty Dwelling Management Orders and tenancy issues.

Appendix F – Waste Enforcement Policy Statement

In addition to the General Enforcement Policy the following section applies to waste enforcement specifically.

1.0 Prosecution

- 1.1 Where there is sufficient evidence, the Council will normally prosecute in any of the following circumstances:
- persistent breaches of statutory requirements;
 - failure to comply with formal remedial requirements. It is unacceptable to ignore remedial requirements and unfair to those who do take action to comply;
 - failure to supply information without reasonable excuse or knowingly or recklessly supplying false or misleading information. It is essential that lawful requests for information by the Council or its Officers are complied with and that accurate information is always supplied to enable informed regulation to be exercised;
 - obstruction of Officers in carrying out their powers. The Council regards the obstruction of, or assaults on, its Officers while lawfully carrying out their duties as a serious matter.

2.0 Simple Cautions

- 2.1 East Northamptonshire Council will consider a simple caution in the following circumstances:
- there is sufficient evidence to prove the case;
 - the offender has admitted the offence;
 - the offender has agreed to be cautioned;
 - the offence has not been committed by the offender before.

3.0 Fixed Penalty Notices

- 3.1 Fixed penalty notices will be considered by the Council in the following circumstances:
- where the offence has been witnessed by an officer of the Council;
 - the offence has not been committed by the offender before;
 - there is sufficient evidence to prove the case.
- 3.2 Notices are served to require offenders to pay a fine for committing an offence where it is admitted and a person accepts this as a method to deal with the matter.

4.0 Written Warning and Advice

- 4.1 For some contravention's the offender will be sent a firm but polite letter clearly identifying the contravention's, giving advice on how to put them right and include a deadline by which this must be done. Failure to comply could result in further enforcement action being taken. There are a few rules governing the use of this type of action as it is not a regulated or statutory function. However a written formal warning will normally:-

- a. clearly state the nature of the problem and suggest either specific remedies or a standard to be achieved;
- b. state the actions which may follow if matters do not improve;
- c. designate a named officer as a point of contact;
- d. clearly distinguish between a legal requirement and a 'desirable standard';
- e. indicate any follow-up action intended (e.g a re-visit within a specified period of time); and,
- f. where possible point the way to specialist advice or additional information.

5.0 No Action

- 5.1 In exceptional circumstances, contraventions may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community.
- 5.2 A decision of no may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade. A decision to take no action will be recorded in writing and take into account the overall implications of the contravention.

6.0 Penalties

- 6.1 The Council will continue to raise the awareness of the courts to the gravity of offences and will encourage them to make full use of their powers.
- 6.2 The Council will always seek to recover the costs of investigation and court proceedings.

Appendix G – Litter Enforcement Policy Statement

In addition to the General Enforcement Policy the following section applies to litter enforcement specifically.

1.0 Prosecution

1.1 Where there is sufficient evidence, the Council will normally prosecute in any of the following circumstances:

- persistent breaches of statutory requirements;
- failure to comply with formal remedial requirements. It is unacceptable to ignore remedial requirements and unfair to those who do take action to comply;
- failure to supply information without reasonable excuse or knowingly or recklessly supplying false or misleading information. It is essential that lawful requests for information by the Council or its Officers are complied with and that accurate information is always supplied to enable informed regulation to be exercised;
- obstruction of Officers in carrying out their powers. The Council regards the obstruction of, or assaults on, its Officers while lawfully carrying out their duties as a serious matter.

2.0 Simple Cautions

2.1 East Northamptonshire Council will consider a simple caution in the following circumstances:

- there is sufficient evidence to prove the case;
- the offender has admitted the offence;
- the offender has agreed to be cautioned;
- the offence has not been committed by the offender before.

3.0 Fixed Penalty Notices

3.1 Fixed penalty notices will be considered by the Council in the following circumstances:

- where the offence has been witnessed by an officer of the Council;
- the offence has not been committed by the offender before;
- there is sufficient evidence to prove the case.

3.2 Notices are served to require offenders to pay a fine for committing an offence where it is admitted and a person accepts this as a method to deal with the matter.

4.0 Written Warning and Advice

- 4.1 For some contravention's the offender will be sent a firm but polite letter clearly identifying the contravention's, giving advice on how to put them right and include a deadline by which this must be done. Failure to comply could result in further enforcement action being taken.
- 4.2 There are a few rules governing the use of this type of action as it is not a regulated or statutory function. However a written formal warning will normally:-
- a) clearly state the nature of the problem and suggest either specific remedies or a standard to be achieved;
 - b) state the actions which may follow if matters do not improve;
 - c) designate a named officer as a point of contact;
 - d) clearly distinguish between a legal requirement and a 'desirable standard';
 - e) indicate any follow-up action intended (e.g. a re-visit within a specified period of time); and,
 - f) where possible point the way to specialist advice or additional information.

5.0 No Action

- 5.1 In exceptional circumstances, contraventions may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community.
- 5.2 A decision of no may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade. A decision to take no action will be recorded in writing and take into account the overall implications of the contravention.

6.0 Penalties

- 6.1 The Council will continue to raise the awareness of the courts to the gravity of offences and will encourage them to make full use of their powers.
- 6.2 The Council will always seek to recover the costs of investigation and court proceedings.

Appendix H – Dog Control Enforcement Policy

In addition to the General Enforcement Policy the following section applies to dog control enforcement specifically;

- Failing to remove dog faeces
- Not keeping a dog on a lead (this only applies to specific designated areas)
- Not putting, and keeping, a dog on a lead when directed to do so by an authorised officer
- Allowing a dog onto land from which dogs are excluded

1.0 Prosecution

1.1 Where there is sufficient evidence, the Council will normally prosecute in any of the following circumstances:

- persistent breaches of statutory requirements;
- failure to comply with formal remedial requirements. It is unacceptable to ignore remedial requirements and unfair to those who do take action to comply;
- failure to supply information without reasonable excuse or knowingly or recklessly supplying false or misleading information. It is essential that lawful requests for information by the Council or its Officers are complied with and that accurate information is always supplied to enable informed regulation to be exercised;
- obstruction of Officers in carrying out their powers. The Council regards the obstruction of, or assaults on, its Officers while lawfully carrying out their duties as a serious matter.

2.0 Simple Cautions

2.1 A simple caution will be considered by the Council in the following circumstances:

- there is sufficient evidence to prove the case;
- the offender has admitted the offence;
- the offender has agreed to be cautioned;
- the offence has not been committed by the offender before.

3.0 Fixed Penalty Notices

3.1 Fixed penalty notices will be considered by the Council in the following circumstances:

- where the offence has been witnessed by an officer of the Council;
- the offence has not been committed by the offender before;
- there is sufficient evidence to prove the case.

- 3.2 Notices are served to require offenders to pay a fine for committing an offence where it is admitted and a person accepts this as a method to deal with the matter.

4.0 Written Warning and Advice

- 4.1 For some contraventions the offender will be sent a firm but polite letter clearly identifying the contraventions, giving advice on how to put them right and include a deadline by which this must be done. Failure to comply could result in further enforcement action being taken.
- 4.2 There are a few rules governing the use of this type of action as it is not a regulated or statutory function. However a written formal warning will normally:-
- a) clearly state the nature of the problem and suggest either specific remedies or a standard to be achieved;
 - b) state the actions which may follow if matters do not improve;
 - c) designate a named officer as a point of contact;
 - d) clearly distinguish between a legal requirement and a 'desirable standard';
 - e) indicate any follow-up action intended (e.g. a re-visit within a specified period of time); and,
 - f) where possible point the way to specialist advice or additional information.

5.0 No Action

- 5.1 In exceptional circumstances, contraventions may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention on the community, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community.
- 5.2 A decision of no may also be taken where formal enforcement is inappropriate in the circumstances, such as where a trader has ceased to trade. A decision to take no action will be recorded in writing and take into account the overall implications of the contravention.

6.0 Penalties

- 6.1 The Council will continue to raise the awareness of the courts to the gravity of offences and will encourage them to make full use of their powers.
- 6.2 The Council will always seek to recover the costs of investigation and court proceedings.
- 6.3 The Council will impose a fine for Stray dogs which will be payable by the owner upon return of the animal.
- 6.4 The Council will seek to recover costs of kennelling and any treatments which are required to ensure the wellbeing of animals collected as strays.



EIA Initial Screening Form – Committee decision

1. Decision being taken:	Enforcement Policy Review
2. Name and Job title / role of person completing Initial Screening:	Julia Smith, Health Protection Manager
3. What is the main purpose of the Service or Policy under discussion?	Enforcement Policies ensure that we administer our regulatory responsibilities appropriately, and appropriate action is taken when non compliance of legislation is found.
4. List the main activities of the Service or Policy under discussion	- All environmental services regulatory functions
5. Who are the main beneficiaries of the Service or Policy under discussion?	Public and Businesses
6. How is the success of the Service or Policy under discussion measured?	Thorough review of enforcement actions and monitoring of enforcement activity.
7. Are equality monitoring systems for the Service or Policy under discussion in place?	No

8. Use the following table to indicate using a ✓:

- a) Where you think that the decision being taken could have a positive impact on any of the groups or contribute to promoting equality of opportunity or improving relations within equality groups.
- b) Where you think that the decision being taken could have a negative impact on any of the equality groups i.e. it could disadvantage them.
- c) Where you think that the decision being taken could have a neutral impact on any of the equality group i.e. no impact

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
Gender:				
Women/Girls			✓	
Men/Boys			✓	
Transgender people			✓	
Sexual Orientation:				
Lesbians, gay men and bisexuals			✓	
Race/Ethnicity:				
White British people			✓	
White non-British people (including Irish people)			✓	
Asian or Asian British people			✓	
Black or Black British people			✓	
People of mixed heritage			✓	
Chinese people			✓	
Travellers (Gypsy/Roma/Irish heritage)			✓	
People from other ethnic groups			✓	
People who do not have English as their first language			✓	

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
Disability:				
Physical impairment, e.g mobility issues which mean using a wheelchair or crutches.			✓	
Sensory impairment, e.g blind/having a serious visual impairment, deaf/having a serious hearing impairment.			✓	
Mental health condition, e.g depression or schizophrenia			✓	
Learning disability/difficulty, e.g. Down's syndrome or dyslexia, or cognitive impairment such as autistic spectrum disorder			✓	
Long-standing illness or health condition, e.g. cancer, HIV. Diabetes, chronic heart disease or epilepsy			✓	
Other health problems or impairments (<i>please specify if appropriate</i>)			✓	
Age:				
Older People (60+)			✓	
Children and Young People (see guidance for definition)			✓	
Religion/Belief:				
Christian			✓	
Buddhist			✓	
Hindu			✓	
Jewish			✓	
Muslim			✓	
Sikh			✓	
Other religion (including holding no belief)			✓	

Equality Group	Positive Impact	Negative Impact	Neutral Impact	Reason
Other Potentially Affected Groups				
Rural Isolation - People who live in rural areas e.g isolated geographically, lack of internet access			✓	
Socio-economic Exclusion – e.g. people who are on benefits, have low educational attainment, single parents, people living in poor quality housing, people who have poor access to services, the unemployed or any combination of these and the other protected strands			✓	
Any other potentially affected groups (<i>please specify</i>)			✓	
9. If you have indicated that there is a negative impact on any group:				
a) Is that impact against legislation?	N/A			
b) What is the level of impact?	N/A			
10. Could you minimise or remove any negative impact that is of low significance?	N/A			
11. Could you improve a positive impact of the decision?	No			
12. If there is no evidence that the decision promotes equality of opportunity or improved relations, could it be adapted so that it does?	No			
Head of Service signature				
Date of Initial Screening:				



Equality Impact Assessment Action Plan

Action identified	Key activity	How will we know this has been achieved? (measures, milestones and dates)	Officer responsible	Quarterly progress update

Planned date for next EIA exercise