

# GENERAL REGULATORY POLICY

## Purpose

Regulations impose obligations and set out what can and cannot be done. They make an important contribution to the protection of the health, safety, and economic interests of Leicester's citizens; the environment; promoting fair trading and facilitating the growth of local businesses.

It is, ultimately, the responsibility of individuals and businesses to comply with the law. It is Leicester City Council's duty to encourage, assist and, as a last resort, compel observance of the law in the public interest.

This document sets out publicly and in general terms how Leicester City Council aims to bring about compliance with those regulations that it is charged with administering in Leicester.

This Policy has been endorsed by the City Mayor and the Executive.

## Application of the General Regulatory Policy

This policy applies to regulatory activities and decisions in public and worker safety, food safety, trading standards, building control and safety, planning, private sector housing, public health, pollution, noise, anti-social behaviour and licensing.

Leicester City carries out the following regulatory activities:

- Granting permissions for trading and other activities to be undertaken in Leicester,
- Granting permissions for new building, significant alterations and changes of use,
- Undertaking inspections and testing to check compliance with legislation,
- Investigating complaints that the law may have been breached,
- Providing information on the law and best practice,
- Providing advice and support on the choice and implementation of compliance measures,
- Taking enforcement action directly and through the courts

To ensure consistency of approach and increased transparency managers may issue 'service specific' policies and procedures for regulatory activities and enforcement decisions.

This General Regulatory Policy takes precedence.

## Our Regulatory Policy

The City Council will:

- Target our regulatory activities and base enforcement decisions on harm and risk;
- Carry out our regulatory activities in a way that supports those we regulate to comply and, where they are in business, to grow;
- Be transparent about our approach in undertaking regulatory activities
- Provide clear information and advice to help those we regulate meet their responsibilities to comply
- Provide simple and straightforward ways for persons we regulate to engage with us and put forward their views;
- Work with and share information about compliance and risk with other regulators;

In carrying out our regulatory activities Leicester City Council will have regard to the *Regulator's Code*, approved by Parliament in accordance with s.23 of the Legislative and Regulatory Reform Act 2006.

Leicester City Council aims to adhere to best practice in regulatory activity.

The Council will refer to relevant regulatory policy guidance from government and associated agencies (e.g. Food Standards Agency, Environment Agency, Health and Safety Executive), when directing its regulatory activities and making decisions.

## Our Service Standards

Leicester City Council's Commitment to Excellent Customer Service applies to our regulatory services. The Leicester Council promise is that we will:

- Aim to get things right first time
- Make it easy for you to access our services
- Listen to you so that we can better understand your needs
- Be polite, professional and helpful
- Treat you fairly and with respect
- Keep you informed
- Protect your confidential information and privacy
- Welcome your feedback and tell you how it has made a difference.

Leicester City Council has specific standards for officers. These are available on Leicester City Council's website.

## Our Enforcement Policy

Where Leicester City Council identifies harm being caused or a risk created by a failure to comply with legal requirements, we will respond proportionately, taking into account:- the seriousness of the harm or risk created; and the commitment and capability of the person in breach to take effective remedial action. Each case will be considered on its own merits.

### Compliance by consent

Our initial response to discovering a breach will usually be to quickly achieve **compliance by consent** and to do this without recourse to formal enforcement action.

We will:

- Explain the nature of the non-compliance
- Identify what is required to achieve compliance, taking the specific circumstances into account
- Clearly explain actions required or decisions that we have taken
- Agree timescales, in relation to any actions required
- Provide in writing how to query or appeal the action required
- Explain what will happen next
- Keep in touch with you, where necessary, until the matter is resolved.

Officers will clearly distinguish legal requirements from better practice; and will indicate where support may be available to help achieve compliance. Officers' directions will usually be recorded and confirmed in writing.

### Formal enforcement actions

**Formal enforcement actions** such as the detention of products, withdrawal of permissions, the issue of warnings or notices or legal injunctions to stop and/or implement remedial actions, will only be considered where 'compliance by consent' has failed or is very likely to fail or where the imminence of serious harm or risk is such that Leicester City Council requires a high level of assurance that the harm or risk will be eliminated.

An explanation of why such action is necessary will be recorded, given and confirmed in writing.

### Prosecution

Prosecutions will be initiated where it is in the public interest to do so and where there is realistic prospect of conviction.

Prosecutions will be restricted to those persons who have caused significant harm and/or knowingly set out to cause harm or consistently refused to comply with reasonable regulatory requirements and have placed the public or environment at risk.

The *Leicester City Council Prosecution Policy* sets out the full list of criteria considered in the prosecution decision.

Where the offence is admitted a simple caution may be given.

## Appeals and Senior Manager Reviews

Where there are arrangements for appeal against enforcement decisions, information on rights of appeal and procedures will be provided in writing at the earliest available opportunity.

Notwithstanding, the existence of a formal appeal arrangement, a person subject to formal enforcement action can at any time ask for it's appropriateness to be reviewed by a senior manager in the service.

On review the senior manager can amend or withdraw the enforcement action; or maintain it subject to the outcome of any appeal.

A Senior Manager Review does not affect rights of appeal.

## Fees and Charges for Business Advice

Leicester City Council will provide information and basic advice on compliance free of charge.

For more complex advice and support requirements we will make a charge and this will be on a cost recovery basis.

## Maintaining a high quality regulatory service

Leicester City Council's regulatory powers are in the first place given to the Council. The Council, City Mayor and Executive may *reserve* for themselves decisions about the exercise of these powers or *delegate* them to officers of the Council. Most regulatory activities and decisions are delegated because of the range and complexity of modern legislation.

Officers carrying out regulatory activities will be:

- Duly authorised under the relevant legislation.
- Appropriately trained in the relevant work-area.
- Supported and supervised by management.

Details of authorisations are set out in the Council's *Constitution and Scheme(s) of Authorisation*.

## Other key relevant legislation

The Council will comply with legislation that protects the rights of persons, controls how evidence against potential offenders is obtained and preserves the confidentiality of personal information:

- *The Human Rights Act 1998*
- *The Regulation of Investigatory Powers Act 2000*
- *The Police and Criminal Evidence Act 1984*
- *The Data Protection Act 1998*

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