

ARUN DISTRICT COUNCIL ENFORCEMENT POLICY

ENVIRONMENTAL HEALTH & ENVIRONMENTAL AMENITIES

1.0 INTRODUCTION

1.1 The Council, through its services and officers, has both a duty and a desire to secure compliance with the law. Through our enforcement activity, we seek to ensure that minimum standards prescribed by law are achieved by individuals and businesses who have legal responsibilities to preserve health and protect the environment. We recognise that a key element of our activity will be to allow or encourage economic progress and only to intervene where this is a clear case for protection. It is nevertheless a Council priority to maintain enforcement activity where appropriate to improve environmental quality and ensure public safety. Wherever possible, enforcement activity will be co-ordinated with other agencies and will aim to align with other policies such as those on the reduction of crime and disorder.

2.0 PRINCIPLES OF ENFORCEMENT

2.1 Effective well targeted regulation can play an important role in promoting fairness, competition and addressing market failure in particular protection from harm. We aim to ensure good regulation acts to enable beneficial economic activity. We will ensure that the action we take is proportional to the risk identified, is consistent in application, is targeted to areas where hazards are least well controlled and is transparent to those who are subject to our enforcement action. All enforcement action we involve ourselves with, even when not expressly referred to in the policy e.g. anti social behaviour control, will follow these principles.

2.2 Proportionality

2.2.1 We will relate our enforcement action to the actual and foreseeable risks to health, safety, quality of life or maintenance of community and wider environments. Those whom the law protects and those on whom it places a duty should be assured that the enforcement action we take to achieve compliance will be proportionate to the risk. In deciding what is reasonably practical to control risks, we will exercise judgement and discretion, recognising that the final determination of the reasonableness of our actions is made by the Courts. Where appropriate models exist to assess risk and relate action to it, we will use these.

2.2.2 We aim to ensure our interventions impose the minimum burden compatible with achieving the desired objectives of regulation. Enforcement action will not be taken in cases of trivial or purely technical contraventions. We will take care to work with small businesses, voluntary and community organisations so they can meet their legal obligations without unnecessary expense where practicable. We will consider the costs and benefits of

regulatory measures and where the costs of any measure significantly outweigh its benefit alternatives will be sought.

- 2.2.3 The degree of risk will be balanced by considerations of statutory requirements, relevant good practice, the significance of the risks (both in extent and likelihood) and finally cost. Serious irreducible risks will not be tolerated, irrespective of the economic consequences.

2.3 Consistency

- 2.3.1 Consistency of approach does not mean uniformity. We will endeavour to carry out our duties in a fair and equitable manner and take a similar approach in similar circumstances to achieve similar ends. We will have procedural and managerial arrangements in place to promote consistency of approach and judgement. We will liaise with other Local Authorities and enforcement bodies to assist in this. We will investigate complaints of inconsistency made against us.

2.4 Openness and Helpfulness

- 2.4.1 We believe prevention is better than cure and we will actively work with businesses to advise and assist them to comply with their obligation. Wherever possible we will avoid charging for the advice or guidance we provide. We will help those who are subject to or affected by our enforcement action to understand what is expected of them and what they should expect from us; we will make clear not only what they have to do, but, where it is relevant, what they do not have to do. In particular, we will clearly differentiate between legal requirements and advice, guidance and recommendations that are desirable but not compulsory. We will clearly specify any changes or time deadlines in any action we take. Where appropriate, required by law, or required by Codes of Practice, we will set out the detail of the act or Regulation which is the subject of our enforcement action, together with any appropriate sources of information which will assist the recipient to comply with or challenge our enforcement action. Where it would assist those we enforce against and if they request it we will provide a follow-up visit to further explain enforcement action underway and to review action following enforcement activity.

- 2.4.2 We will provide a courteous and efficient service. Our staff will identify themselves by name and provide contact points and telephone extension numbers, e-mail and Minicom addresses to assist in reaching us. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties. We will offer translation, interpretation or large print versions of our documents as appropriate. We aim to co-ordinate what we do to prevent overlap and unnecessary delay. We will provide opportunities for our service users and recipients to comment on their perception of our service.

- 2.4.3 We will explain the purpose of our visit and what rights of complaint are open to those visited. This will include the provision of standard leaflets as

appropriate. We will offer advice and/or direct those we deal with to sources of helpful information to enable their compliance. We will not treat requests for information as a need for a direct intervention or visit by us.

2.4.4 Where Statutory Notices are served, the appeals process will be clearly set out.

2.4.5 Where there is dissatisfaction with our processes or procedures the Council's Customer Care and Corporate Complaints systems will be examined so that our enforcement action may be scrutinised against our policy.

2.4.6 We will continue to work within the Council and with other regulators to reduce information requirements of business and to share data available between regulators for that purpose. Where we collect data we will attempt to do this in a way that best suits those it is collected from where we can do so reasonably.

2.5 **Targeting**

2.5.1 We will concentrate our enforcement activities (including prioritising our inspections/visits) on those individuals and businesses whose actions give rise to the most serious risk or where hazards are least well controlled. Where we take formal enforcement action, we will concentrate on the person or persons who are responsible for creating the risk or those we regard as being primarily in breach.

2.5.2 We will utilise a risk-based prioritising system for determining our regulatory practice, the frequency of our visits, the scope of our inspection and action. We will consider both the likelihood of non-compliance and the impact of non-compliance on the outcome we wish to achieve through our intervention. Where we determine that the hazards/risks are low, we will consider alternatives to visiting for ensuring that businesses or individuals continue to effectively manage the risks.

2.5.3 In undertaking inspection we will generally avoid random inspection except to test methodology or gather intelligence. Where two or more Officers are likely to visit the same entity we will do our utmost to draw up joint inspection programmes to minimise burdens by sharing data. We will work with others to reduce the need for businesses to provide unnecessary information or to provide it more than once.

2.5.4 In applying the above principles, we will also take account of guidance contained in Codes of Practice, Industry Guides to compliance, recommendations of local and national co-ordinating bodies and inter-Authority standards.

2.5.5 Where we consider that the action we intend to take is inconsistent with the above, the matter will first be referred to the appropriate body for ratification, unless there is significant risk to the public in delaying enforcement.

3.0 AUTHORISATION OF OFFICERS, COMPETENCE AND ARRANGEMENTS FOR CRIMINAL PROCEDURES INVESTIGATIONS

- 3.1 All Officers will be authorised through the Council's Constitution, Standing Orders and Scheme of Delegation. Officers will receive their authority in writing and will produce this when requested to do so.
- 3.2 Officers undertaking enforcement action will be suitably competent through qualification, training and experience. Competence training will be provided both "in-house" and externally. The training objectives will always include legal, technical, proportionality and consistency aspects. Management arrangements will include periodic checks on the competencies and consistency of Officers carrying out enforcement duties and will include a "peer review" procedure for Notices and other formal enforcement action (see Section 7.0 and Section 11.0). An Officer competence framework will be maintained and used to review authority given to Officers by the relevant Head of Service annually.
- 3.3 All authorised Officers will abide by this Policy. Any departure from this Policy must be exceptional, justified to and sanctioned by the Head or PEHO, unless there is a demonstrable, significant and imminent risk to the public or environment in delaying enforcement.
- 3.4 Where the case Officer determines that a case should not proceed beyond formal action to prosecution, this decision must be agreed with the relevant team leader and signed off either by the Head of Service, or PEHO using the appropriate pro forma. (See Section 11.3 below).
- 3.5 In the case of licences, registrations and approvals, these should not be granted by any person involved in their preparation. There should always be a counter-check by a different person and that person should sign or counter-sign the licence, registration or approval.
- 3.6 In any investigation we will respect human rights and dignity in general compliance with the European Convention on Human Rights and Human Rights Act.
- 3.6.1 We fully acknowledge rights such as right to respect for private, home and family life; right against discrimination; right to persecution and protection of property and right to a fair trial. We will, however, balance these against the legitimate rights and responsibilities prescribed by the law which we will uphold, especially in areas such as public safety, prevention of serious crime and disorder, protection of health or morals and protection of rights and freedom of others.
- 3.6.2 Where we might interfere with people's human rights this will be in line with our principles of enforcement, etc, both necessary and proportionate. We will demonstrate this by adherence to the Regulation of Investigatory Powers Act 2000 and any code or guidance provided under it.

- 3.7 In all cases where prosecution is considered to be necessary or highly likely to be the only effective action (see later for criteria), administrative arrangements will comply with the Criminal Procedure and Investigations Act 1996 (CPIA) and Regulation of Investigatory Powers Act.

Surveillance

- 3.8 Surveillance work of a covert nature, i.e. when investigations are carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware of it taking place, have to be authorised in advance. Any authorisation for such surveillance has to be given by a designated Officer in writing in line with Council procedures. Urgent oral authorisations are also permitted. The authorising Officer can be any Officer designated by the Chief Executive. Within Environmental Health, this is at Principal Officer level and above. Within Environmental Amenities this is the Head of Service. Postholders so designated have the powers to grant authorisations under Section 28 (Directed Surveillance) and Section 29 (Use of Covert Human Intelligence Sources) of the Regulation of Investigatory Powers Act. A central register of authorisations is kept by the Chief Internal Auditor and retained for a period of three years for audit purposes. All authorisations must be forwarded to the Chief Internal Auditor within one week of the authorisation, review, renewal, cancellation or rejection.

- 3.8.1 A written application for authorisation for directed surveillance should describe any conduct to be authorised and the purpose of the investigation or operation. The application should also include:

- ❖ the reasons why the authorisation is necessary in the particular case and on the grounds (e.g. for the purpose of preventing or detecting crime) listed in Section 28(3) of the 2000 Act;
- ❖ the reasons why the surveillance is considered proportionate to what it seeks to achieve;
- ❖ the nature of the surveillance;
- ❖ the identities, where known, of those to be the subject of the surveillance;
- ❖ an explanation of the information which it is desired to obtain as a result of the surveillance;
- ❖ the details of any potential collateral intrusion and why the intrusion is justified;
- ❖ the details of any confidential information that is likely to be obtained as a consequence of the surveillance;
- ❖ the level of authority required (or recommended where that is different) for the surveillance; and

- ❖ a subsequent record of whether authority was given or refused, by whom and the time and date.
- 3.8.2 Additionally, in urgent cases, the authorisation should record (as the case may be):
- ❖ the reasons why the authorising officer or the officer entitled to act in urgent cases considered the case so urgent that an oral instead of a written authorisation was given; and/or
 - ❖ the reasons why it was not reasonably practicable for the application to be considered by the authorising officer.
- 3.8.3 Where the authorisation is oral, the detail referred to above should be recorded in writing by the applicant as soon as reasonably practicable.

Criminal Investigations

- 3.9 At the commencement of a criminal investigation, that is any investigation where an Officer is ascertaining whether a person should be cautioned with a view to a possible prosecution, or where the caution is administered in order to gather evidence for a possible prosecution, the following “roles” must be established:
- ❖ The Investigator
 - ❖ The Officer In Charge of the investigation
 - ❖ The Disclosure Officer
 - ❖ The Prosecutor

3.10 The Investigator

- 3.10.1 This can be any duly authorised Officer. The investigator will pursue all reasonable lines of enquiry, whether these point towards or away from any suspect. The investigating Officer must remain open-minded to all relevant information obtained. Relevant information (as defined) must be recorded, collated and retained at the time it is obtained or as soon as practicable after that time in accordance with CPIA and its Code of Practice.

3.11 The Officer in Charge of the Investigation (OIC)

- 3.11.1 This will be any Officer designated by the Chief Executive, but will usually be the team leader. However, if the team leader is the investigating Officer, then the Head of Service or PEHO will assume the role of OIC. The OIC will direct the investigation and will ensure that effective procedures exist and are followed so that all relevant material is retained and made available to the Disclosure Officer (see CPIA and Code for details).

3.12 **Disclosure Officer (DO)**

3.12.1 This will usually be the Head of Service or one of the Principal Environmental Health Officers. In the event that these Officers are the investigating Officer or OIC, then this role will be assumed by the Director for the Service. The Disclosure Officer will examine retained material gathered by the IO and OIC and ensure it is revealed to the Prosecutor in the preparation for taking proceedings. The DO will seek advice from the Prosecutor on relevant material for disclosure and draw up and maintain schedules of material to be disclosed, not disclosed and sensitive (in line with the CPIA and Code).

3.13 **The Prosecutor**

3.13.1 Will be the Solicitor to the Council or other individuals acting on behalf of the Council.

3.13.2 Management arrangements will include periodic checks to ensure that the CPIA and its Code are being appropriately and effectively applied.

4.0 **ENFORCEMENT OPTIONS**

4.1 We will decide on the appropriate enforcement option by having regard to the Principles of Enforcement mentioned in 2.0 above, together with the following considerations:

- ❖ The likelihood that action proposed will reduce the significant risks in order of priority;
- ❖ The requirements of specific Council policy;
- ❖ That the public interest will be served;
- ❖ That vulnerable groups will be protected;
- ❖ The seriousness of the offence and risk presented;
- ❖ The past history of individuals, businesses and informants involved and potential future risk;
- ❖ Confidence in those involved in the issue, whether as individuals, representatives of the business/enterprise or informants (this will be assessed by consideration of relevant factors including any system of managing risk, external accreditation, competence and willingness to comply);
- ❖ The intentions of those involved in non-compliance;
- ❖ Consequences of non-compliance;

- ❖ The likely effectiveness of the option to secure compliance.

Except in cases of wilful non-compliance or where immediate action is necessary to prevent a serious regulatory breach, we will allow those in suspected breach reasonable opportunities to discuss the circumstances of the case and to achieve compliance before taking formal enforcement action.

We will seek to reward good performers through positive incentives, including “lighter” inspections, where risk profiling justifies this, and less onerous reporting requirements where practicable.

We will also ensure that clear reasons for any formal enforcement action are given at the time and confirmed in writing at the earliest opportunity. Complaints procedures must also be explained at the time any enforcement action is taken.

5.0 **TESTING PUBLIC INTEREST**

5.1 In assessing “the public interest”, we will consider whether the proposed action will produce a net benefit to the wider community in terms of reducing environmental impact risks, in targeting public resources on the most serious risks, and in the opportunity costs of pursuing a particular course of action.

5.2 Those factors which will tend towards formal action and prosecution include positive answers to any or all of the following, which may not be an exhaustive list:

- (a) number of people affected by the offence;
- (b) degree to which people are/were affected (seriousness of the offence);
- (c) evidence that the offence was committed deliberately, maliciously or for clear economic advantage;
- (d) evidence that the defendant intimidated or harassed those affected;
- (e) evidence of previous or on-going offences of a similar type;
- (f) likelihood of repeated offence which may be deterred by prosecution;
- (g) defendant was in a position of authority;
- (h) lack of co-operation on the part of the defendant;
- (i) offence is widespread, at least in the general area in which it was committed;
- (j) continued failure to settle fixed penalty or comply with other statutory notices.

5.3 Factors which might argue against formal action and prosecution will include:

- (a) Court is likely to impose a very small penalty on conviction;
- (b) offence appears to have been the result of a genuine misunderstanding or mistake;
- (c) harm done was minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- (d) willingness on the part of the defendant to co-operate and to ensure that no future offences of a similar nature are committed;
- (e) long delay between offence and trial, unless:
 - (i) the offence is serious;
 - (ii) the delay has been caused, at least in part, by the defendant;
 - (iii) the offence has only recently come to light;
- (iv) the complexity of the investigation results in unavoidable delays.
- (f) defendant is in poor health or confused or lacking the appropriate mental capacity (unless there is a real possibility that the offence will be repeated);
- (g) defendant has, so far as possible, put right the harm caused by the offence;
- (h) a key witness has refused to testify or to provide a Witness Statement or, if they are the only victim, they have strongly indicated opposition to a prosecution;
- (i) the defendant is a juvenile and under the age of 17 (see Section 5.7)

5.4 Whether a particular decision meets the public's expectations can only be judged in the circumstances by the staff involved. Public expectation should not determine the action taken, since the public do not have possession of all the facts in any particular case or, indeed, the professional training, experience or organisational support which Enforcement Officers utilise in their decisions.

5.5 This is a difficult area to assess, but it may be possible to apply a "**reasonableness test**" to the questions: what would a reasonable person expect from the Local Authority in the circumstances? A further test may be whether the particular decision could be justified in any public forum or Inquiry.

5.6 Having carefully considered all these criteria, we will choose one or more of the following courses of action:

- ❖ to take no action, giving reasons to all parties concerned; this will only be appropriate where there have been no contraventions of relevant legislation and the Officer does not feel it necessary to give further advice or recommendations. All necessary inspection forms and computer records must be completed indicating Officer activity and confirming why no further action needed. This is to be formally agreed and “signed off” by the Officer in charge of the investigation and investigating Officer; or
- ❖ to take informal action, clearly separating those items which are legal requirements and those which are not compulsory; and/or
- ❖ to serve Statutory Notices (including “minded to” and “intention to serve” Notices); and/or
- ❖ to seize or detain items or to suspend or revoke individuals’ right to exercise a duty or permission; and/or
- ❖ to accept voluntary closure of a premises/activity;
- ❖ to issue a fixed penalty fine where available; and/or
- ❖ to prosecute or recommend prosecution through the appropriate Court or by way of Simple Caution; and/or
- ❖ to refer the matter to another body where they possess a more effective procedure for securing compliance (e.g. Applying to the Court for an Injunction). In the majority of cases, the Primary “Lead” or “Home Authority” will be consulted prior to the institution of formal action;
- ❖ to consider instigation of work in default.

5.7 **Juveniles**

5.7.1 The Council is aware of its duty to ensure that it is acting in accordance with the Children’s Act 2004 and in particular to have regard to the need to safeguard and uphold the welfare of children. Alongside this duty, the Council takes seriously its role in making sure young people are aware of their responsibilities and its role in educating them to encourage good behaviour in the first instance.

5.7.2 Formal action including prosecution will be a measure of last resort. In developing its approach to young people who offend, the Council will work closely with the Youth Offending Team and the Police.

5.7.3 If in extreme circumstances the Council does issue fixed penalty notices it will go down the route of enforcing these through prosecution in the Youth Court

and hope to recover unpaid penalties. Any fixed penalty notice served on a young person will be reported to the Youth Offending Team.

As with any other statutory action, a fixed penalty notice will not be issued if a young person is suffering from mental impairment, mental health problems or if they appear stressed or confused or appear to be under the influence of alcohol or drugs. In such circumstances, the relevant support agency and/or the police will be contacted.

This policy differentiates between various age bands when dealing with juveniles. No formal action will be taken against anyone under 10, however, separate approaches are taken for those aged 10 – 15 and those of ages 16 and 17.

The differential approach to different age groups is set out below:-

DEALING WITH DIFFERENT AGE GROUPS	
Age Group	Action
All young people	<p>On approach, following an alleged offence, the name, address, age and date of birth of the alleged offender should be obtained, together with the name and address of his or her parents or legal guardian.</p> <p>They should be informed that this information will be shared with the local youth offending team.</p> <p>In all instances, a young person's parents or legal guardian of this age group should be informed at the earliest opportunity, ideally by letter, explaining the action taken, and to give the opportunity to discuss the case with a relevant Officer of the Authority.</p> <p>No caution should be given or interview be undertaken without the presence of a 'responsible' adult unless the young person is 17 (a further explanation is given below).</p>
10-15 year olds	<p>When an offence is straightforward and 'clear cut' (such as a littering offence) and a formal interview is not required, a fixed penalty notice or warning fixed penalty notice <u>may</u> be issued. (see 5.7.2 and 5.7.3 above)</p> <p>However, we will attempt to consult with the Youth Offending Team before any type of fixed penalty notice is issued. Any fixed penalty notice would be issued at a later date, i.e. through the mail, after a discussion with</p>

	<p>the Youth Offending Team.</p> <p>In all instances, a young person's parents or legal guardian of this age group should be informed at the earliest opportunity, ideally by letter, explaining the action taken, and to give the opportunity to discuss the case with a relevant Officer of the Authority.</p> <p>If the Youth Offending Team is not consulted on the issuing of a fixed penalty notice, it should be informed that one has been issued and given the chance to comment, where appropriate, on any follow-up action that might be necessary.</p>
16-17 year olds	<p>Once the age of the alleged offender has been ascertained, fixed penalty notices can be issued to this age group.</p> <p>However, if there are any doubts over the alleged offender's age, i.e. they could be aged under 16, the procedures set out above for 10-15 year olds should be followed.</p> <p>As with 10-15 year olds, where an offence is straightforward and 'clear cut' and a formal interview is not required, a fixed penalty notice may be issued, however, again we will as a general rule issue a fixed penalty notice which includes a financial penalty after consultation with the Youth Offending Team.</p> <p>The local Youth Offending Team should be informed of the offence and given the chance to comment, where appropriate, on the action to be taken.</p> <p>In all instances, a young person's parents or legal guardian of this age group should be informed at the earliest opportunity, ideally by letter, explaining the action taken, and to give the opportunity to discuss the case with a relevant Officer of the Authority.</p>

Where formal action of any sort is considered against the juvenile, such as issuing a fixed penalty notice it will be appropriate in instances of the first offence to offer a verbal warning, warning fixed penalty notice and/or the opportunity to correct the misdoing e.g. by allowing the alleged offender to pick-up litter dropped.

If fixed penalty notices are issued payment will be allowed in instalments over a longer than normal payment window to be agreed with the offender. The option to commute a fixed penalty notice to a final written warning will also be considered. As an alternative to the fixed penalty, other community activity

may be offered in lieu of payment such as participating in community clean-ups. Such 'alternative' penalties should always be available.

6.0 **INFORMAL ACTION**

6.1 We will take informal action where:

- ❖ the act or omission is not serious enough to warrant formal action; and/or
- ❖ the organisation is a “not-for-profit” organisation with predominantly volunteer staff; and/or
- ❖ from the individual's/enterprise's past history it can be reasonably expected that informal action will achieve the desired standard/compliance; and/or
- ❖ we have high confidence in the individual/management of the enterprise; and/or
- ❖ the consequences of non-compliance, or accepting a reduced standard, will not pose a significant risk to any individual or to the environment; and/or

6.2 Where informal action by way of advice, verbal warnings and request for actions is made, we will confirm in writing the advice, warning or required action, within 7 working days of the decision.

6.3 We will ensure that all verbal and written informal action:

- ❖ contains clear and sufficient information so that WHAT is required and WHY it is required is understood;
- ❖ specifies in detail the legislation/regulation contravened, measures which will enable compliance and options available for achieving the desired effect;
- ❖ clearly differentiates between legal requirements and advice, guidance and recommendations that are desirable but not compulsory. In the latter case, we will use explicit wording so that the person in receipt of the information realises that they are under no obligation to take any action.

7.0 **SERVICE OF STATUTORY NOTICES**

7.1 We will serve Statutory Notices where, in line with the “Principles of Enforcement” in 2.0 above, if we believe there is sufficient evidence to justify their use and where one or more of the following criteria apply:

- ❖ Where we are obliged to by law or required to by Council policy;

- ❖ Standards are generally poor with little individual or management awareness of legal duties and responsibilities;
 - ❖ We have little confidence that the individual concerned or the representative of the business/enterprise will respond to an informal approach;
 - ❖ There is a history of non-compliance or reluctance to comply with timescales suggested in the past;
 - ❖ The consequences of non-compliance might potentially put the health of an individual at risk or threaten the environment;
 - ❖ We intend to prosecute to secure compliance but immediate action is required to remedy conditions which are serious or deteriorating.
- 7.2 In cases where a “minded to” or “intention to serve” Notice is a legal requirement, the above criteria must still be used. In addition, the “minded to” or “intention to serve” Notice will also contain details of how and to whom the person receiving the Notice can ask for a meeting so that their point of view may be heard prior to the service of any follow-up Statutory Notice.
- 7.3 These representations will be heard by the Head of Service or PEHO. These Officers will consider the following criteria in reaching a decision on whether the “minded to” or “intention to serve” Notice is to remain in force or be withdrawn:
- ❖ whether the investigating Officer explicitly considered the “Principles of Enforcement” and the criteria above governing Statutory Notices;
 - ❖ whether the investigating Officer was correct in fact and in the application of these principles and criteria;
 - ❖ whether the recipient of the Notice has a genuine grievance and not just an issue of principle;
 - ❖ whether the recipient of the Notice has demonstrated compliance prior to or shortly after the service of the “minded to” Notice;
 - ❖ whether there are other factors which render the Notice obsolete.
- 7.4 The Head of Service or PEHO will confirm their decision as soon as possible after the “appeal” and confirm this in writing within 7 working days.
- 7.5 All Notices will be subjected to the following “peer review” process:
- ❖ Notices will only be signed by authorised Officers;
 - ❖ Where the Notice has been drafted by non-authorised Officers, it may only be signed by authorised Officers if they have witnessed the contravention/offence or can adequately deduce the circumstances

from the evidence provided AND agree that the “Principles for Enforcement” and the criteria for Statutory Notices (above) have been applied appropriately;

- ❖ Notices will give realistic time limits for compliance and, where appropriate, these time limits should be discussed and agreed with the intended recipient.
- ❖ Notices will only be signed when all relevant schedules accompany the Notice;
- ❖ All Notices will be countersigned as follows:
- ❖ If the initiating Officer is a Technical Officer, Senior Technical Officer, EHO, SEHO, then a PEHO or team leader will check and endorse the Notice;
- ❖ If the initiating Officer is the PEHO or team leader, then the Head of Service or another team leader/PEHO will check and endorse the Notice.
- ❖ If the initiating Officer is the Head of Service, then a relevant PEHO/team leader, SEHO or Senior Technical Officer will check and endorse the Notice;

(NOTE: Endorsing the Notice means initialling the Notice proper and each page of any accompanying schedules.)

- ❖ All Notices must be accompanied by a clear, detailed explanation of whom to contact for further information, how to appeal where an appeal mechanism exists, and information on the implications of non-compliance.

7.6 All Notices should be served by hand wherever practicable. Where this is not possible, they will be sent by ordinary post or sent to the Local Authority in whose district the recipient resides with a request for them to serve on our behalf.

7.7 Checks will be made with relevant ‘Primary’ “Lead” or “Home Authorities” prior to service of Notice unless in emergency situations.

7.8 We will check on the situation at the expiry of the period given in the Notice (or any agreed extension to that time) or such lesser time as seems appropriate in the circumstances. We will extend time for compliance only when this is likely to secure compliance and only after receiving a written request for such an extension from the recipient. Where received, such a request should be sympathetically considered, having regard to:

- ❖ the requirements of specific Council policy;
- ❖ the seriousness of the offence;

- ❖ the past history of individuals, businesses and informants involved;
- ❖ confidence in those involved in the issue whether as individuals, representatives of the business/enterprise or informants;
- ❖ consequences of non-compliance; and
- ❖ the likely effectiveness of the option to secure compliance.

Agreement to time extension will be sought from PEHO or above

- 7.9 In all cases where there is a failure to comply with the Notice after a reasonable time, the matter will be put forward for prosecution and/or works in default in accordance with procedures outlined in Sections 10.1 to 10.7.
- 7.10 We will keep a record of all Notices served and report these and any outcomes to the appropriate co-ordinating body or Government Department.

8.0 **APPROVALS, REVIEWS, REFUSALS AND REVOCATIONS**

- 8.1 Approval/refusal/revocation of licence, registration or similar permissive authority will be assessed by authorised Officers against statute, conditions applied, codes of practice, industry standards and similar standards.
- 8.2 Approval will only be given if relevant standards are achieved. All approvals will be subject to an upward vetting system whereby the person processing the applications for approval will not authorise its approval. (See para. 3.6).
- 8.3 Contentious applications, requests for review, revocation and refusal will be referred to the Council's Licensing & Enforcement Committee or one of their Sub-Committees., except where revocation is of an administrative nature, such as for non-payment of fees, in which case revocation shall be by the authorised officer.
- 8.4 In this context, "contentious" means applications which have been formally objected to or representations accepted, have contravened Licence etc. conditions, or are subject to complaint.
- 8.5 Review refusal or revocation of permissive authorities will be considered on the basis of appropriate prescribed grounds and may include:
- ❖ closure of premises following the issue of a Prohibition or Emergency Prohibition Order (primarily in relation to premises authorised under the auspices of legislation reflecting EU Directives on meat, fish and dairy products);
 - ❖ a serious and manifest breach of conditions, limitations, or statutory objectives, subject to which the authority was granted and which is unlikely to be corrected;
 - ❖ the conviction of a Licence holder for breach of Licence conditions;

- ❖ conviction for offences of dishonesty, indecency or violence, or other relevant legislation;
- ❖ evidence of a recent previous revocation/refusal;
- ❖ the number of other similar permissive Authorities issued to persons or premises already excessive;
- ❖ the person applying is not “fit and proper”; this can include non-UK residents and non-UK registered organisations;
- ❖ the application is inappropriate to the relevant locality;
- ❖ false or inadequate information has been provided as part of the application;
- ❖ fees due have not been paid;
- ❖ the premises/activity is conducted in a disorderly manner or so as to cause nuisance.

8.6 Revocations and some refusals will be authorised by the Head of Service or PEHO and agreement to such action will usually be sought from an appropriate Cabinet Member, Committee and/or Chairman of Licensing & Enforcement Committee in advance, except in emergency situations.

8.7 Revocation decisions will be confirmed in writing and explain the reasons for revocation. An explanation of the recipient’s rights of appeal, and how that appeal might affect the revocation, will also be given.

9.0 **SEIZURE, DETENTION AND SUSPENSION**

9.1 **Seizure and Detention**

9.1.1 We will only use the powers to seize or detain items (goods, equipment, records, etc.) where we believe that a clear blatant breach of statute has or is about to occur AND that there is a power which authorises such seizure and/or detention OR where we need to secure compliance with a Notice.

9.1.2 We will consider the “Principles of Enforcement” in Section 2.0 above, refer to Codes of Practice and guidance issued by co-ordinating and other recognised authorities and apply the following detailed criteria in coming to our decision:

- ❖ There is a clear need to protect individuals, relevant animals or the environment from imminent risk;
- ❖ Failure to act will result in vital evidence being destroyed;
- ❖ Other remedies (such as voluntary surrender) will not achieve the desired level of compliance;

- ❖ Previous history or other information in our possession indicates a repeat incident is likely to occur;
- ❖ We are formally requested to use our powers in support of other enforcement agencies.

9.1.3 We will inform all interested parties of the effect of our intention to seize and/or detain, the legal basis for such action, the processes involved in such action and any rights they have to appeal, make representation and/or seek compensation. We will confirm these matters in writing either at the time or as soon as practicable after such action and, in any event, not later than one working day after taking the action. Where time permits, then the “peer appraisal” process outlined in Section 7.5 above should be followed.

9.1.4 In most cases, we will put the matter forward for prosecution in accordance with procedures outlined in Sections 11.1 to 11.7.

9.2 **Suspension**

9.2.1 Powers to suspend permissive authorities will be used in accordance with the relevant statutory requirements and the general principles of enforcement set down in Section 2 of this policy.

9.2.2 Grounds for suspension are various and often specific to the type of Authority concerned; they may, however, include:

- ❖ conviction of an offence of a relevant statute;
- ❖ breach of conditions;
- ❖ imminent risk of serious pollution;
- ❖ serious risk to public safety or wellbeing;
- ❖ lack of adequate procedures, records and trained staff.

9.2.3 Suspension will normally involve obtaining authority from the Licensing and Enforcement Committee where time allows via the Enforcement Review Panel.

9.2.4 We will suspend a licensed driver and/or vehicle owner if we find evidence of the following:

- ❖ Driving without insurance
- ❖ Driving without road tax
- ❖ Driving in an unsafe vehicle
- ❖ Failure to disclose a prosecution or caution subsequent to the issue of a Licence

- ❖ When requested to by the Police and the evidence meets with our “Principles of Enforcement”
- ❖ A licensed driver driving an unlicensed vehicle
- ❖ A licensed vehicle being driven by an unlicensed driver
- ❖ Repeated failure to comply with a request for vehicle or driver checks.
- ❖ Licence holder no longer meets the requirement to be a fit and proper person.

Any decision to suspend will be discussed with and agreed to by the Chairman and/or vice chairman of the Licensing & Enforcement Committee.

9.2.5 Normally, the driver/vehicle owner will be requested to attend a meeting with the Head of Service and/or PEHO at which the suspension will be effected. This meeting must take place within 2 working days of the investigating Officer coming to a view that such action is necessary . The Head of Service and/or PEHO will apply the “Principles of Enforcement” and the criteria above in coming to a decision. In ALL cases where the suspension is effected, the details must also be put forward for prosecution in line with Sections 11.1 - 11.7 below.

9.2.6 We will inform the suspended driver/vehicle owner that they have the right to review by the Licensing and Enforcement Committee and appeal to the Magistrates’ Court. The Head of Service will confirm the decision and reasons for it at the time of the meeting with the driver/vehicle owner and confirm this in writing within 2 working days.

9.2.7 Suspensions will only be lifted as and when Licensing Officers are satisfied that reasons for initial suspension have been rectified. Lifting of a suspension will be granted by the Head of Service or PEHO when satisfied compliance has been achieved and following discussions with and agreement by the Chairman and/or vice chairman of the Licensing & Enforcement Committee. Lifting of suspension will be confirmed in writing within 2 working days of such a decision being made.

10.0 **CLOSURE/VOLUNTARY CLOSURE OF PREMISES**

10.1 Where an authorised Officer believes that an imminent risk of injury to health exists in respect of a premises, a piece of equipment or a process, then he/she may serve a Hygiene Emergency Prohibition Notice.

10.2 When this occurs, an application will be made by the Officer to the Court for a Hygiene Emergency Prohibition Order to be made.

10.3 Proprietors must be given at least one-day’s notice of such an application.

10.4 Before taking prohibition action involving chemical contamination, medical and other expert advice should be sought. Similar action should also be

considered in respect of microbiological hazards or in respect of unusual or complex processing situations.

10.5 The situations below are illustrative of where an authorised Officer may consider closure or prohibition action:

10.6 Conditions where Prohibition of Premises may be Appropriate:

- (a) Infestation by rats, mice, cockroaches or other vermin (including birds) or a combination of these infestations resulting in actual food contamination or a significant risk of food contamination;
- (b) Very poor structural condition and poor equipment and/or poor maintenance of routine cleaning and/or serious accumulations of refuse, filth or other extraneous matter resulting in an actual or significant risk of food contamination;
- (c) Serious drainage defects or flooding of the premises leading to actual contamination or a significant risk of food contamination;
- (d) Premises or practices which seriously contravene the Food Laws and have been or are implicated with an outbreak of food poisoning;
- (e) Any combination of (a), (b), (c) and (d) or the cumulative effect of contraventions which together represent an imminent risk of injury to health.

10.7 Conditions when Prohibition of Equipment may be Appropriate

10.7.1 In addition to the above, the following circumstances may be in existence:

- (a) Use of defective equipment, for example, a pasteuriser incapable of achieving the required pasteurising temperature;
- (b) Use of equipment involving high-risk foods which has been inadequately cleaned or disinfected or which is obviously grossly contaminated and can no longer be properly cleaned.

10.8 Conditions when Prohibition of a Process may be Appropriate.

10.8.1 In addition to the above, the following circumstances may be in existence:

- (a) Serious risk of cross-contamination;
- (b) Inadequate temperature control, for example, failure to achieve sufficiently high cooking temperatures;
- (c) Operation outside critical control criteria, for example, incorrect pH of a product which might allow clostridium botulinum to multiply;
- (d) The use of a process for a product to which it is inappropriate.

- 10.9 In general, authorised Officers will issue Hygiene Emergency Prohibition Notices. Under no circumstances will they try to persuade proprietors to voluntarily close their premises/processes or necessary equipment. However, should the proprietor offer to close it down, then the following criteria must be fulfilled before agreement is reached:
- (i) There must be no risk of the premises, process or piece of equipment being re-opened without the express agreement of the Council;
 - (ii) The proprietor must be willing to sign and date the Voluntary Closure Form setting out the extent of the offer to close;
 - (iii) The person signing the form, if not the proprietor, must have the authority of the proprietor/employer to agree to such voluntary action;
 - (iv) The informal offer to close the premises/practice voluntarily must have at least the equivalent effect of any appropriate prohibition action.
- 10.10 It must be remembered that authorised Officers have no legal sanction against a proprietor who re-opens for business, even if they have signed a Voluntary Closure Form.
- 10.11 It must be pointed out to the proprietor that, by making the offer to close, he is relinquishing his rights to compensation.
- 10.12 Checks must be carried out to ensure that a premises, process or piece of equipment which has voluntarily closed remains closed until such times as a written statement is issued by the authorised Officer to confirm that the premises can re-open.
- 10.13 Upon agreeing to voluntary closure, the Officer must make it very clear to the person in charge why the premises, process or piece of equipment have been closed and what works must be carried out. This must be confirmed in writing and served on the proprietor along with a copy of the agreement.

11.0 **PROSECUTIONS**

- 11.1 We will restrict the use of prosecutions to those cases where, having considered the “Principles of Enforcement” in Section 2.0 above, we believe an individual or person(s) having control of the business/enterprise has:
- ❖ obviously disregarded a foreseeable risk; and/or
 - ❖ deliberately sought to gain an economic advantage by disregarding/breaking the law; and/or
 - ❖ created a serious nuisance; and/or
 - ❖ seriously or repeatedly threatened another’s health, safety, quality of life or the maintenance of community environments; and/or
 - ❖ refused to comply with a Statutory Notice or conditions; and/or

- ❖ failed to achieve the basic minimum legal requirements after receiving written advice or a Statutory Notice; and/or
- ❖ blatantly breached a Council Order/Byelaw.

11.2 Evidence will be gathered in accordance with Sections 3.1 to 3.13.2 above. If evidence is established suggesting manslaughter, we will liaise with the Police, Coroner and/or CPS as appropriate.

11.3 The evidence will initially be reviewed by the relevant Officer and their line manager (i.e. the investigator and the Officer in charge of the investigation). A request to recommend prosecution will not be referred to the Enforcement Panel:

- (i) If the above-mentioned criteria are not met;
- (ii) If there is insufficient relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person or Company;
- (iii) Where other enforcement action would be more appropriate;
- (iv) Where the breach is not a legal one but rather one of an industry guideline or Code of Practice;
- (v) Where the offence involves an organisation operated by volunteers, except in extreme circumstances where the case must be discussed with the Head or Deputy Head of Service;
- (vi) If a decision is made not to consider prosecution, an alternative enforcement action will be decided upon and agreed to by a member of the Enforcement Panel in writing using the appropriate pro forma.

In general there is a presumption against prosecution of juveniles, the elderly, the infirm or mentally or severely physically infirm.

The Enforcement Review Panel

11.4 With the exception of following through unpaid Fixed Penalty Notices in cases where prosecution is considered to be the preferred option, Investigating Officers will prepare a case file for submission to a meeting of the Enforcement Review Panel. Those who are subject of any reports to the Panel will be contacted, usually in writing, advised of the meeting, its purpose and date and given the opportunity to submit written comments for the Panel's consideration.

The file will contain the following details:

- ❖ an introduction setting out the key events and/or outcomes;
- ❖ the facts and background history to the case;

- ❖ a statement of the legislation involved; the alleged offences and any options concerning the specific sections which may be appropriate to pursue by way of prosecution;
- ❖ any mitigating circumstances, representations from the accused or similar material which ensures that a balanced and impartial decision can be attempted by the Panel;
- ❖ any specific defences available to the accused;
- ❖ officer conclusions and recommendations;
- ❖ Witness Statement (if taken);
- ❖ transcripts of all taped interviews under caution (Police & Criminal Evidence Act 1984);
- ❖ relevant photographs;
- ❖ other supporting and evidential material.

11.5 The Enforcement Review Panel will comprise at least any two of the following: the Chief Environmental Health Officer, Head of Environmental Amenities & Community Safety and one PEHO, and the Solicitor to the Council. Each will be given and study the case file submitted in accordance with Section 11.4 above.

11.6 The Enforcement Review Panel will consider the evidence having regard to the “Principles of Enforcement” mentioned in 2.0 above, relevant Codes of Practice and guidance including any guidance issued by the Crown Prosecution Service and the following criteria:

- ❖ That evidence presented is valid and relevant, that continuity is complete and quality is satisfactory;
- ❖ There must be a realistic prospect of conviction;
- ❖ That it is in the public interest to prosecute and that demonstrable public benefit will accrue from conviction (e.g. It may establish an important legal precedent);
- ❖ That the offence is serious;
- ❖ That the previous history of the accused indicates that other remedies are unlikely to secure compliance;
- ❖ That the accused will be unlikely to establish a defence in law (e.g. “All due diligence”, “best practicable means”, “reasonably practicable”);
- ❖ That the accused appears unwilling to prevent a recurrence of the problem;

- ❖ That important witnesses are both credible and willing to co-operate;
- ❖ Any explanation offered by the accused.

11.7 The Enforcement Panel will decide a relevant course of action, namely, one of the following:

- (1) to refuse to recommend prosecution and to return the file to the investigating Officer for other, alternative enforcement action or no action;
- (2) to defer or to agree in principle a decision subject to the Solicitor of the Council's opinion on a legal technicality;
- (3) to defer a decision until further evidence is supplied by the investigating Officer or the Officer in charge of the investigation;
- (4) to recommend prosecution, revocation, review and/or suspension to the relevant Committee/Cabinet Member (or in the case of Health and Safety legislation to inform the Cabinet Member/Committee as appropriate) or in exceptional circumstances the Chief Executive, with or without the option for Simple Caution - see Section 11.0 below);
- (5) to recommend prosecution, revocation and/or suspension as above and to request the investigating Officer to take further enforcement action/investigations;
- (6) to recommend prosecution as above with a further recommendation that the matter be considered by a higher Court where previous convictions have failed to secure compliance or where circumstances are so serious or significant that action by a lower court will not bring about a sufficient remedy;
- (7) to recommend prosecution as above, but with a further recommendation that a simple caution be offered in lieu of prosecution;
- (8) a combination of the above; and/or
- (9) to issue a fixed penalty in lieu of prosecution.

11.8 In all cases, the decision of the Panel will be recorded and signed by the CEHO,, HoEA, PEHO and Solicitor to the Council, as appropriate to their attendance. Wherever possible the relevant person(s) will be written to within seven days of the decision, informing them of the outcome of the Enforcement Panel.

12.0 **SIMPLE CAUTIONS/FIXED PENALTIES**

12.1 A simple caution will not be recommended or Fixed Penalty Notice issued where there is judged to have been potential for or actual serious harm or a reckless disregard for standards.

Simple cautions aim to deal quickly and simply with offences, divert offenders, where appropriate, from appearing in the criminal courts and/or reduce the likelihood of re-offending. Before considering a caution national and local records must be checked and Primary, Home or Lead Authorities consulted. If a caution has been given previously this will count against the issue of a further one. A further caution can still be administered if subsequent offences are trivial or unrelated.

12.2 We will consider recommending a simple caution or issuing Fixed Penalty Notice in lieu of a prosecution in the following circumstances:

- ❖ the offence has been clearly committed or there are no aggravating circumstances
- ❖ there is sufficient evidence of the offender's guilt to make conviction a realistic prospect; and
- ❖ there is a clear and reliable admission of the offence; and
- ❖ the offender clearly understands the significance of the offence and is likely to give informed consent to the caution or agree to the issue of a fixed penalty; and
- ❖ that public interest may be best served by this course of action. (In this respect, simple cautions or Fixed Penalty Notices may be appropriate to consider where: the offence is trivial (e.g. a dropped crisp), likely penalties will be low; where there is genuine remorse and commitment to correction, and/or no previous history of offending. There is also a general presumption against prosecuting juveniles, the elderly, the infirm or the mentally or severely physically impaired. Cautions will not generally be given to the under 18's except as in line with the options in 5.7.3 above).
- ❖ In addition, Fixed Penalty Notices will not be issued when the person is under 10, or is obstructive or non-co-operative or is confused, either through impairment, drugs or alcohol in which case other appropriate agencies should be involved. Simple cautions will not normally be given to a suspect under 18 – see 5.7 above in relation to Juveniles.

12.3 Where this recommendation is made to Committee/Cabinet Member, it must give the balance of reasons for and against preferring the simple caution or fixed penalty in lieu of prosecution. If subsequently the offender does not accept the caution or fixed penalty, the matter will be dealt with as a prosecution (see Criminal Investigation Procedures in 3.1 to 3.13.2 above).

Where a caution is considered, the reason for it and its implications should be explained and the caution outlined to the individual or organisation concerned.

Under no circumstances should a suspect be pressed or induced in any way to admit offences in order to receive a caution as an alternative to being prosecuted.

- 12.4 Where a simple caution is accepted, it will be issued using a Standard Written Admission format by the Head of Service or their nominated Deputy and details will be retained on EH files. The caution will normally be issued in person.
- 12.5 Fixed Penalty Notices will be issued by authorised Officers having considered the principles of enforcement and 5.2 above. See also 5.7 above in relation to action against juveniles.
- 12.6 Fixed Penalty Notices will not be repeatedly issued against the same individual or organization. The issue of more than two such Notices within the same six months will require agreement of a relevant team leader.
- 12.7 Fixed penalty levels together with early payment discount and warning fixed penalty notices will be kept under review. Unresolved notices will be considered for further action, prosecution and for recovery as civil debts. Receipts from fixed penalties are allowed to be kept by local authorities for supporting enforcement activities and will therefore be used as agreed with the Cabinet Member for the Environment.
- 12.8 It is the Council's intention to pursue all cases of non-payment of fixed penalty notices. However, it is recognised that there are times when individuals receiving such notices will want to question them.

This Council therefore operates an appeal process. This is in writing and the person affected may at any time within the early payment period submit their arguments as to why they feel they should not have been issued a fixed penalty notice. This appeal will be to the relevant Service Manager or their deputy.

The Council will consider appeals against the following.

An appeal will be considered where:-

- ❖ the person accused was not the person that committed the offence e.g. false details have been given;
- ❖ the person issued with the fixed penalty notice brings forward evidence that could undermine a later prosecution;
- ❖ where a fixed penalty notice has been wrongly issued;
- ❖ where the person issued with the notice is under the age of 10;
- ❖ if further evidence is provided that could lead to the conclusion that the person issued with the notice is in some way vulnerable and enforcement of the notice will not be in the public interest;

- ❖ there is some other reason why the enforcement of the notice would not be considered to be in the public interest.

Having considered the appeal the Authority will write to the appellant and explain the outcome.

Unsuccessful appellants will be allowed any outstanding days of the early payment period remaining after the date of their initial appeal in order to settle the debt at a reduced level.

Alternative payment arrangements may be agreed on an individual basis and requests for such payment should be put in writing to the relevant Head of Service of their Deputy.

13.0 **INJUNCTION**

13.1 Where we consider that the following criteria apply:

- ❖ there has been a conviction for failure to comply with a Statutory Notice; and
- ❖ there is no prospect of securing compliance; or
- ❖ there would be an unreasonable delay in securing compliance; or
- ❖ there has been no previous conviction but the matter is so serious that normal service of Notice and/or prosecution would pose an unreasonable delay in securing compliance; or
- ❖ the penalty for non-compliance is insufficient to deter continued non-compliance.

13.2 We will seek a High Court Injunction subject to the Solicitor to the Council being satisfied of the evidence and the relevant Cabinet Member and/or Chairman and Vice-Chairman of the relevant Committee give consent to such action. In the latter case, they may feel it necessary to convene a special meeting of the Committee.

14.0 **TIME LIMITS FOR PROSECUTION**

14.1 Officers must ensure that investigations are carried out without long delays, to ensure that any person charged with an offence is given a fair trial, in accordance with the Human Rights Act 1998. To try to ensure that this happens, each Officer will meet with their line Manager regularly (usually monthly) to discuss ongoing cases, to ensure that the next step of the investigation is taken without undue delay.

15.0 **WORK IN DEFAULT**

15.1 Where powers exist to undertake work in default, these will be considered in line with current policy. This requires that such work can be undertaken when:

- ❖ there is a reasonable likelihood of recovering the Council's costs; or
- ❖ work is needed to reduce significant fly-tipping or similar accumulation which is seriously detrimental to the neighbourhood; or
- ❖ work is required by Statutory Notice and there is a significant benefit in completing the work required in terms of protecting life or the environment; or
- ❖ work is of such small value that the cost of recovery would exceed the value of the work

In all cases work in default must be authorised by the Head of Service PEHO.

However, where Statutory Notices are not complied with, it is the Council's policy generally to prosecute, repeatedly if necessary, to secure compliance.

16.0 **APPEALS/LOST CASES**

16.1 In the event that any court case is lost in full or in part (i.e. dismissed with or without costs) the following action needs to be taken:

- (i) A review of the case will be undertaken by the Head of Service or PEHO, a representative of legal and the case officer(s) to identify difficulties, convictions and learning points. A summary report will be written for Licensing and Enforcement Committee. As part of any review the possibility of appeal will be considered.
- (ii) In considering the value of an appeal the following needs to be evaluated:
 - a) the legal principles offended and the likely effects that offences have for Arun, and its residents and businesses and those of other Local Authorities;
 - b) the extent of evidence available and the weight it was given by the Court;
 - c) the potential benefits of securing a conviction on appeal;
 - d) the likely costs of any appeal.
- (iii) In determining whether to appeal Counsel's advice will be sought.
- (iv) A written report outlining the facts (ii) above and all Counsel's opinion is to be prepared and submitted to the next available meeting of the Licensing and Enforcement Committee. If no meeting is scheduled within the appeal period a special meeting will need to be convened. Consideration must be given by officers in consultation with the Chairman/Vice Chairman of the Licensing and Enforcement and the Leader of the Council about the need to involve the Cabinet in any way in the decision making process about proceeding to appeal.

- (v) Only the agreed decision making body of members can decide whether to proceed to appeal.

17.0 **POLICY REVIEW**

- 17.1 The Policy will be reviewed periodically by the relevant Head of Service. Views on the Policy and its implementation will be sought to ensure it continues to meet the principles of good enforcement. The latest review has taken account of principles set out in the Hampton and Macrory Reports, DEFRA guidance on use of Fixed Penalty Notices, the Regulators Compliance Code and the LACORS guide on cautioning of offenders.