

Enforcement Policy

Environmental Health And Trading Standards Service



(November 2003)

(Revision of the Enforcement Policy drawn up the Director of Environmental Health & Trading Standards)

Approved by Regulatory Committee – November 2003.

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1. Introduction

- 1.1 The Environmental Health and Trading Standards Division is responsible for enforcing a wide range of legislation within the London Borough of Ealing. This document sets out our Enforcement Policy. It outlines what businesses, consumers, workers, residents and others can expect from enforcement officers.
- 1.2 All enforcement action will be undertaken without regard to the race, colour, religion, gender or sexual orientation of the person against whom the action is being taken. Enforcement action taken against an individual or organisation will be consistent with the council's commitment to equality and diversity, (namely to eliminate discrimination, promote equality of opportunity and enhance good community relations).
- 1.3 All enforcement action will be carried out by duly authorised Environmental Health and Trading Standards staff in accordance with this policy. We will apply the principles of good enforcement as set out in the Enforcement Concordat and other guidance issued by Central Government. This Council signed the Concordat (March 1998). The first Enforcement policy was adopted by Regulatory Committee on 31 October 2001. The policy is available to interested parties in order to help ensure that the Council's approach to enforcement is as open and fair as possible. It will be published on the corporate internet web site.

Aims

- 1.4 The policy reflects the Council's corporate aims and objectives. In particular we aim to:
 - ☐ Protect the health, safety, welfare and consumer interests of those who live, work, or are affected by activities taking place within the Borough.
 - ☐ Seek to maintain a fair trading environment for those businesses operating within the Borough.
 - ☐ Carry out enforcement in a fair, practical and consistent manner.
 - ☐ Provide a service which embodies good practice, Best Value, and individual Human/Legal Rights, in accordance with our Principles and Procedures for Good Enforcement.
 - ☐ Whenever possible, enforcement objectives will be met through the provision of advice and information, hence our support for the Home and Lead Authority Principles. We believe that prevention is better than cure.
 - ☐ Where the degree of risk or prejudice to residents, consumers, businesses, or the law demands a robust approach, statutory remedies will be used.
 - ☐ Maintain the quality of the housing stock to fulfill our legal duty.

Definition

- 1.5 Enforcement is any formal and informal action taken to prevent or rectify infringements of legislation. The Enforcement Options will differ where different pieces of legislation are used, but the principles of application should remain constant. Enforcement includes visits, verbal and written advice on legal requirements and good practice, assistance with licensing compliance, written warnings, the service of statutory notices, prohibitions, formal cautions, prosecution, seizure and detention, works in default, injunctions and liaison and cooperation with other enforcement authorities where appropriate (including "Enforcement Orders" injunctions).

2. Principles and Procedures for Good Enforcement

2.1 Standards

- 2.1.1 We will draw up clear standards setting out the level of service people can expect to receive in our Service Plans which will be made available. We will monitor and report on our performance against these standards.

2.2 Openness

- 2.2.1 Information and advice will be provided in plain language on the laws/rules that we apply and we will disseminate this through a variety of commonly used media, including the translation into different languages, braille or use of the Council's minicom service where appropriate or resources allow. We will take whatever reasonable steps are necessary to make ourselves understood.
- 2.2.2 We will be open about how we set about our work, including any charges we set. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties. We will clearly distinguish between statutory requirements and advice or guidance about what is desirable but not compulsory. As appropriate, advice will be put in writing. We will explain what remedial work is necessary, and why, and will indicate an appropriate time scale for completion.

2.3 Helpfulness

- 2.3.1 We recognise that most businesses and individuals want to comply with the law. Our role involves actively working with residents, consumers and business, especially small and medium sized businesses, to advise and assist with compliance. We will provide a courteous, helpful and efficient service and our staff will identify themselves by name.
- 2.3.2 A contact point and a range of contact options will be provided for further dealings with us and we will encourage people to seek advice/information from us. Applications for approval of establishments, licenses, registrations, etc will be dealt with efficiently and promptly.
- 2.3.3 We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated internally and with outside bodies to minimise unnecessary overlaps and time delays.

2.4 Proportionality

- 2.4.1 When making a decision on appropriate enforcement action officers will, where discretion is allowed, consider both the circumstances of the case and the attitude and history of the parties involved. We will ensure that remedial action required is proportionate to the risks/disadvantage created by the non-compliance and that it reflects any advice issued by Central Government or other co-ordinating bodies. Where formal cautions or prosecutions are being considered the requirements of the Home Office Guidance and The Code for Crown Prosecutors respectively will be borne in mind.
- 2.4.2 We will take particular care when working with individuals, small businesses and voluntary organisations so that they can meet their legal obligations without unnecessary expense, where practicable. However we recognise this does not diminish their obligations.

2.5 Consistency

- 2.5.1 Enforcement staff will carry out their duties in a fair, equitable and consistent manner. While officers are expected to exercise judgement in individual cases, we will make arrangements to promote consistency. We will abide by the Home and Lead Authority Principles wherever they apply.
- 2.5.2 We will participate in liaison with other Authorities and enforcement bodies to ensure consistency and to explore and develop best practice.
- 2.5.3 Unless immediate enforcement action is required, action will not normally be taken in matters which fall under the control of other agencies and authorities without prior consultation.
- 2.5.4 Where advice is given which impinges on the enforcement role of another agency, the recipient will also be advised to contact that agency.

2.6 The Use of Formal Action

- 2.6.1 Before formal enforcement action is taken officers will provide an opportunity to interested parties to discuss the circumstances of the case and, if possible, resolve points of difference. In some cases this will be via a Notice of Intention Procedure.
- 2.6.2 This opportunity for discussion will not be given when the situation is so serious that immediate action is necessary or may prejudice later proceedings. Where immediate action is taken the officer who initiated it will write to interested parties (wherever possible within five days and always in ten days) explaining why the action was required.
- 2.6.3 Where rights of appeal exist against formal action we will clearly state this. Advice on the appeal process will be set out in writing at the time the action is taken.

2.7 Conflicts of Interest and Undue Influence

- 2.7.1 We will take steps to ensure that legislation is enforced in an impartial way. The Council has in place procedures to deal with any potential conflicts of interest, and

undue influence, being brought to bear on enforcement decisions or actions. Any complaints made in connection with these matters will be investigated. **Appendix A** sets out the Division's procedure for dealing with conflicts of interest and undue influence.

- 2.7.2 Where the Division is responsible for enforcement action that impinges on matters, which are the responsibility of the Authority, there may be a possible conflict of interest. All such matters will be considered by a Environmental Health and Trading Standards Service Head who will ensure interested parties are informed of possible conflicts. Where Environmental Health and Trading Standards has joint enforcement responsibility with other agencies consideration will be given to involve those parties. The Council Monitoring Officer will be informed about issues which do not appear to have been resolved.

2.8 Human Rights

- 2.8.1 All enforcement action and investigations will be carried out in a manner which complies with the requirements of legislation and codes of practice governing the collection of evidence and investigatory powers.
- 2.8.2 Officers will take care not to take any action which contravenes rights conferred by The Human Rights Act 1998 or any other legislation.

2.9 Powers

- 2.9.1 Environmental Health and Trading Standards staff have a range of powers to help them enforce criminal legislation. Officers must not be prevented from carrying out their duties and must be given reasonable assistance and correct information. **Obstruction** is a criminal offence.
- 2.9.2 Officers will not exceed their powers and will keep within the legal framework governing their activity. They will comply with the requirements of the Police and Criminal Evidence Act 1984, the Criminal Procedure and Investigations Act 1996 and the Regulatory of Investigatory Powers Act 2000.

2.10 Targeting

- 2.10.1 The Council accepts that its enforcement resources are limited and where appropriate they should be focused on those persons, premises or companies whose activities give rise to the risks which are most serious or least well controlled.
- 2.10.2 Officers therefore carry out a programme of inspections on a risk rating basis, premises or activities with the highest hazards, greatest risks, poorest compliance and worst management being inspected more frequently than low risk premises. Some low risk premises may not form part of the inspection programme at all but generally will be given literature or guidance to help them run their business safely and with the least impact on their local environment.

2.10.3 Enforcement is informed through intelligence arising from investigation of complaints and planned projects, special surveys and enforcement initiatives – some may result in departures from the programme of inspections.

2.10.4 All our enforcement work under the Environmental Protection Act 1990 (authorisations of prescribed processes) is carried out as required by DEFRA, which sets timescales for determination of applications, variations and revocations of permits to operate.

2.11 Referrals

2.11.1 In some circumstances breaches found at the retailer at the end of the supply chain may best be dealt with by the manufacture/importer e.g., labelling infringements. Technical breaches may be referred to the authority where the product originated for them to deal with as they see fit, subject to their agreement. For those companies with a “Home Authority” arrangement, such referrals would normally follow.

2.11.2 We regularly consult and work with other agencies, including:

- the London Fire Brigade before serving a statutory notice requiring the provision of fire precautions in a HMO under section 352 of the Housing Act 1985;
- Thames Water as statutory sewerage undertakers;
- the police on issues concerning travellers;
- the Environment Agency concerning fly tipping;
- Health & Safety Executive on gas safety
- liaison with other agencies such as the police and/or the Housing Department will be carried out whenever necessary, particularly on such matters as entering premises to seize equipment and dealing with anti-social behaviour orders.
- other council departments (e.g, Social Services, Housing, Finance, Community Safety & Crime Unit).

2.11.3 Information of allegations outside the remit of this service may be referred to the appropriate enforcement authority with the witness contact details (if witness agrees) to enable that agency to investigate the allegation.

2.12 Prosecutions

2.12.1 We will use discretion in deciding whether to initiate a prosecution. Other approaches to enforcement can sometimes promote compliance with legislation more effectively. However, where the circumstances warrant it, prosecution without prior warning and recourse to alternative sanctions may be appropriate.

2.12.2 The decision to prosecute will take into account the criteria set down in the Code for

Crown Prosecutors, issued by the Crown Prosecution Service.

2.12.3 In considering whether a prosecution might be appropriate consideration will be given to the following:-

- ☐ Is there a risk or danger to public or personal safety?
- ☐ Is fraud, gross negligence or an otherwise "guilty mind" involved?
- ☐ Is there failure in following our advice concerning legal requirements?
- ☐ Are there persistent breaches following warnings from this Service?
- ☐ Is there significant (potential or actual) financial loss?
- ☐ The attitude of the offender

2.12.4 In addition, consideration will be given to guidance and advice offered by Government Departments and Agencies, Local Authority Associations, the Local Authorities Co-ordinators of Regulatory Services, the Health and Safety Commission and other relevant bodies.

2.12.5 Where there has been a breach of the law enforced by the Division leading to a death, we will consider whether the circumstances of the case might justify a charge of manslaughter. We will liaise with the Police, Coroners and the Crown Prosecution Service (CPS) and other agencies as necessary.

2.13 Prosecution of Individuals

2.13.1 The laws we enforce place responsibilities not only on businesses (including sole proprietors & partners) but also on employees and private individuals. Subject to the above criteria, officers responsible for recommending prosecution will not distinguish their actions or decisions on the basis of status alone. If it is considered warranted by the circumstances, we will prosecute those individuals responsible for the offence (including company directors and managers where the law allows).

3. Enforcement Options

The method of enforcement selected should be calculated to produce the highest reasonable standards of compliance within the least time. Any formal action will be considered in accordance with our prosecution policy. Some initial action will be dependant on the urgency of the situation.

Options Available

- informal action & advice - written or oral

- a range of statutory notices generally requiring some remedy within a specified timescale (or possibly immediately)
- letter of warning
- formal caution
- prosecution
- prohibition
- injunctive restraint (“Enforcement Orders”)
- seizure of equipment, articles or records (paper or computer)
- execution of work in default i.e, required by a statutory notice where the recipient has not complied
- a range of statutory orders - e.g. closing, control or demolition orders under the Housing Act 1985
- compulsory purchase of properties within the Borough.

3.1 Informal Action

3.1.1 Advice

- 3.1.1.1 To achieve compliance with “EHTS” legislation, we will work with businesses and adhere to the Home Authority Principle, wherever possible. The Home Authority Principle has been developed by food and trading standards authorities as an aid to good enforcement practice. Consideration will be given through advice, either verbally, by letter or notice to bring breaches or potential breaches to the attention of the relevant persons, and propose remedial action.
- 3.1.1.2 Advice given by an officer will normally be put into writing unless the non compliance is very minor or the matter is rectified on the spot. The advice may be provided in a notice outlining the non compliance(s) giving a specified period to put the matter right, or in a letter or both. An appeals mechanism is in place should there not be agreement. In the first instance, the Service Heads should be contacted to see if the problem can be resolved informally. If there is still disagreement, then the issue may be pursued through the complaints procedure.
- 3.1.1.3 Even the best business make occasional mistakes. When a potentially unsafe product is discovered many companies find it difficult to know where to start on recalling products from consumers. This Service will provide advice according to the “Consumer Product Recall A Good practice Guide” issued by the DTI .

3.1.2 Voluntary Surrender of Goods

- 3.1.2.1 On some occasions it may be appropriate to obtain the voluntary surrender of goods, to Trading Standards, not complying with legislation. This would be appropriate where perhaps only a few items are involved and legal proceedings would not be consistent with the prosecution policy for example, an itinerant seller of counterfeit clothing at a market with just a few garments. With the trader’s agreement, the goods are removed from the market place and without the expense of going to court. The Service can then concentrate resources on the primary supplier.

3.1.3 Referral to Ealing Mediation Service

- 3.1.3.1 An alternative option for individuals who have made complaints which are either technical breaches of the legislation or on the fringes of law enforcement. The officer may consider that the individuals involved are referred to this Service subject to their agreement. Mediation may be particularly relevant for neighbour disputes.

3.2 Formal Action

3.2.1 Use of Statutory Notices

- 3.2.1.1 Subject to the many specific rules governing the use of different statutory notices, they would generally be used where there is a clear breach of the law, where the degree of risk or environmental impact or harm from the situation is significant and where a remedy needs to be specified and secured within a set period of time. In some instances service of a notice will be compulsory - e.g. abatement notices under the Environmental Protection Act 1990.
- 3.2.1.2 Notices generally specify the problem and a remedy (determined by officers of the Council). They are appropriate where, in addition to the above, the response of the offender needs to be monitored to ensure a satisfactory outcome.
- 3.2.1.3 Subject to consideration of the evidence it is likely that the negligent or willful non-compliance with a statutory notice will result in prosecution.

3.2.2 Suspension Notice

- 3.2.2.1 An Authorised Officer may serve a suspension notice when he/she has reasonable grounds for suspecting that goods contravene any safety provision. Where a large quantity of goods are involved this notice prevents the supplier from moving the consignment without first notifying this office. The officer will comply with the Suspension Notice procedure and the notice will be for a period not exceeding 6 months. The defendant will be served with the Notice of Powers and a copy of the Suspension Notice.

3.2.3 Seizure of Goods, Documents & Equipment

- 3.2.3.1 Authorised Officers will on occasion require evidence for their investigation using their entry powers for inspection. Goods (e.g, unfit food, unsafe goods, machinery & work equipment, counterfeits etc.) and documents may be seized subject to the conditions in the Notice of Powers given in the "Premises Search Book" required by PACE. The occupier(s) will be given a notice giving a summary of their rights together with the powers of the officer.
- 3.2.3.2 This approach will be used in association with other powers relating to noise nuisance, where there has been a repeated, persistent or extreme use of sound

equipment which has caused a high level of disturbance to one or more neighbouring properties and where it is practical to seize the equipment.

3.2.4 **Letter of Warning**

3.2.4.1 In certain circumstances, it may be appropriate to deliver a warning/advisory letter bringing alleged offences to the attention of the trader and indicating ways to avoid commission of similar offences in the future.

3.2.4.2 A "Letter of Warning" should be given when the requirements for a formal caution are not met or the need to formally record the caution is not applicable. In either case it is essential that sufficient admissible evidence is available to substantiate the offence.

3.2.5 **Formal Cautions as an Alternative to Prosecution**

3.2.5.1 As an alternative to legal proceedings subject to the same considerations to legal proceedings.

3.2.5.2 The guidelines above endorse the principle that suspected criminal offences should not automatically be the subject of prosecution. Where there is sufficient evidence but the public interest does not require prosecution a caution may be administered.

3.2.5.3 A formal caution is issued subject to the procedures in Home Office Circular 59/1994. The caution is formally recorded and may be cited in subsequent court proceedings (within 3 years) and can only be administered where the offender agrees to be so cautioned and admits the offence. A copy of the caution will be sent to the Office of Fair Trading to be available to other Trading Standards Departments should they wish to establish a previous history for consideration of legal proceedings. Failure to obtain agreement to a formal caution may not necessarily result in prosecution.

3.2.6 **Forfeiture**

3.2.6.1 Goods contravening Trading Standards legislation may be subject to forfeiture orders. Unsafe goods and goods contravening the trade marks legislation may be subject to forfeiture without the requirement to take separate legal proceedings for offences. For other offences this option is only available subject to the Powers of Criminal Courts (Sentencing) Act 2000, where a defendant has been convicted of an offence in connection with these goods.

3.2.6.2 In cases where prosecution follows a seizure of equipment arising from a noise nuisance, an application will be made to the Magistrates Court for forfeiture under the Environmental Protection Act 1990.

3.2.7 **Prohibition**

3.2.7.1 This power will be used where there are statutory grounds (i.e. that there is an imminent risk of injury to health or a risk of serious personal injury) and where the situation cannot be allowed to continue because of the risks involved. This course of action is usually associated with food and health and safety enforcement but there will be other occasions

where it may be appropriate, for example prohibiting the sale of unsafe goods.

3.2.8 **Injunctive Restraint**

3.2.8.1 An injunction may be sought from the courts where the circumstances of any case cause a significant problem or threat to an individual's or group of individual's health, and the normal process of law (statutory notices, prosecution or work in default) is likely to be ineffective because the perpetrator has shown a careless disregard for earlier similar requirements, or where the process of law would take an unacceptable period of time having regard to the particular circumstances.

3.2.8.2 An example might be where, in spite of a notice requiring them to stop causing noise nuisance, a builder continued to work at night and at weekends to complete a contract very quickly because the contractual financial penalties made it economically desirable for them to do so. Any subsequent trial would be after the development was finished.

3.2.9 **Work in Default**

3.2.9.1 Some legislation allows the local authority to undertake the work required by a notice if the recipient of the notice does not do so within the times specified in it.

3.2.9.2 Where a notice has been served, and where without adequate excuse or reason, the work has not been done, then work in default would generally follow subject to the practical constraints of the case and the financial circumstances. Prior to carrying out works in default the Council will consider carefully the prospect of recovery of any costs incurred in accordance with current Council policy.

3.2.9.3 The Council will make every effort to recover the full cost of doing the work in default, including the use of all the powers available including civil proceedings. Registration of charge at local land registry. Charging Order at HM Land Registry. Execution of power of sale to also recovery of admin fees and interest.

3.2.10. **Statutory Orders**

3.2.10.1 A range of Statutory Orders are available under the Housing Act 1985 are sometimes a precursor to compulsory purchase proceedings and will be used and enforced where appropriate. Statutory procedures prior to the execution of work in default will be completed and reviewed to consider the reasonableness of the execution of the order. Rights of appeal exist in relation to these powers and compensation provisions could arise in some cases.

3.2.11 **Compulsory Purchase Orders**

3.2.11.1 The Council may compulsorily purchase property under Section 17 Housing Act 1985. This procedure may sometimes follow the exercise of another statutory power (e.g. a Control Order) or may be carried out without prior action. The consent of the Secretary of State is required and compensation provisions flow from the exercise of this power.

4. Prosecution Policy

4.1 Instituting legal proceedings

- 4.1.1 Our strategy for regulatory work indicates that we will always have regard to the best use of resources and consider what is the best course of action in seeking compliance. We are also committed to being objective and fair. The following policy will assist us in this approach.
- 4.1.2 In formulating the decision to prosecute, caution or pursue another remedy the following criteria will be used.

4.2 Sufficiency of Evidence

- 4.2.1 In considering the institution of legal proceedings, or the issuing of a caution whether formal or informal, the immediate consideration is the sufficiency of available, admissible evidence to substantiate the allegation that a criminal offence has been committed. The test to be applied is whether there is a reasonable prospect of a conviction, bearing in mind any statutory defences available to the defendant, and any other factors which would preclude a successful conviction.
- 4.2.2 In determining the sufficiency of evidence, consideration should be given to the following factors.
- i) availability of essential evidence;
 - ii) credibility of witnesses - are they likely to be seen as credible witnesses and whether they are likely to be consistent and fair under cross-examination - are they willing to attend as witnesses - could they be 'hostile' witnesses;
 - iii) where the case depends in part on admissions or confessions, regard should be had to their admissibility;
 - iv) where two or more defendants are summonsed together, the sufficiency and admissibility of evidence available against each defendant, in the event that separate trials are ordered.
- 4.2.3 In determining the admissibility of evidence, regard should be given to the requirements of the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996 and associated Codes of Practice.
- ### **4.3 The Public Interest Criteria**
- 4.3.1 When satisfied that sufficient evidence is available, consideration must be given to whether the public interest requires a prosecution. Suspected criminal offences should not automatically be the subject of prosecution, but that prosecution should follow wherever it appears that the offence or its circumstances is or are of such a character that a prosecution is required in the public interest.

- 4.3.2 The factors which can properly lead to a decision not to prosecute will vary from case to case, but generally, the more serious the offence, the less likelihood there will be that the public interest will be served otherwise than by prosecution. The Service Head uses a check list to ensure compliance with this procedure.
- 4.3.3 The following considerations should apply:-
- i) seriousness of the offence - the degree of detriment or potential detriment to consumers, employees or the environment. The likely penalty may be indicative as will current public attitudes to particular breaches of the law;
 - ii) the age of the offence (staleness) - regard must be had not only to the date when the offence was committed but also to the length of time which is likely to elapse before the matter can be brought to court. Less regard will be paid to staleness if it has been contributed to by the defendant themselves, the complexity of the case or the particular characteristics of the offence that have contributed to the delay in its coming to light;
 - iii) the age, circumstances or mental state of the offender - the age whether young or old will have a bearing on the decision whether to prosecute unless there is a real possibility of repetition or the offence is of a serious nature. One must also consider whether the defendant is likely to be fit enough to attend court;
 - iv) complainant's attitude - in some cases it will be appropriate to have regard to the attitude of a complainant who later expresses a wish that no action be taken;
 - v) the willingness of the offender to prevent a recurrence of the problem. If the circumstances that give rise to the offence have subsequently been rectified and there is little likelihood of a recurrence then the case may be dealt with more appropriately by other means;
 - vi) the 'newness' of the legislation transgressed may be a consideration, especially where the offence is of a technical nature, and future compliance may be obtained by less formal means;
 - vii) important but uncertain legal points may have to be tested by way of prosecution.
- 4.3.4 If having weighed the factors above which are relevant, the Service Head is still in doubt as to whether proceedings should be instituted, he/she must consider the attitude of the local community and the prevalence of the offence locally or nationally. If there is still some doubt then in the final analysis it is for the Court to decide and a prosecution will be taken.

5. Administration of Policy

5.1 Confidentiality

5.1.1 We will ensure that the identity of persons contacting us, and any information supplied by them, is not revealed to a third party except:-

- ☐ where the law requires or
- ☐ where the case goes to court or tribunal or
- ☐ with the prior written agreement of the person supplying the information.

5.1.2 Persons wishing to remain anonymous may do so and information supplied in connection with breaches of legislation will be investigated where ever possible regardless of the anonymity of the complainant .

5.2 Complaint Procedures

5.2.1 We will respond to complaints about the service we provide in accordance with the Corporate Complaint Procedure. This procedure is publicised in the leaflet "Suggestions or Complaints".

5.2.2 Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within 5 working days and in all cases, within 10 working days.

5.3 Implementation and Review

5.3.1 Implementation of the policy is the responsibility of all enforcement officers. The implementation of the policy will be monitored by the Service Heads for the relevant Services.

5.3.2 Departures from this policy will not occur without full consideration of all the circumstances by the responsible Service Head, save in exceptional, or unforeseeable circumstances where adherence to this policy would put public or individual health or safety at risk.

5.3.3 This policy will be reviewed and updated if any changes in legislation, guidance or other circumstances have a significant impact on the enforcement principles set out in this document.

5.3.4 As part of the ongoing development of this policy we will consult with those affected by it including groups with particular needs and interests, consumers, businesses, their employees and the public.

5.4 Monitoring of the Policy

- 5.4.1 We will set up a monitoring system whereby we will examine a sample of the enforcement action taken by our officers to monitor against this policy. This will be done by in-process monitoring and discussion at the regular one-to-one meetings. The results will be reported on at team manager meetings and the 6 monthly quality review meetings. If changes are found to be needed an objective will be built into the Service Plan.

Appendix A.

Conflicts of Interest and Undue Influence

The enforcement role of the Division is an impartial one. However, within the Service, as with any organisation, there is the possibility of a real or perceived conflict of interest or undue influence arising. It is important to the integrity of the Service that people seeking to use it are neither discriminated against nor granted advantageous treatment because of their status.

Circumstances which may give rise to a real or perceived Conflict of Interest.

There may be circumstances short of a criminal offence which could give rise to a conflict of interest between an employee and a customer, for example:-

- ☐ Where the customer is socially acquainted with or related to the officer. Under these circumstances it would be difficult for the officer to act in an impartial manner and unreasonable to expect this.
- ☐ Where an employee receives a request for advice or assistance which falls outside the normal remit for the service from a Council Member, Council employee or an agency who they have close working contact with.

Undue Influence.

Undue influence arises where a party exercises a dominant influence over the mind of another so that person is unable to exercise a free and independent will in the matter. For example, when an employee knows that a client is a Councillor or a more senior Council Employee, they should ask him/herself whether, if this were publicly known, it might be perceived as affecting the judgement or actions of the advisor.

Where an employee believes that there is potential for Conflict of Interest or Undue Influence then the matter should be referred to their line manager for appropriate action/advice.

Information Indicating the Commission of a Criminal Offence

If it becomes apparent to an employee from information received from a client, that either a client or a third party may have committed a criminal offence, the employee shall temporarily adjourn the proceedings and consult his line manager on the matter. The manager will take appropriate action which may include:-

- ☐ Obtaining more details.
- ☐ Advising the client that no service can be given due to the possible illegality of past events and/or conflict of interest.
- ☐ Advising the client to contact the appropriate enforcement agency.
- ☐ Informing the police or other enforcement agency of the information received.

In the case of information indicating an offence by either the London Borough of Ealing, a Councillor, or an employee of the London Borough of Ealing, the Director of Environmental Health and Trading Standards will be immediately informed.

APPENDIX B-REFERENCES

a) Crown Prosecution Service: The Code for Crown Prosecutors, 2000, issued under section 10 of the Prosecution of Offences Act 1995 & is available from CPS London EC4M 7EX.

Find at www.cps.gov.uk (Publications).

(b) Enforcement Concordat, March 1998 & is available from the Better Regulation Unit, Cabinet Office London SW1P 3AL. Find at www.cabinet-office.gov.uk/regulation/publicsector/enforcement

(c) London Borough of Ealing's "Suggestions or Complaints". Available from The London Borough of Ealing, Perceval House, 14-16 Uxbridge Road, Ealing, London, W5 2HL. (020 825 6666).

(d) Local Authorities Coordinating Body on Food and Trading Standards (LACOTS) **now LACORS:** Chief Officer bulletins 1987- 2000, London SE1 7SP. Find at WWW.Lacots.com

(e) "Consumer Product Recall A Good practice Guide", November 1999 issued by the DTI London SW1H 0ET. Find at WWW.dti.gov.uk/ccp/topics1/pdf1/consumer.pdf

(f) Home Office Circular No 18/1994, dated 15 March 1994: The Cautioning of Offenders & is available from CPS London EC4M 7EX. Find at WWW.homeoffice.gov.uk/docs/hoc9418.html