

## **ADOPTION OF THE ENFORCEMENT CONCORDAT AND THE HOUSING, HEALTH & COMMUNITY CARE ENFORCEMENT POLICY.**

### **1 SUMMARY**

- 1.1 To adopt the principles of the Enforcement Concordat (Appendix 1).
- 1.2 To adopt the Housing, Health & Community Care Enforcement Policy (Appendix 2).

### **2 INTRODUCTION**

- 2.1 The Enforcement Concordat was drawn up in consultation with local and central government, business and consumer groups and sets out a blueprint for fair, practical and consistent enforcement. It is based on the principles that those regulated should:
  - Receive clear explanations of what they need to do and when,
  - Have opportunities to resolve differences before enforcement action is taken (unless immediate action is needed), and
  - Receive an explanation of their rights of appeal.
- 2.2 The concordat, although currently not a statutory requirement, has been adopted by over 60% of local authorities in England and Wales and all local authorities in Scotland since its launch in March 1998. It is being jointly promoted by the Cabinet Office and the Local Government Association and has received support from a number of professional bodies.
- 2.3 The Government sees the Concordat as indicative of local government's commitment to modernising enforcement, through the provision of transparent and proportional regulatory services. It has been introduced as a voluntary initiative, however, it is Government policy to amend the Deregulation and Contracting Out Act 1994 to give 'fallback' power to Ministers. These could be used in the event that the good practice set out in the Concordat is not achieved within local government.

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- 2.4 It is clear that the Government intends to ensure that all regulatory agencies, including central Government departments, sign up to the Concordat. It will be impossible to demonstrate that the Council is providing best value in enforcement services unless it applies the principles in the Concordat. Adoption, and the production and monitoring of performance standards is part of a new Best Value Performance Indicator for environmental health services.
- 2.5 All of the Council's enforcement related functions will need to be covered by the concordat in order to demonstrate a commitment to achieving best practice. An authority will only be recognised as having signed up to the Concordat if all its regulatory functions are included. Each enforcing division of the Council will need to produce an enforcement policy in support of the adopted concordat and these will be brought forward for Members' approval. The Planning Enforcement Policy was approved at the Planning Services Committee held on the 14<sup>th</sup> of December 2000. The Housing, Health & Community Care Enforcement Policy is included within this report.
- 2.6 It is not necessary for the Council to be in complete compliance at the time of adoption, but to have indicated a commitment to the principles set out in the concordat and to be working towards achieving the required standards. Adoption of the concordat by the authority should be notified to the Local Government Association (LGA). The format, as set out in Appendix 1, has been recommended for all enforcement agencies by the Cabinet Office.
- 2.7 Authorities are expected to produce an implementation plan and, within a year of adoption, and then annually, to produce a report on their progress and performance against the concordat. Both of these documents should be sent to the LGA. An audit proforma has been produced in order for the authority to undertake this self-assessment.
- 2.8 Current levels of compliance with the principles of the Concordat vary between the Council's functions. In some areas, existing practices meet many of the required standards, but in others there will be much work to do in setting, achieving and monitoring appropriate standards.
- 2.9 Issues that need to be addressed in order to achieve compliance include:
- Standards for levels of service and performance consulted on and published and monitored, with shortcomings corrected.
  - Openness in setting charges.
  - Consultation on the way enforcement activities are conducted.
  - Active involvement in the provision of assistance with compliance.
  - Efficient and prompt approval of applications for various licences, registrations etc.

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- Co-ordination of enforcement services to minimise duplication and delay.
  - Proportionality of enforcement action to risk.
  - Clear policies for decision making on enforcement action.
  - Arrangements for ensuring consistency in enforcement including liaison with other authorities.
  - Arrangements for periodic meetings with businesses, etc

An Officer Working Group will consider the improvements required to fully implement the concordat and an implementation plan will be brought back for consideration.

### **3 HOUSING, HEALTH & COMMUNITY CARE ENFORCEMENT POLICY**

- 3.1 The Housing, Health & Community Care Enforcement Policy has been developed in accordance with the principles of the Concordat. It aims to provide further information on areas of enforcement carried out by the division and the compliance assistance it is able to offer to citizens and businesses, but makes clear that further work is required to fully meet the standards set out.
- 3.2 The policy gives a clear commitment by the division to the protection of the public and the environment by developing the fair, consistent, transparent and proportional enforcement of relevant legislation.

### **4 RESOURCE IMPLICATIONS**

- 4.1 Any costs associated with the initial publication of the Concordat and the Housing, Health & Community Care enforcement policy will be met from existing budgets.
- 4.2 There will be significant resources implications in producing an implementation plan, divisional enforcement policies, standards of services etc and in undertaking consultations, monitoring compliance and correcting shortfalls.
- 4.3 Resource issues will become more apparent from the development of the implementation plan and enforcement standards, and the results of consultations. These will be included within further reports.

### **5 LEGAL IMPLICATIONS**

- 5.1 Although adoption of the Concordat by the Council is currently voluntary, it is a Best Value Performance Indicator for local authorities.

### **6 RECOMMENDATION**

It is proposed that the Committee **RESOLVES**

1. To adopt the principles of the Enforcement Concordat for all enforcement services.
2. To approve the Housing, Health & Community Care Enforcement Policy.
3. To authorise the Head of Housing, Health & Community Care to update or amend the divisional enforcement policy as appropriate in the future.
4. To produce enforcement policies, in support of the concordat, for all relevant divisions of the Council.
5. That an implementation plan and estimated resource implications be reported to a future meeting.

Graham Woolhouse

Head of Housing, Health & Community Care

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**Background Papers:**

Concordat on Good Enforcement

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**Appendix 1**

**Rochford District Council**

**ENFORCEMENT CONCORDAT**

## **Our Enforcement Services**

### **Our Aims**

The Council delivers a wide range of enforcement services aimed at improving and safeguarding the community.

### **Our Commitment**

We are committed to the adoption and implementation of good enforcement, by carrying out regulatory services in a fair, open and consistent manner.

### **The Enforcement Concordat**

To this end, Rochford District Council has adopted the principles of the Government's Enforcement Concordat and is working towards putting into place policies, procedures and plans that deliver effective, efficient, enforcement services. We acknowledge that this will take some time to fully implement.

### **The Needs of Citizens and Businesses**

The Council recognises the needs of citizens and businesses and will work closely with them to help them comply with the law.

However, we will take firm action against those who commit serious offences or consistently break the law.

The enforcement of the law helps to protect the environment, promote a thriving economy and maintain a fair and safe trading environment.

### **The Principles of Good Enforcement**

#### **Standards**

We will:

- Set clear standards of service and performance that the public and businesses can expect;
- Consult with business, the public and other interested parties;
- Publish our standards and measure our performance against the standards set;
- Recognise the need for confidentiality in certain cases.

#### **Openness**

We will:

- Provide information and advice about our enforcement services in plain language and distribute it as widely as possible;
- Be open on how we go about our duties, including how charges are set;
- Make ourselves available to discuss general issues, compliance failures and where problems are being experienced.

### **Helpfulness**

We will:

- Encourage, advise and assist businesses and the public on compliance with the law since prevention is better than cure;
- Be courteous and efficient: Staff will identify themselves by name and provide a contact point for any future dealings with us.
- Strive to provide a speedy and cost effective service;

### **Complaints**

We will:

- Deal with all complaints and representations in accordance with the Council's Customer Care and Complaints Procedure.

### **Proportionality**

We shall ensure that we;

- Avoid unnecessary expense to business and the public by taking action that is proportionate to the hazard, risk and breach of law;
- Recover our expenses as far as possible from the offender;
- Take into consideration the circumstances of the case and the attitude of all parties;
- Make clear the difference between what is a legal requirement and what is recommended as best practice;

### **Consistency**

We will:

- Carry out enforcement duties in a fair, even and consistent manner, whilst exercising discretion in individual cases;
- Adopt arrangements to promote consistency including liaison with other enforcement authorities and agencies;
- Underpin this aim through effective training and development of our enforcement officers.

**Procedures**

We will:

- Provide clear, simple advice and where necessary, confirm this in writing, ensuring that legal requirements are clearly distinguished from best practice advice;
- Before formal enforcement is taken, write and provide opportunity to discuss the circumstances of the case and, if possible resolve points of differences, unless immediate action is required;
- Where immediate action is considered necessary, give an explanation of why such action was required which will be given at the time and confirmed in writing with 5 working days;
- Where there are rights of appeal against formal action, give advice on the appeal mechanism which will be clearly set out in writing at the time action is taken (whenever possible, this advice will be issued with the enforcement notice).

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<b><u>Chief Executive's Office</u></b>	<b>01702 318003</b>
<b><u>Directorate of Finance and External Services</u></b>	<b>01702 318001</b>
<b>Financial Services</b>	<b>01702 546366</b>
<b>Revenues and Housing     Management</b>	<b>01702 318005</b>
<b>Contracted Services</b>	<b>01702 318122</b>
<b>Housing, Health &amp;     Community Care</b>	<b>01702 318045</b>
<b><u>Directorate of Law, Planning &amp; Administration</u></b>	<b>01702 546366</b>
<b>Legal Services</b>	<b>01702 546366</b>
<b>Administrative &amp;     Member Services</b>	<b>01702 318135</b>
<b>Planning Services</b>	<b>01702 318137</b>

**If you wish to comment on the enforcement concordat or require more  
information, please contact:**

**Head of Administrative & Member Services  
Rochford District Council  
Council Offices  
South Street  
Rochford  
Essex  
SS4 1BW**

**01702 318135**

**Appendix 2**

**Rochford District Council**

**Enforcement Policy  
Housing, Health & Community Care**

### **Enforcement Policy**

#### **Enforcement Concordat**

Rochford District Council has adopted the Government's Enforcement Concordat and is working towards putting into place policies, procedures and plans that deliver effective, efficient public services. We acknowledge that this will take some time to fully implement.

#### **Housing, Health & Community Care**

The Housing, Health & Community Care Enforcement Policy is published in support of the Enforcement Concordat. The policy aims to provide further information on areas of enforcement carried out by the division and the compliance assistance it is able to offer to citizens and businesses.

The division is committed to protecting the public and the environment by the fair, consistent, transparent and proportional enforcement of relevant legislation.

'Enforcement' includes advice, assisting with compliance, licensing or other consents and formal enforcement action. We will, where appropriate, seek to encourage, advise and assist businesses and the public on compliance with the law, although it is not possible for the division to provide a consultancy service. The division will also adopt arrangements to promote consistency of enforcement including liaison with other enforcement authorities and agencies where appropriate.

Although the division expects full voluntary compliance with relevant legislative requirements and licence provisions, it will not hesitate to use its enforcement powers where necessary.

### **Our Service**

The Housing, Health & Community Care Division has responsibilities for enforcement within the following areas of law:

Environmental Protection  
Health & Safety  
Food Safety  
Licensing  
Street Trading  
Housing Standards  
Pest Control  
Infectious Disease Control

### **Enforcement Powers**

The enforcement powers available to the division include abatement notices, enforcement notices (where contravention can be prevented or need to be remedied), prohibition notices (where there is an imminent risk of serious harm to safety, health or environmental damage), supervision or revocation of licences, variation of licence conditions, injunctions and the carrying out of remedial works. Where the Council has carried out remedial works, it will always seek to recover the full costs incurred from those responsible.

Where a criminal offence has been committed, in addition to any other enforcement action, the Council will consider instituting a prosecution, administering a caution or issuing a warning.

Enforcement by the division will have regard to all relevant legislation and guidance including:

The Human Rights Act 1998  
The Police & Criminal Evidence Act 1984  
The Regulation of Investigatory Powers Act 2000  
Code for Crown Prosecutors

### **WHAT YOU CAN EXPECT FROM OUR STAFF**

You are entitled to expect our staff:

- To give an efficient service
- To identify themselves by name (and produce identification if requested)
- To provide a contact point for any further dealings
- To give clear advice
- To clearly distinguish between what you **must** do to comply with the law and what is **recommended** as best practice
- To only require action which is proportional to the risk involved
- To give a reasonable time to comply (unless immediate action is necessary in the interest of public health or safety or protecting the environment)
- To confirm in writing within 5 working days the reasons why immediate action was considered necessary.
- In cases of dispute, to advise you of the procedure for making a complaint or representation under the Council's Customer Care and Complaints Procedure.

If you wish to comment on this enforcement policy or require more information, please contact:

Head of Housing, Health & Community Care  
Rochford District Council  
Council Offices  
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