

STATEMENT OF ENFORCEMENT POLICY

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Preface

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Preface

The policy underpins all investigations undertaken by the Authority under statutory regulatory services or non-statutory enforcement functions and prosecution proceedings throughout the Authority. All officers when taking enforcement decisions will abide by this Statement of Enforcement Policy and, where appropriate, will have regard to any specific policies or procedures for a particular service area

This 'umbrella' policy is a far-reaching document with implications upon large areas of the Authorities work. It has been prepared having regard to Section 21 of the Legislative and Regulatory Reform Act 2006

Under certain legislation it is a statutory requirement that local authorities have in place a corporate enforcement policy..

The policy reflects the shift in focus of regulatory enforcement actions to ensure they are more targeted, risk based and proportionate.

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1. Introduction

- 1.1 The purpose of this policy is to publicly summarise the Authority's intended approach to bring about compliance with regulatory requirements. The primary responsibility for compliance with the law rests with businesses and individuals. The primary function of central and local government enforcement agencies is to protect the public, the environment and groups, such as consumers and workers. This document sets out what businesses and individuals being regulated can expect from North Tyneside Council (the Authority).
- 1.2 The Authority is responsible for the enforcement of a wide range of legislation and has drawn up this Statement of Enforcement Policy to explain how the Authority carry out general enforcement activities and commits us to the adoption of good enforcement policies and procedures. In doing so the Authority will ensure that our policies are fully compliant with statutory legislation such as the Statutory Regulators Code, the Human Rights Act 1998, equality policies, the Food Law Code of Practice (England) 2015 and Powers of Entry Code of Practice 2014 (where applicable). In certain instances the Authority may conclude that a provision within one code or policy is either not relevant or is outweighed by another provision. Where this occurs the Authority will ensure that any decision to depart from a code is properly reasoned, based on material evidence and documented.
- 1.3 The Authority is committed to protecting the public and the environment, preventing crime and disorder as well as maintaining a fair and equitable trading area for all businesses in the borough. This Statement of Enforcement Policy is an "umbrella" policy intended to apply to all enforcement functions of the Authority. There are a number of additional, service specific, statutory and non-statutory enforcement policy documents produced by the Authority and/or its partners to help maintain desired standards of conduct, goods, services and premises throughout the borough (for instance Statement of Licensing Policy). This Statement of Enforcement Policy potentially affects everyone who lives in, works in or visits the borough.
- 1.4 The Authority recognises that most businesses and individuals want to comply with the law. The Authority will therefore try to help businesses and others to meet their legal obligations without unnecessary expense wherever possible, while taking firm action, including prosecution, where appropriate, against those who blatantly flout the law or act irresponsibly. This will help to promote efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens. The term enforcement does not only refer to formal actions it can also relate to advisory visits or inspections.
- 1.5 All officers when taking enforcement decisions will abide by this Statement of Enforcement Policy and, where appropriate, will have regard to any specific policies or procedures for a particular service area.

- 1.6 Any enforcement decision will be taken by officers in accordance with the Authority's approved Officer Delegation Scheme. Only competent officers who have the requisite training, qualification and/or experience will be authorised to take enforcement action. Officers will also have sufficient training and understanding of the Enforcement Policy to ensure a consistent approach to their duties. Officers undertaking enforcement duties are required to identify themselves where necessary and show their authorisation on demand. Where legislation permits powers of entry, officers will be authorised to enter land or premises in the course of their investigations where they have reasonable grounds to do so.

AMENDMENT – new Section inserted below giving details of the Regulators Code and the principles underlying in the Code

2. Regulators' Code

- 2.1 Local Authorities need to have regard to the Regulators Code. This is a statutory code of practice intended to encourage regulators to achieve their objectives in a way that minimises the burdens on business. The purpose of the Code is to embed a risk-based, proportionate, targeted and flexible approach to regulatory inspection and enforcement among the regulators to which it applies. This approach will ensure that regulators are efficient and effective in their work, without imposing unnecessary burdens on those they regulate.

The six principles underlying the Regulators' Code are:

A. Regulators should carry out their activities in a way that supports those they regulate to comply and grow.

The Authority recognises that most businesses wish to comply with the law and we deal with the majority of breaches with advice or in other informal ways. This is set out in our Enforcement Policy. However, we take formal enforcement action where businesses flout the law. The Enforcement Policy sets out the circumstances in which we may consider formal enforcement action. Examples of the type of action we may take include prosecution and obtaining court orders

B. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views.

The Authority consults with businesses, citizens and others in the development of key policies including our Enforcement Policy.

C. Regulators should base their regulatory activities on risk.

The Authority will take an evidence-based approach to determine the priority risks to ensure that the allocation of our efforts and resources is targeted where they would be most effective in addressing these priority risks.

D. Regulators should share information about compliance and risk.

The Authority is committed to the principle of “collect once, use many times” We will share information where legislation permits to help target resources and work together effectively

E. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply.

The Authority uses its website to offer comprehensive advice and guidance to business on most legislation. It also offers a signposting facility to direct towards other regulators who may have an impact on businesses.

F. Regulators should ensure that their approach to their regulatory activities is transparent

The Authority seek to do this by way of our published Statement of Enforcement Policy

3. What you can expect from our officers who undertake enforcement duties

3.1 Officers will always strive to:-

- Give a courteous and efficient service acknowledging and responding to complaints as swiftly as possible
- Identify themselves by name and produce photo identification where required or if requested
- Give clear and simple advice where appropriate
- Provide a contact point for any further dealings
- Clearly distinguish between what you must do to comply with the law and what is a desired outcome or recommended as best practice
- Minimise the cost of compliance by only requiring action proportionate to the risk involved
- Give you a reasonable period of time to comply. If immediate action is necessary - in the interest of Health and Safety, a legal requirement, or for any other urgent reason – we will explain the reasons behind this.
- Advise you of the procedure for making a complaint or representations where problems cannot be resolved
- Notify you if the matter is to be referred to the Authority’s Legal Services Team for legal proceedings to be commenced (unless this could impede an investigation or pose a risk to those concerned or the general public).

4. What the Authority expects from you

- 4.1 The Authority recognises that those persons subject to some form of regulation, enforcement activity or other form of conflict that it can be a worrying and traumatic time. We also recognise that this can create tensions that may affect personal behaviour. However, as a responsible employer the

Authority has a duty to ensure that staff are able to carry out their duties safely. The safety and wellbeing of its employees is of paramount importance to the Authority. The Authority will not tolerate verbal abuse or threats of or actual violence towards any officer undertaking their duties. Indeed, under most legislation it is a criminal offence to obstruct an authorised officer in the course of their duties and / or to provide false information to them. The Authority will vigorously pursue, through the powers available to it, any individual attempting to obstruct or prevent an officer from carrying out their lawful duties.

5. Advice

5.1 The principal method the Authority uses to ensure compliance with legal requirements is to provide advice. This can involve advisory visits to individuals and businesses as well as talks to trade groups and the issue of fact sheets and leaflets. We aim to provide information and advice on the law in plain language within a reasonable period of time.

5.2 The Authority believes that prevention is better than cure. If you are experiencing difficulties in complying with a particular requirement then we are always willing to discuss these difficulties with you and will seek to assist you wherever possible. It is the aim of the Authority to improve compliance and raise standards for individuals and businesses struggling to comply with legislative requirements.

6. Action the Authority may take if the law / legislation is contravened

AMENDMENT – Updated list below of different Powers and Orders available to the Authority

6.1 There are a number of enforcement options available to officers depending on the circumstances of the case and seriousness of the matter. Under certain legislation enforcement action is a discretionary power and the Authority may determine it is not expedient or in the wider public interest to take any action. If the Authority decides not to take any action it must be able to provide reasons why it has reached such a decision. Some of the actions available to the Authority are either: -

- Take no action
- Informal action
- Service of Statutory Notices
- Management Orders
- Works in Default.
- Suspension or Revocation of Licences / Authorisation
- Review procedure (e.g. under the Licensing / Gambling Act)
- Prohibition Notices / Emergency Closure Orders
- Seizure of goods
- Issue of formal 'Simple' Cautions

- Issue of Fixed Penalty Notice / Penalty Charge Notice / Fixed Monetary Penalty
- Administrative penalties (Benefits & fraud)
- Acceptable Behaviour Agreements
- Injunctions
- Community Protection Notices
- Public Spaces Protection Orders
- Closure Powers
- Demotion Orders
- Possession Orders
- Absolute Ground for Possession
- Extension of Introductory Tenancy
- Institute prosecution proceedings
- Use of the Proceeds of Crime Act

6.2 In deciding what action to take a number of factors will be taken into consideration, including:-

- The seriousness of any alleged offence
- The number of people likely to be affected
- The danger caused or the value of property involved
- Any previous history of similar occurrences
- Any statutory defence available
- Action taken to prevent any recurrence
- Any explanation offered and as far as the law allows, the circumstances and attitude of the responsible business or person
- What course of action will best serve the public interest.

6.3 **Informal Action**

Officers will wherever possible seek to achieve compliance with legislation through the use of negotiation and informal action. They will clearly distinguish between statutory requirements and advice/recommendations.

However, where this approach is not appropriate or is not believed to be the most effective enforcement option available, consideration will be given to the use of formal enforcement action to remedy the situation.

6.4 **Statutory Notices**

The service of Statutory Notices will be considered in the following circumstances:-

- There are contraventions of legislation, which pose an imminent risk to public health / safety or the environment or
- There is a lack of confidence in the duty holder to respond to informal action or
- There is a history of non-compliance or repeat offending or

- A situation exists which places a mandatory duty on the Authority to serve a statutory notice e.g. statutory nuisance or

If the Authority serve a statutory notice on a business or individual, it will inform them in writing, of any right of appeal. In certain cases, statutory notices are 'public notices' and details will be published or kept on a register available to the public.

6.5 Management Orders

The Housing Act 2004 introduced Management Orders, which allow the Authority to take over the management of underperforming properties in the private rented sector.

The Act distinguishes between the Authority's duty and discretionary power to issue management orders.

6.6 Emergency Remedial Action

Under the Housing Act 2004 the Authority may take immediate emergency remedial action to remove a hazard in residential premises, which involve imminent risk of serious harm to health or safety. If taking this action a statutory notice will be served within 7 days of starting the works and the recipient informed of their rights of appeal.

6.7 Works in Default

The Authority will normally carry out works in default of a statutory notice where either:-

- Works required by a statutory notice have not been carried out; and
- There is a risk to public health/safety or the environment, such that the consequences of not taking immediate action would be unacceptable; or
- Statute does not permit prosecution for non-compliance with a statutory notice.

The Authority, where legislation allows it, will always attempt to recover all reasonable costs incurred when undertaking works in default including charging interest accrued on unpaid debts. The Authority will where necessary place a legal charge on a property in order to recover costs. The Authority will also consider pursuing recovery of outstanding debts through the enforced sale of the property under the Law of Property Act 1925.

6.8 Fixed Penalty Notices / Penalty Charge Notices

The government is introducing an increasing number of offences for which fixed penalty notices can be issued and encouraging enforcement agencies to make greater use of them in their enforcement tool kit. They can provide an effective and visible way of responding to low-level environmental crime. The issue of a fixed penalty notice is not an admission of the offence by the

recipient but offers that person the opportunity to discharge any liability for the offence by payment of a fixed penalty. Fixed penalty notices can only be used where allowed by law, where an officer believes that an offence has been committed and there is sufficient evidence to support a prosecution. Only certain authorised officers of the Authority can issue penalty notices.

The service of a fixed penalty notice will be carried out when the circumstances of the offence satisfy the following criteria: -

- The offence is sufficiently serious to warrant prosecution
- There is sufficient evidence of the offender's guilt to give a realistic prospect of conviction in case of non-compliance with a fixed penalty notice
- The officer believes that a fixed penalty notice will prevent repeat offences
- The offender will accept the fixed penalty notice and understands its significance
- It is in the public interest to issue a fixed penalty notice rather than instigate prosecution proceedings.

The issue of a fixed penalty notice may be cited in prosecution proceedings in relation to a similar offence committed within three years of the issue of the fixed penalty notice.

Non-payment of a fixed penalty notice will, in most circumstances, result in the institution of prosecution proceedings in respect of the original offence (which may be subject to a significantly higher penalty if found guilty).

6.9 Fixed Penalty Notices - Juveniles

In law fixed penalty notices can be issued to anyone over the age of ten. Where the Authority issues a notice to a juvenile when there is cause to do so the Authority must ensure they are acting in accordance with the Children Act 2004 and related guidance having regard to the need to safeguard and uphold the welfare of children. As a consequence the Authority will not issue fixed penalty notices to any person under the age of 14.

In deciding whether a fixed penalty notice is appropriate, the Authority will consider whether the offender has received a fixed penalty previously (wherever possible no more than one fixed penalty notice should be issued to anyone under 16, but a reprimand, warning or other sanction should be considered instead), his or her family circumstances and whether he or she suffers from other vulnerabilities.

A fixed penalty notice will not be appropriate where the young person is suffering from a learning disability, mental health needs or another condition that impairs his or her understanding of what goes on around them or the fixed penalty notice procedure. It should also be borne in mind that a parent/guardian is not legally responsible for the payment of a fixed penalty notice therefore, officers must have regard to the likelihood of the fixed penalty notice being paid. In most circumstances prosecution for the offence will be inappropriate against a juvenile and should only be used as a last

resort against persistent offenders. The Authority will notify the Children Young People and Learning Team when a fixed penalty notice has been issued to any juvenile.

The Authority as a Corporate Parent will consider how best to respond to any Looked After Child (LAC) who receives a fixed penalty notice. The Care Team involved with the young person will meet to determine the most effective and appropriate means of ensuring the young person discharges the Notice.

The various Acts under which fixed penalties are issued enable local authorities to use their fixed penalty receipts only to help meet the costs of the relevant service function.

6.10 Fixed Monetary Penalties & Variable Monetary Penalties

Fixed and Variable Monetary Penalties (FMP & VMP) were introduced by the Regulatory Enforcement and Sanctions Act 2008 as a means of enabling regulators to impose a monetary penalty on a person (defaulter) for an offence that is triable summarily or by a fine as an alternative to prosecution of the relevant offence. The amount of the monetary penalty must not exceed the maximum amount of the fine applicable to the offence. The recipient of an FMP/VMP will have the right to ask for a review or to appeal the decision to issue the penalty and has the same defence available to them that are applicable to the relevant offence, details of which will be included with any FMP/VMP Notice served on a defaulter. The Authority may offer a discount for early payment or additional penalties for late payment. These can be recovered as a civil debt

The decision to issue a FMP/VMP and the level of penalty to be imposed will have full regard to the content of this policy and the alternative sanctions available and will be made in accordance with guidance or orders issued by the Local Better Regulation Office

6.11 Administrative penalties

AMENDMENT – updated wording below in relation to the use of an administrative penalty by the Authority

An Administrative Penalty (Ad-Pen) is the offer to a person to agree to pay a financial penalty as an alternative to prosecution for a Housing Benefit or Local Council Tax Support offence. Administrative Penalties can also be applied for non disclosure of information for Council Tax administration purposes. Generally, Administrative Penalties will only be offered where there have been no previous Housing or Council Tax offences of any kind

6.12 Suspensions or Revocation of Licences/Authorisations

In some circumstances, such as taxi licensing and authorisations under the Environmental Protection Act 1990, the suspension or revocation of a licence/authorisation may be used as a method of enforcement. The Authority recognises that whilst this is a legitimate enforcement action, it may deprive a person of their livelihood or result in the closure of a business. Therefore the suspension or revocation of a licence/authorisation will normally only be used if one or more of the following factors apply:

- There are contraventions of legislation, which pose a significant risk to public health/safety or the environment.
- There is a lack of confidence in the duty holder to respond to informal action.
- Other enforcement options are either inappropriate, or have been tried without success.

In circumstances where there has been a serious contravention of legislation, the Authority may consider using its powers to suspend/revoke licences as well as taking other enforcement action.

When a licence/authorisation is suspended or revoked, those concerned will be informed in writing of any rights of appeal. Where possible and appropriate the Authority will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.

6.13 **Review procedure** (e.g. under the Licensing/Gambling Act)

If one or more of the Licensing Objectives are not being met and a responsible authority or other person/interested party can provide evidence to that effect, the Authority will consider a request for a review of a Premises Licence or Club Premises Certificate. No more than one review will normally be permitted within any 12 month period on similar grounds except in exceptional circumstances. Requests for reviews may be rejected if the grounds are frivolous, vexatious or repetitious. More information in relation to the review procedure is contained in the Authority's Statement of Licensing Policy.

6.14 **Prohibition Notices/ Emergency Closure Orders**

In the most serious of cases where there is an imminent risk of injury to public health some legislation permits Local Authorities to make an order to forbid the use of certain processes, equipment and premises or to exclude persons (such as food handlers) from their work where there is a risk to public health.

6.15 **Seizure of Goods**

Certain legislation enables authorised officers to seize goods, equipment or documents for example unsafe food, sound equipment that is being used to cause a statutory noise nuisance, unsafe products or any goods that may be required as evidence for possible future court proceedings. When the Authority seizes goods it will give the person from whom the goods are taken

an appropriate receipt. Certain goods can be seized for non payment of debts such as council tax or business rates. Any goods that are removed will be done so in accordance with the Taking Control of Goods regulations 2013

6.16 **Simple Cautions**

When a breach of the law is identified a verbal or written warning may be given and this is usually followed up by further checks. No formal action will be taken without the Authority seeking to discuss the case with the individual concerned or with a relevant representative of the business wherever possible. If the Authority believes an offence has been committed then the law requires us to conduct any discussions relating to the offence under caution. As an alternative to prosecution the Authority may give you the option of signing a formal notice accepting that you have committed an offence. This is known as a "Simple Caution" and can be read out in court if you later commit another offence and are convicted. Cautions should not be cited in court after the expiration of three years. In appropriate cases, the use of formal 'Simple Cautions' will be considered where criteria for prosecution are satisfied but an offence is of a less serious nature, having regard to Home Office Circular 016/2008 and other relevant guidance. They may be used for cases involving first time, low-level offences where the public interest test can be met by the issue of a Simple Caution. The accurate recording of cautions can contribute to improved public confidence in the criminal justice system and also contributes towards reducing the likelihood of re-offending. Simple cautions can be appropriate to:

- a) deal quickly and simply with less serious offences;
- b) reduce the chances of repeat offences
- c) divert 'non-serious' offences away from the Courts

A caution will only be issued where there has been an admission of guilt. The admission of guilt must be made before a decision to offer a caution is made. The Authority will not issue a caution to a juvenile.

6.17 **Acceptable Behaviour Agreements (ABA's)**

ABA's can be a useful tool for preventing anti-social behaviour, in particular by people who are not Council tenants, or by young people under 18 years of age. Anti-social behaviour is described as behaving in 'a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as the perpetrator.'

6.18 **Injunctions**

For more serious and urgent cases where a Local Authority wishes to control an actual or apprehended threat to land, property or a person(s) it may apply to the Courts for an injunction. An injunction can be sought whether or not other enforcement action has been taken. An injunction is an order of the Court requiring the defendant either to refrain from doing a specific act (a

prohibitory injunction) or requiring the defendant to carry out a specific act (a mandatory injunction).

AMENDMENT – new paragraphs inserted below which give details of new powers and notices available to the Authority

6.19 Community Protection Notice

To stop a person aged 16 or over, business or organisation committing anti-social behaviour which has or is likely to have a detrimental effect on the quality of life of those in a particular locality.

6.20 Public Spaces Protection Order

Designed to prevent individuals or groups of individuals committing anti-social behaviour in a public space provided that certain conditions are met and the restrictions imposed by the Order are justified.

6.21 Closure Power

Allows the Authority or Police to quickly close premises by the use of a closure notice when such premises are being used in such a way that there has been, or likely to be, nuisance or disorder and the notice is necessary to prevent the nuisance or disorder from continuing, recurring or occurring.

6.22 Demotion orders

A County Court Order converting a Secure Council Tenancy to an Introductory Tenancy where there has been anti-social behaviour.

6.23 Possession orders

A County Court Order which ends a Secure or Introductory tenancy where there have been serious issues of crime and/or anti-social behaviour associated with the tenancy.

6.24 Absolute Ground for Possession

An absolute ground for possession of Secure Council Tenancies (in the County Court) where anti-social behaviour or criminality has already been proved by another court (Criminal Court)

6.25 Extension of Introductory Tenancy

Extends an introductory Council tenancy for a further six months where there have been issues of anti-social behaviour.

6.26 Prosecutions

In certain cases the Authority will prosecute. A prosecution will be considered unless there are public interest factors tending against prosecution that clearly outweigh those tending in favour. These cases will normally involve offences relating to public health or safety, deception, continued negligence or wilful non-compliance. Prosecution will be effected where there has been a blatant disregard of the law, or a refusal to achieve even the basic legal minimum requirements, and will be considered where: -

- the alleged offence involves a breach of the law such that public health, safety or well being is or has been put at risk, or where unacceptable business advantage is gained.
- the alleged offender has failed to correct identified potential risk after being given ample opportunity to comply with legal requirements by an officer;
- the offence involves the failure to comply in full or part with the requirements of a Statutory Notice;
- evidence suggests that there was pre-meditation in the commission of an offence
- there is a history of similar offences;
- an officer has been intentionally obstructed or deceived in the course of his/her duties;

In all cases the evidential and public interest test contained within the Code for Crown Prosecutors (as set out in 5.20 and 5.21 below) must be satisfied before a prosecution is initiated.

6.27 The Evidential Test

There must be sufficient reliable and admissible evidence to provide a realistic prospect of conviction. The likelihood of the defendant being able to establish a defence and its potential effect on the prosecution case must also be considered. If the prosecution case does not pass the evidential test it must not go ahead, no matter how important or serious the case may be.

6.28 The Public Interest Test

A prosecution is less likely to be appropriate if either: -

- (a) A very small or nominal penalty is likely to be imposed.
- (b) The offence was committed as a result of a genuine mistake or misunderstanding. (this consideration must be balanced against the seriousness of the offence).
- (c) There has been a long delay between the offence taking place and the date of the trial, unless: -

- The offence is serious
- The delay has been caused in part by the defendant
- The offence has only recently come to the attention of the Authority
- The complexity of the offence has meant that there has been a long investigation.

6.29 **The Authority will only prosecute when it is appropriate and always:**

- In accordance with the Code for Crown Prosecutors
- In accordance with statutory requirements and all other relevant codes of practice.
- In accordance with this Statement of Enforcement Policy

Investigations leading to the institution of prosecution proceedings must have regard to and be fully compliant with the following legal provisions: -

- Regulation of Investigatory Powers Act 2000
- Police & Criminal Evidence Act 1984
- Criminal Procedure & Investigations Act 1996
- Data Protection Act 1998
- Freedom of Information Act 2000
- Human Rights Act 1998

7. Proportionality

7.1 The Government is committed to reducing the burden of regulation imposed on business, frontline staff and the public, regulating and enforcing only when necessary and in a way that is proportionate to the risk. Better regulation promotes efficiency, productivity, and value for money. Proportionate risk-based regulation and inspection arrangements can help drive up standards and deliver outcomes on the ground whether in the form of improving public services, a better environment for business, or driving forward economic reform.

7.2 Each case will be investigated and dealt with on its individual merits and any enforcement action taken will be commensurate with the seriousness of the breach or the offence.

8. Shared Enforcement

8.1 In some circumstances certain risks to the public and the environment are also investigated / handled by other agencies. Where appropriate the Authority will liaise with these other agencies before taking enforcement action.

8.2 In order to avoid duplication, the Authority will in such circumstances, seek to agree who should ensure that any risks are adequately controlled. In determining which is the most appropriate enforcing authority, regard will be had to the following principles: -

- Relative effectiveness of the available legislation
- Degree of expertise held by each agency
- Efficient use of resources
- General suitability of the respective agency to deal with the risks in question

- Relevant enforcing agency legislation

8.3 The Authority will continue to engage in and develop extensive and wide-ranging partnership arrangements with other agencies and shared enforcement initiatives and operations will be encouraged.

9. Enforcement of Debts

9.1 Collection and enforcement of debts is carried out in accordance with statutory regulations and the appropriate legislation in relation to each debt type. The Authority will actively pursue collection of all debts due to it in a fair and efficient manner and in accordance with its collection policy. Payment will be enforced using any of the legal remedies available while taking into consideration the most appropriate and proportionate action based on individual circumstances.

10. Proceeds of Crime Act 2002 (POCA)

10.1 POCA came into force in March 2003. It provides new powers of investigation into the extent and whereabouts of the proceeds of crime. It allows Council officers to become 'accredited financial investigators' (AFIs).

10.2 A person may be committed to the Crown Court for confiscation proceedings following a conviction of any offence. POCA can be used by Local Authorities as a tool to contribute towards local crime and disorder strategies and other corporate priorities adopted to disrupt crime and criminality. It will benefit efforts to tackle 'lifestyle criminals' such as counterfeiters, persistent rogue traders and loan-sharks, to ensure that crime doesn't pay and is seen not to pay. It also helps meet the expectations of legitimate businesses and consumers.

10.3 The Authority will utilise the powers available to it under POCA where appropriate.

11. Publicity

11.1 Under certain legislation the Authority is required to maintain a public enforcement register. The Authority may also put in place arrangements for making information available to the public on convictions, improvement and prohibition notices etc. which the Authority has issued.

11.2 The Authority may also consider drawing media attention to factual information about charges laid before the courts, but great care will be taken to avoid any publicity which could prejudice a fair trial. In exceptional circumstances the Authority will consider publicising any enforcement action and/or conviction in an attempt to prevent similar occurrences or to deter anyone tempted to disregard their duties or responsibilities.

11.3 In publicising any enforcement action or outcomes the Authority will at all times have full regard to Article 8 of the European Convention on Human

Rights (ECHR) (*Right to respect for private and family life*). Therefore, before issuing any information for publicity each case will be vigorously considered on its individual merits and full consideration will be given as to whether such publicity is necessary, proportionate, appropriate and in pursuit of an identified and legitimate aim.

- 11.4 The Authority will not make available to the public information with respect to any young person for whom it is the Corporate Parent.

12. Complaints About the Service

- 12.1 If any person is unhappy with the action taken or information or advice given by officers of North Tyneside Council or believe they have not received fair or consistent treatment as outlined in this policy, they will be given the opportunity to discuss the matter with the relevant Service Area Manager. Officers approached with such a request will refer them to their relevant Manager, who will listen to their complaints, consider whether the enforcement policy has been breached in this instance and give a reply in writing. This is without prejudice to any formal appeal mechanism. If the problem cannot be resolved, the person will be informed of the Authority's Corporate Complaints Procedure.

13. Conclusion

- 13.1 Officers will consider all criteria contained within this policy statement when making an enforcement decision. The Authority is committed to regulation that is risk-based, consistent, proportionate and effective.
- 13.2 The Authority's intention is to serve the people of North Tyneside and ensure the protection of the environment by working with the business community and individuals to ensure a thriving economic future for the Borough. In particular the Authority will attempt to work closely with small businesses, voluntary and community organisations to help them meet their legal obligations with minimal intervention and expense.
- 13.3 In considering any enforcement action to be taken the Authority shall have regard to Section 17 of the Crime and Disorder Act 1998 which requires a local authority to do all that it reasonably can to prevent crime and disorder in its locality. North Tyneside Council is committed to further improving the quality of life for the people of North Tyneside by continuing to reduce crime and the fear of crime.
- 13.4 This Statement of Enforcement Policy will be reviewed internally every three years with additional reviews if required to reflect any changes in legislation and guidance.
- 13.5 North Tyneside Council wants to make it easier for you to get hold of the information you may need about the services it provides. The Authority are able to provide our documents in alternative formats including audio tape,

large print and community languages. The Authority also has access to language line and interpreter services where required.

AMENDMENT – Contact information provided below

14. How to contact us

14.1 You can contact us by:

Telephone: 0345 2000 101

Email: contact.us@northtyneside.gov.uk

Web: www.northtyneside.gov.uk

By post: North Tyneside Council, Public Protection, Quadrant, The Silverlink North, Cobalt Business Park, NE27 0BY

Or in person: at above address Monday to Thursday 8.30am to 5.00pm, Friday 8.30am until 4.30pm

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