

# **WEST LANCASHIRE BOROUGH COUNCIL**



## **COMMUNITY SERVICES ENFORCEMENT POLICY**

JULY 2009

# ENFORCEMENT POLICY

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## 1.0 Introduction

1.1 It is the aim of West Lancashire Borough Council's Community Services Division, referred to within this document as "The Service", to protect the public and improve the local environment, promote health, safety and welfare and enhance the quality of life of all residents, workers and visitors to the Borough. Much of this will be achieved through education, by providing advice and by regulating the activities of others. Whilst securing compliance with legal regulatory requirements, using enforcement powers, including prosecution, is an important part of achieving this aim, it will be undertaken in an equitable, practical and consistent manner.

1.2 The regulatory services delivered by the Division are extensive. They include:-

- Noise control – the investigation and taking of enforcement action to deal with noise from residential, commercial and industrial premises, such as loud music, barking dogs, entertainment from pubs and clubs and noise from machinery.
- Pollution and public health matters - investigation and taking of enforcement action to deal with complaints about bonfires, smoke, drainage, rubbish and smells, monitor air quality and issue Permits to certain industrial processes.
- Food Safety - including inspections of food businesses, sampling of foodstuffs, infectious disease control and investigation of consumer complaints about food and food premises.
- Health and safety enforcement - in premises allocated by law to the local authority for enforcement such as offices, shops, warehouses, catering establishments.
- Licensing - involving the consideration, issue and control of licences, certificates and permits for licensed premises and persons for the purposes of selling/supplying alcohol, providing regulated entertainment, or serving late night hot food or drink. The Service also issues licenses in respect of gaming and gambling premises as well as the issue and control of licences for private hire and hackney carriage vehicles and their drivers. In addition, licences are provided for animal welfare establishments.
- Street Scene enforcement - the investigation and enforcement of litter and fly-tipping offences and other offences regarding commercial and household waste.
- Dog control - the investigation and enforcement of offences relating to dog control orders, for example fouling.
- Public Health – the investigation and rectifying of problems where the health of an individual or the public at large may be affected. Premises that are infested by vermin, are filthy and unwholesome or have drainage problems may all warrant attention.
- Anti-social behaviour unit – the investigation of complaints regarding anti-social behaviour from the public and relevant partners, and appropriate action ranging from education up to enforcement including Acceptable Behaviour Contracts (ABC's), injunctions, evictions and Anti-Social Behaviour Orders (ASBO's).
- Technical Services unit – the supervision of external contractors to enforce "off street" parking offences and the regulation of any markets in Ormskirk.

1.3 The Services' staff work with Central Government and other Regulators and guidance providers to ensure coherent regulation. They may also work adopting a multi-agency problem solving approach with statutory and non-statutory partners in order to achieve common goals.

1.4 This Policy sets out the general principles, which the Service intends to follow, in relation to enforcement and prosecution. It is to be used in conjunction with any more-detailed guidance on enforcement practise issued in respect of various specific functions of the Service. The implementation and effectiveness of the Policy, as well as the adherence to its requirements, will be monitored and reported on through the Council's relevant committee structure. The Council has a Corporate Enforcement policy on which this document is based which is available to business and residents and this will be actively promoted.

## **2.0 Purposes and Method of Community Services Enforcement**

2.1 The purpose of enforcement is to ensure that the preventative or remedial interventions are taken to protect the public/the environment/employees/workers or to secure compliance with a regulatory system. The need for enforcement may stem from a failure to comply with statutory obligations and the likely risk to health, safety or the environment. Enforcement action will not, therefore, constitute a punitive response to minor technical contravention of legislation. Although the Council expects full voluntary compliance with relevant legislative requirements, it will not hesitate to use its enforcement powers where necessary.

2.2 It is recognised that enforcement activity will depend upon prevailing circumstances, level of risk, political and stakeholder will as well as other external influences. The Service will, nevertheless, treat everyone fairly and with respect for their privacy and dignity. The particular interests of consumers, businesses, employees and the public, particularly those with special needs, will be taken into account.

2.3 All officers undertaking enforcement duties will ensure that all recipients of the service receive fair and equitable treatment irrespective of their race, age, ethnicity, gender, disability or sexuality.

## **3.0 Responsibilities and Authorisation**

3.1 Responsibility for implementation of the Policy rests with the Service. Authorised officers within the Service carry out day-to-day enforcement activities. Officers, authorised in accordance with relevant Legislation, Codes of Practice or National Guidance, carry out inspections, interventions, patrols, sampling, complaints investigations, deal with requests for service and, where necessary, offer advice or training. The relevant Service Manager is responsible for the planning, organisation and subsequent monitoring of all aspects of the Policy.

3.2 All officers are authorised in accordance with their qualifications, experience and competency. Such officers are authorised in writing by the Executive Manager Community Services (EMCS) or a Service Manager who will specify the legal provisions under which they are entitled to act.

- 3.3 The issue of a Caution and any decision to prosecute will only be administered or approved by the EMCS or one of the Service Managers. Separate guidance is available for officers on the use of Cautions.
- 3.4 All statutory notices will be authorised by the EMCS or, in his absence, the Relevant Service Manager, with the exception of Food Safety and Health and Safety Enforcement Notices and hackney carriage and private hire licensing stop notices, which will be served by the duly authorised officer, (although these notices should be checked or reviewed by the EMCS, or Service Manager).
- 3.5 The Council's Street Scene and Dog Control Officers are authorised to issue fixed penalty notices if an offence arises during a patrol and is witnessed by them, to persons over the age of eleven. Where it is known that the offender is under the age of eighteen, a letter will also be sent to their parents or guardians, to inform them of the action taken.

#### 4.0 **Enforcement Options**

- 4.1 There are a wide variety of Enforcement options available to Community Services staff, which include:-

- Advice (possibly in writing)
- Verbal warning
- Warning letter
- Acceptable Behaviour Contracts (ABC's)
- Collection of parking fines
- Fixed penalty notice
- Improvement notice
- Remedial action notice
- Tenancy enforcement
- Service of statutory notice
- Seizure
- Variation of "licence" conditions
- Suspension or revocation of "licence"
- Prohibition notice (where there is imminent or serious risk)
- Emergency prohibition notice
- Anti-Social Behaviour Order (ASBO)
- Formal caution
- Prosecution
- Criminal Anti Social Behaviour Order on Conviction (CRASBO)
- Works undertaken in default
- Injunctive restraint

In some cases a combination of these options may be appropriate.

**Note:** "licence" could include a licence relating to the following work areas – hackney carriage and private hire licensing, premises licensing, industrial process permitting, food premises licensing or animal welfare licensing.

A hierarchical approach will be adopted in selecting the most appropriate enforcement sanctions. Although decisions will clearly vary depending upon the circumstances, non-criminal sanctions will always be considered before criminal sanctions. For offences where a fixed penalty notice is available (such as littering, dog fouling and various other waste issues) these may be utilised without prior

warning to assist to improve the local environment for residents in accordance with one of the Council's priorities.

- 4.2 To maintain consistency, officers will adhere strictly to the information contained within specific guidance notes, work instructions and other supportive notes that affect their areas of enforcement. A Quality System covers the majority of the activities of the Environmental Health Services.
- 4.3 As a general rule, legal proceedings will not be undertaken without the offender being given reasonable opportunity to comply with the law. It is recognised, however, that there are circumstances where a contravention is particularly serious and would result in harm to members of the public or the environment or there is a blatant or reckless disregard for the law, in which case prosecutions may take place without a prior warning. Failure to comply with a Statutory Notice, will normally result in a prosecution, except in cases where works in default may be more appropriate. Fixed penalty notices offer the opportunity to discharge legal proceedings by payment within a given time. Non-payment will normally result in a prosecution being taken.
- 4.4 When deciding upon the best course of action, regard will be had to the specific guidance on enforcement action contained in various Codes of Practice Guidelines and Guidance Documents issued by the relevant co-ordinating bodies and the Crown Prosecution Service. In particular the Department for Business Enterprise and Regulatory Reform (BERR) Regulators compliance code, the Enforcement Concordat (see Section 5.3) and its relevant guidance and any recommendations from the Local Better Regulation Office will be given due regard.
- 4.5 Where a criminal offence has been committed, in addition to any other enforcement action, the EMCS, or one of the Service Managers, will consider instituting a Prosecution or administering a Formal Caution, or other appropriate activity – see Section 7.

## 5.0 **Broad Principles of Approach.**

- 5.1 The Council regards prevention as better than cure. It offers (and encourages the request of) information and advice to those it regulates and seeks to secure co-operation avoiding bureaucracy, ensuring efficient compliance with legislation, whilst, at the same time, minimising the burden on businesses and individuals to put safety and welfare first and to integrate good working practices into normal working methods.
- 5.2 This policy sets out the general principles, which the division intend to follow, in relation to its enforcement options, including prosecution. It is intended to be used in conjunction with any more-detailed guidance on enforcement practice issued by or for various specific functions of the service.
- 5.3 Various bodies/reviews/documents and agreements have and will continue to influence the approach to enforcement taken by the Council. These include:-
  - **The Human Rights Act 1998.**
  - **The Government's Enforcement Concordat.**
  - **The Macrory Review.**

- **The Department for Business Enterprise and Regulatory Reform (BERR) Regulators Compliance Code**
- **The Hampton Review.**
- **The Regulatory Enforcement and Sanctions Act 2008**

5.4 Further details of how these documents steer our approaches to enforcement can be found in the Corporate Enforcement Policy.

5.5 Good enforcement secures compliance with regulations and as a result Council Officers will seek to use a combination of assistance, advice and formal action.

5.6 In particular the following issues will be considered.

#### 5.7 **Economic Progress.**

5.7.1 This Authority fully supports the principles of the Hampton review and the idea that businesses should be supported by regulators to comply with regulations. In addition, the principle that it is important that business activity is properly regulated, encouraging the economy to thrive, while protecting public health and consumer interests is supported.

#### 5.8 **Proportionality.**

5.8.1 In general, the concept of proportionality is included in much of the regulatory system through the balance of action to protect the employee, the environment, or the public against risks and costs. Achieving proportionality requires that the enforcement action taken is directly related to the risks involved or where there is no alternative.

5.8.2 Some duties are specific and absolute whereas others require action "so far as reasonably practicable". Deciding what is reasonably practicable to control risks requires the exercise of judgement. Where risks must be controlled so far as reasonably practicable, regard will be had to the protection measures necessary to comply, the degree of risk involved and the cost, whether in money, time or trouble involved in averting the risk. Unless it can be shown that there is a gross disproportion between these factors and that the risk is significant in relation to the cost, measures must be taken and costs incurred to reduce the risk.

#### 5.9 **Consistency.**

5.9.1 Consistency means taking a similar approach in similar circumstances to achieve a similar result. All those involved need to know that they are being treated fairly. Businesses in particular need to know that they are competing with others on level terms.

5.9.2 It is, however, recognised that consistency does not mean simple uniformity. Officers need to take account of many variables, the scale of impact upon health or the environment, the attitude and actions of those responsible and the history of previous incidents or breaches. Decisions on enforcement action are a matter of professional judgement and the Service, through its officers, needs to exercise discretion. The Service will continue to develop arrangements to promote consistency including effective arrangements for liaison with other enforcement agencies. In relation to "Enviro-crimes" such as littering, waste offences, dog

fouling etc., it has been agreed that the Council takes a "zero-tolerance" approach and therefore aims to assist building safer cleaner communities.

## **5.10 Targeting of Resources.**

5.10.1 Targeting of resources means making sure that regulatory effort is directed primarily towards those whose activities give rise to the most serious risks or where the hazards are poorly controlled or against deliberate or organised crime. Action will be primarily focused on those that break the law or those directly responsible for the risk and who are best placed to control it. In addition, issues or locations, where greater numbers of substantiated complaints are received, will merit greater attention.

5.10.2 Systems have been introduced for prioritising regulatory effort. They include guidance contained in Codes of Practice, the response to complaints from the public about regulated activities, the assessment of risks posed by a person's operations and the gathering and acting on intelligence about illegal activities.

5.10.3 In evaluating the likelihood of non-compliance, the Service will give consideration to all relevant factors, including:

- Past compliance records and potential future risks
- The existence of good systems for managing risks, in particular within regulated entities or sites
- Evidence of recognised external accreditation, and Management competence and willingness to comply.

5.10.4 Relevant commercial premises will therefore receive regular inspection visits in accordance with their perceived risk so that the public can be assured that potentially serious risks continue to be effectively managed. Models and tools to enable risk to be assessed and compared will continue to be developed. Inspection/visit frequency may also be altered as a result of national or local initiatives targeting particular activities.

## **5.11 Transparency of Regulatory advice and guidance.**

5.11.1 The Council will ensure that all legal requirements relating to its regulatory activities, as well as changes to them, are promptly communicated or otherwise made available to relevant regulated entities. It will also provide general information, advice and guidance to make it easier for regulated entities to understand and meet their regulatory obligations. This information, advice and guidance will be provided in clear, concise and accessible language, using a range of appropriate formats and media.

5.11.2 Where a remedial intervention is required, it will be clearly explained (and confirmed in writing, if requested) why the action is necessary and when it must be carried out; a clear distinction will always be made between legal requirements and best practice advice. Opportunity will be provided to discuss the circumstances of the case, clarify what is required to comply with the law and if possible, resolve any points of difference, before formal enforcement action is taken, unless urgent action is required, for example, to 'prevent' or 'protect from serious harm' or prevent evidence being destroyed.



5.11.3 Where urgent action is required, a written explanation of the reasons will be provided as soon as practicable after the event where appropriate and always on request.

5.11.4 Written explanation will be given of any rights of appeal against formal enforcement action at the time the action is taken. This will explain the appeal procedure, where and when an appeal may be made as well as confirming the grounds on which it may be brought. It will make clear whether action will be suspended pending the outcome of the appeal. Information from the Council can be provided on audio tape, in large print, in Braille or in other languages if requested and a large portion of it is available on the Council's website ([www.westlancs.gov.uk](http://www.westlancs.gov.uk)).

5.11.5 This document and any other enforcement policies produced for individual divisions or services, is/are freely available to businesses and individuals.

## **5.12 Helpfulness.**

5.12.1 Advice and assistance are regarded as central to the implementation of the enforcement policy and are used to inform both businesses and individuals of their rights and responsibilities. Help will be given to businesses, voluntary or community groups, workplace representatives and the public to assist them to comply with Statutory requirements. By adopting this approach and by positively encouraging businesses and others to seek advice and information it is hoped that many issues can be resolved without having to resort to more formal stages of enforcement action.

5.12.2 A courteous approach and efficient service will be provided with all staff identifying themselves by name. The purpose of any visit will be properly explained and a contact point or telephone number for any further dealings will be given when required. Applications for licences, registrations, approvals etc., will be dealt with efficiently and promptly and every effort will be made to ensure that, wherever practicable, the Council's enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

5.12.3 The Division offers a flexible approach to service delivery, which takes account of the diverse needs of the public and business community. Services will, if necessary, be made available by prior arrangement, possibly out of office hours and will be tailored to meet the specific needs of both the public and businesses. In delivering the service, special arrangements will be made, wherever appropriate, to accommodate ethnicity, disability, gender and age. The Council has access to translation services and will use them where necessary.

## **5.13 Accountability.**

5.13.1 The Council recognises that it is accountable to government, citizens, and Parliament for its actions. Policies and Standards have been adopted against which it can be judged, along with effective and easily accessible mechanisms for dealing with comments and handling complaints.

## 5.14 Information requirements.

5.14.1 The Council will endeavour to request only the information it needs and will, where possible, share relevant data in order to reduce the burden, on businesses or individuals, of providing data.

## 6.0 Legal Proceedings

6.1 It is recognised that the instigation of a prosecution is a serious and important part of enforcement that should only be taken after full consideration of the implications and consequences. Decisions about prosecution will take account of Council policies and procedures and the Code for Crown Prosecutors.

6.2 A prosecution will not be commenced or continued unless there is sufficient admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of a conviction. A bare prima facie case is not enough. If the case does not pass this evidential test, it will not go ahead, no matter how important or serious it may be. In addition, any possible defence, which could successfully be utilised, will be considered and may prevent a case being taken. The issue of a caution will not be used as an alternative in such circumstances.

6.3 The circumstances that are likely to warrant prosecution may be characterised by one or more of the following:-

- There has been a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law abiding are placed at a disadvantage to those who disregard it.
- The gravity of the offence taken with the general record and approach of the offender warrants a strong legal sanction. For example, a reckless disregard for standards, repeated breaches or persistent poor standards.
- Where the offence and or the circumstances leading to it are reasonably foreseeable.
- It is considered to be an appropriate way of drawing attention to the need for compliance with the law and the maintenance of standards, especially where there would be a normal expectation that a prosecution would be taken.
- The offender and particularly others may be deterred from similar failures through the conviction.
- Evidence of wilful intent of the offender, individually and/or corporately.
- There has been a previous history of offending, poor standards or lack of co-operation.
- The poor attitude of the offender, particularly in respect of any explanations offered and any remedial action taken.
- If the prosecution is successful, a significant penalty is likely to result.
- The particular contravention or circumstances have caused serious public concern or alarm.
- Prosecution would serve the public interest.
- The offence is contrary to the Councils aims and priorities.
- The lack of ability to establish a robust defence.
- The age of the offender.
- The offence, although not serious in itself is widespread in the area where it is committed and requires attention.

- In cases of obstruction or where officers safety has been put in doubt, prosecution will always be considered, especially where undue delay, or additional works/costs/visits have arisen.
- West Lancashire Borough Council, as opposed to another authority or agency, is the most appropriate body to institute proceedings.

6.4 These factors are not exhaustive and those that apply will depend on the particular circumstances of each case and each case will be judged on its merits. The importance of each factor will be determined in the circumstances of each case and will be used to make an overall assessment.

6.5 In making a decision about whether or not to undertake a prosecution, an officer will use one of the pre-prosecution assessment forms contained at Appendix 1. The officer will fill in the relevant form for an individual or a company. The form will assist the officer and their relevant manager to decide if a prosecution is the most appropriate course of action. There is no hard and fast rule in relation to how many items are needed for a prosecution, as some issues will be more important than others. Space is available for further comment. The assessment should be included with the prosecution file that is sent to the Legal Services Division. This will assist them recognise the officer thought process as to why a prosecution is necessary.

6.6 Officers who have a prosecution approved, should complete a file in accordance with QAP5 from the QA system as soon as possible.

6.7 Where necessary, criminal proceedings will be taken against those persons responsible for the offence. Where a Company is involved, it will be usual practice to prosecute the Company where the offence resulted from the Company's activities. However, any part played in the offence by the officers of the Company, including Business Proprietors, Directors, Managers, and the Company Secretary or employees of the Company will also be considered.

6.8 Action may also be taken against such officers (as well as the Company) where it can be shown that the offence was committed with their consent, was due to their neglect or they had "turned a blind eye" to the offence or the circumstances leading to it. In appropriate cases, consideration will be given to seeking the prohibition of the business proprietor under the appropriate specific statutes.

6.9 Enforcement action against employees will receive special consideration. Where appropriate, a warning letter will be issued unless the matter is serious and/or that the employee had received a prior warning from either his employer or the Council.

## 7.0 **Caution**

7.1 In cases where a prosecution is not considered to be the most appropriate course of action, the issue of a Caution will be considered as an alternative, depending on the circumstances.

7.2 A Caution is the written acceptance by an offender that they have committed an offence and may only be used where a prosecution could properly have been

brought. It will be brought to the court's attention if the offender is convicted of a subsequent similar/relevant offence.

- 7.3 As with a prosecution, additional enforcement mechanisms may also be used in conjunction with a Formal Caution.

## **8.0 Court Proceedings**

- 8.1 In cases of sufficient gravity, for example, serious breaches of food safety or health and safety legislation, where circumstances allow, consideration will be given to requesting the magistrates to refer the case to the Crown Court. The same factors as listed in 6.3 above will be used, as well as consideration of the sentencing powers of the Magistrates Court.

- 8.2 The existing law gives the courts considerable scope to punish offenders and to deter others. Unlimited fines and, in some cases, imprisonment may be imposed by the higher courts. The Council will continue to raise the awareness of the courts to the gravity of specific offences brought before them and will encourage the courts to make full use of their powers.

- 8.3 The Service will always seek to recover the full costs of investigation and Court proceedings or at least a contribution towards them.

## **9.0 Promotion, Prevention and Publicity**

- 9.1 Promotion is an essential part of the policy as it raises awareness of the Divisions' services, informs people of their legal responsibilities and encourages co-operation between officers and the regulated. A strong element of self-regulation is considered essential and support for this will be provided through newsletters, direct contact, the Council's website and, where appropriate, seminars.

- 9.2 Proactive inspections of various types of business premises are carried out each year to a frequency determined by risk. This system of inspections is seen as a means of building positive relationships between the Service and businesses.

- 9.3 Officers from Community Services will, where possible, following a successful prosecution, name companies and individuals that have been convicted of breaking the law. In the case of those offenders who have contravened the relevant legislation in relation to litter, fly-tipping, other waste offences or dog fouling, following the issue of a fixed penalty notices, either having paid it or were found guilty in a magistrates court, a list of those offenders will be published quarterly. Publicity can be drawn to individuals who, through their actions have been given Anti-Social Behaviour Orders by the courts and the provisions of these will be made known to assist the Police with their compliance monitoring, however, each case is assessed on its merits.

## **10.0 Working With Other Regulators**

- 10.1 Every effort will be made to avoid duplicating work that is the responsibility of other authorities and the Officers will aim to avoid the duplication of work for businesses dealing with different regulators. The Service will not generally investigate or enforce where another regulatory body enforces more specific

legislation. The Service will, however, liaise with that other body, to ensure effective co-ordination, to avoid inconsistencies or duplication and to ensure that any action is taken by the most appropriate body and for the most appropriate legislative breach. The Council has a local working agreement with the Environment Agency in relation to fly-tipping and liaises with them on a regular basis. There is also a statement of intent with the Health and Safety Commission / Health and Safety Executive.

#### **11.0 Home Authority / Lead Authority / Primary Authority Partnership**

11.1 West Lancashire Borough Council subscribes to the Home Authority Principle in respect of food safety matters and the Lead Authority Partnership in respect of health and safety matters and will seek to promote them in accordance with any relevant guidance. In addition WLBC supports the Primary Authority principle as outlined in the Regulatory Enforcement and Sanctions Act 2008, and its requirements and supplementary guidance.

11.2 The purpose of the schemes is to help businesses avoid contravention of food and health and safety laws by officers from this Council offering advice, at source, and encouraging any other enforcement authorities to work in liaison with the Council on enforcement issues concerning that business thereby ensuring consistency. In enforcing against activities included in one of the above partnerships, WLBC will take all the necessary consultative steps as outlined in the relevant requirements and supplementary guidance

#### **12.0 Complaints against Officers/the Service**

12.1 The Council has a clear and well-defined procedure that deals with complaints. Any complainant has the ability to "appeal" against a decision that has been made or against the response they may have had in reply to a letter. In the first instance the Divisional Manager or Service Manager would investigate the response. If the complainant still feels that their complaint has not been answered satisfactorily the Chief Executive of the Council would investigate the matter. If, after the response of the Chief Executive, the complainant was still aggrieved they could ultimately request the attention of the Local Government Ombudsman. Full details of this procedure are available on the Council's website ([www.westlancs.gov.uk](http://www.westlancs.gov.uk)).

12.2 There is also an appeal procedure through the relevant Court in relation to Court Convictions following prosecutions.

#### **13.0 Departure From The Enforcement Policy**

13.1 All authorised officers will abide by this Policy when making enforcement decisions.

13.2 Any departure from the Policy will only be accepted in exceptional circumstances, capable of justification, and only after full consideration and authorisation by the Executive Manager Community Services, or designated alternative officer.

**PRE PROSECUTION ASSESSMENT - INDIVIDUAL**

OFFICER:..... DATE OF OFFENCE:.....

NAME:.....

ADDRESS:.....

.....

DETAILS OF OFFENCE:.....

.....

Has previous legal action been taken against the by WLDC? YES / NO /?

Has previous legal action been taken regarding a similar matter? YES / NO /?

Is there evidence of previous written warnings being issued re this matter? YES / NO /?

Has there been blatant disregard for the law to gain economic advantage? YES / NO /?

Was a poor attitude to officers demonstrated? YES / NO /?

Is a significant penalty likely? YES / NO /?

Has the contravention(s) caused serious public alarm/concern/disturbance? YES / NO /?

Would the prosecution serve the public interest? YES / NO /?

Is a defence available? YES / NO /?

Is the contravention contrary to the Council's aims and priorities? YES / NO /?

Is the issue widespread and requires targeting? YES / NO /?

Was the safety of the officer in any doubt? YES / NO /?

Was the officer obstructed in the course of his/her duties? YES / NO /?

Is there a public expectation that the prosecution will be taken? YES / NO /?

Is a prosecution warranted to deter others via ensuing publicity? YES / NO /?

Would a prosecution result in bad publicity for the Council? YES / NO /?

Is a caution appropriate? YES / NO /?

Recommendation from Officer - PROSECUTE YES / NO /?

Reason: .....

.....  
(Continue overleaf if necessary)

Recommendation from the Officer in Charge  
of the investigation – PROSECUTE YES / NO /?

Reason: .....

.....  
Decision of EM – PROSECUTE YES / NO /?

Notes: .....

.....

**PRE PROSECUTION ASSESSMENT - BUSINESS**

OFFICER:..... DATE OF OFFENCE:.....  
 COMPANY:.....  
 ADDRESS:.....

DETAILS OF OFFENCE:.....  
 .....

- Has previous legal action been taken against the Company by WLDC? YES / NO /?
- Has previous legal action been taken regarding a similar matter? YES / NO /?
- Is there evidence of previous written warnings being issued re this matter? YES / NO /?
- Has there been blatant disregard for the law to gain economic advantage? YES /NO /?
- Was a poor attitude to officers demonstrated? YES /NO /?
- Is a significant penalty likely? YES NO /?
- Has the contravention(s) caused serious public alarm/concern/disturbance? YES / NO /?
- Would the prosecution serve the public interest? YES / NO /?
- Is a defence available (e.g. BPM)? YES / NO /?
- Is the contravention contrary to the Council’s aims and priorities? YES / NO /?
- Is the issue widespread and requires targeting? YES / NO /?
- Was the safety of the officer in any doubt? YES / NO /?
- Was the officer obstructed in the course of his/her duties? YES / NO /?
- Is there a public expectation that the prosecution will be taken? YES / NO /?
- Is a prosecution warranted to deter others via ensuing publicity? YES / NO /?
- Is the issue likely to be a problem again? YES / NO /?
- Is a caution appropriate? YES / NO /?
- Recommendation from Officer - PROSECUTE YES /NO /?

Reason: .....

(Continue overleaf if necessary)

Recommendation from Officer in Charge  
 of the Investigation – PROSECUTE YES / NO / ?

Reason: .....

Decision of EM – PROSECUTE YES / NO / ?

Reason: .....