

ENVIRONMENTAL HEALTH ENFORCEMENT POLICY – PEST CONTROL

TITLE: ENVIRONMENTAL HEALTH PEST CONTROL ENFORCEMENT POLICY
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1.0 INTRODUCTION

1.1 Scope and explanation of the policy

The Environmental Health Department undertakes pest control work in the following three service areas:

- I. Pest control treatments for rats, mice, wasps and insects at the request of residents and businesses within Three Rivers district.
- II. Provision of specialist advice to residents and businesses within Three Rivers District.
- III. Keeping land within Three Rivers district free from rats and mice in respect of duties required under the Prevention of Damage by Pests Act 1949.

Service area III is an enforcement role, areas I and II comprises a service that is offered to residents and business. but involves no enforcement – these service area are therefore not included in this enforcement policy.

1.2 Associated documents to be considered

Other associated documents that should be read in conjunction with this policy are:

- Council's Concordat on Good Enforcement
- Regulation of Investigatory Powers Act 2000
- Written departmental pest control procedures

1.3 Statement of objectives

1.3.1 Three Rivers District Council has a number of unique demographic, geographic and social attributes that impact upon the way that the pest control service is delivered locally. This policy is designed to ensure that the broad objectives of the enforcement concordat underpin the detailed workings of the pest control section in its day to day contact with all service users.

1.3.2 The Council's pest control policy is to work towards an achievable environmental goal, which would mean that people living or working in Three Rivers largely enjoy land and property free from infestation of vermin

1.3.3 This policy is implicit in the day to day work of many council departments. The service area mentioned at 1.1 above contributes directly to its achievement, through the enforcement of statutory provisions.

1.3.4 People whose personal, leisure or business related activities persistently have the effect of diminishing the achievement of this goal, and where a statutory duty on this Council exists, will be dealt with according to the guidance contained in this policy

1.4 **Good Enforcement Practice**

The Council has signed up to the voluntary code, known as the Enforcement Concordat which is a nationally produced standard in promoting best practice in enforcement. It is committed to the principles of the code and to work with all people to comply with the law and to take action against those that flout the law and put and others at risk. The principles of the concordat have formed the basis of the Corporate Enforcement Policy.

1.5 **Shared Enforcement**

1.5.1 Some aspects of the pest control work that the Environmental Health Service undertakes interacts with other Council services and outside Agencies that, although do not carry out enforcement work, do provide services that can provide an alternative form of resolution, or can complement or support our enforcement action. These include:

- Three Rivers District Council's Housing Teams (Public and Private sectors)
- Three Rivers District Council's Commercial Team
- Herts. County Council Social Services
- Herts County Agricultural Committee
- The Highways Agency
- Thames Water

1.5.2 In determining the most appropriate form of enforcement action, officers must have regard to any on-going or potential action of other Council services and Agencies and the suitability and effect of our action, as opposed to, or combined with their action in addressing the issues.

1.5.3 Where issues are identified by Officers from the Environmental Health Service that are the enforcement responsibility of another council service or other agency the person reporting the matter(s) will be referred to the relevant agency or service. The Officer should then refer the matter to the relevant agency or service.

1.5.4 Where enforcement action is being taken by another Council service or outside Agency, Officers from Environmental Health will provide all assistance that is reasonably requested, including the production of witness statements, collection and sharing of evidence etc.

1.6 **Commitment to the Policy**

The Council is committed to ensuring that all authorised officers carrying out enforcement work are trained and fully acquainted with the requirements of this policy. All authorised officers must abide by this policy when making

decisions on enforcement. Any departure from this policy will be exceptional, documented, justified and approved by the line manager unless the delaying in decision making would result in a significant risk to the public.

2.0 AUTHORISATION

1.1 Authorisation of officers is of paramount importance in the effective delivery of the pest control function of Three Rivers District Council. The 'proper officer' of this authority who has the delegated responsibility for authorising enforcement officers is the Chief Environmental Health Officer in consultation with the Director of Housing and Environment.

2.2 All authorisations of enforcement officers must be in writing, specifying the limits of authorisation and must form part of the identification cards shown on visits.

2.3 Competencies

2.3.1 The Council's policy is to require the following qualification for officers to carry out pest control work : -

- The British Pest Control Association Diploma

3.0 ENFORCEMENT APPROACH

3.1 This Council recognises and affirms the importance of achieving and maintaining consistency in their approach to making all decisions, which concern pest control enforcement action, including prosecution. To achieve and maintain consistency, it is important that the Enforcement Concordat is always considered and followed where appropriate.

3.2 This Authority, in line with the Enforcement Concordat, will seek to ensure that enforcement decisions are always consistent, balanced, fair and relate to common standards that ensure that occupiers and others affected are adequately protected.

3.3 Whenever an enforcement decision needs to be made fair regard shall be made to the normal hours of trading of any business premises under investigation. Whenever necessary inspections and investigations will be carried out in the early morning, in the evening and at weekends as appropriate.

3.4 Enforcement investigations may involve obtaining a Warrant of Entry from the Court in accordance with provisions contained in relevant legislation.

3.5 Prior notification of an impending enforcement inspection will not be made where such notification would defeat the purpose for which the inspection was being undertaken.

3.6 Whenever enforcement investigations require the attendance of a translator, interpreter, signer or other person to assist with written or verbal

communications with the person(s) under investigation, such reasonable provision will be made.

3.7 The Environmental Health Service will base all pest control enforcement decisions on:

- The effect of the legislative breach upon the persons affected, and/or the damage being caused or likely to be caused to the land.
- The risk to the health of persons that may be affected.
- The future consequences of failing to address the breach at the present time.
- The consequences of our action on the person(s) responsible for rectification, the owner (if not one and the same) occupier(s) and future use of the land/premises/property.
- Any concurrent or potential action by other services and agencies and the suitability and effect of our action as opposed to or combined with theirs in addressing the issues

3.8 In making an enforcement decision, we will consider a number of factors. These include the perpetrator's past history, where a business is involved - confidence in management, the consequences of non-compliance; effect of the defect on the person(s) affected and the likely effectiveness and consequences of the various enforcement options.

3.9 Where there are failures to comply with the law, this Authority has a number of informal and formal approaches to secure compliance: -

- to take informal action
- to use statutory notices
- to prosecute
- to carry out work in default

Any of the above options can also be undertaken alongside appropriate action by other Council Services or outside agencies. (see shared enforcement section 1.5)

4.0 **INFORMAL APPROACH**

4.1 Informal action to secure compliance with legislation can be by a variety of means including giving advice, verbal warnings, sending informal letters, etc. This advice will be put clearly and simply.

4.2 These methods of informal action will continue to be used by authorised officers as long as they believe that these methods will result in compliance within reasonable timescales. These methods can be used alongside other Council services or outside Agencies action where appropriate.

4.3 Informal action may be used in the following circumstances: -

- The owner's/manager's/responsible person's past history shows that it can be reasonably expected that informal action will achieve compliance.
- Confidence in the owner's/manager's/responsible person's management is high.
- Where formal action may result in undesirable or unproductive consequences for the persons affected.

4.4 When an informal approach is adopted to secure compliance with pest control legislation, it is important that any letter issued explains: -

- The remedial action needed to achieve compliance, why it is necessary and within what timescale.
- Offers the opportunity for discussion or for the owner to make representations, including contact point(s) and name(s).
- Provides the details of any other Council services or outside Agencies that may be able to provide assistance or related services to the owner/occupier/manager/responsible person.

5.0 **FORMAL APPROACH**

5.1 **Notices**

5.1.1 The use of a formal notice must be considered when there is a significant infestation of vermin and the action is proportionate to:

- The effect of the legislative breach upon the persons affected, and/or the damage being caused or likely to be caused to the land.
- The risk to the health of persons that may be affected.
- The future consequences of failing to address the breach at the present time.
- The consequences of our action on the person(s) responsible for rectification, the owner (if not one and the same) occupier(s) and future use of the land/premises/property.
- Any concurrent or potential action by other services and agencies and the suitability and effect of our action as opposed to or combined with theirs in addressing the issues

5.1.2 A formal notice will be served when:

- An informal approach has been tried but has not been successful or the officer believes an informal approach would not succeed.
- In the case of a new business or new requirement, the officer assesses that the owner/occupier/manager is unwilling or unlikely to comply.

- A prosecution is to be taken, but effective action is also needed as quickly as possible to remedy conditions through work in default.

5.1.3 Only the authorised officer who has witnessed the contravention and is satisfied that it constitutes an infestation of vermin must sign the notice.

5.1.4 Any notice that is served must contain all the content requirements detailed in the legislation and in any case must state:-

- The legislation, including regulation, section, subsection or paragraph that relates to the infestation.
- The timescale and the mechanisms for appeal.

5.1.5 The person on whom the notice is served must be contacted where possible at the time of the start date on the notice, before the completion date for the works expires to remind them of the timescale requirements.

5.1.6 A revisit will be made to a premise as soon as practicable after expiry of a Notice.

5.1.7 Where appropriate, the officer will inform to all interested bodies or agencies, including residents; managers; freeholders; leaseholders and relevant mortgagees of the action taken and its outcomes.

6.0 FOLLOW UP VISITS

6.1 This Authority will undertake follow up visits to premises to ensure that progress has been made to rectify identified problems. The criteria to decide whether a follow up visit is necessary will be the likelihood that further formal action will be taken as a direct result of the visit. Where practicable, the officer who undertook the original visit or inspection should carry out the revisit.

7.0 PROSECUTION

7.1 The Authority recognises that most property owners/managers/persons responsible wish to comply with the law and prosecution will be restricted to those who flout the law. The following circumstances are likely to warrant prosecution: -

- The alleged offence involves a failure by the suspected offender to correct an identified serious potential risk to the health or safety of persons or others, having been given a reasonable opportunity to comply with the requirements of an officer.
- The offence involves a failure to comply in full or in part with the requirements of a statutory notice.
- There is a history of similar offences.

7.2 The officer must be satisfied that there is relevant, admissible, substantial and reliable evidence that an offence has been committed by an identifiable person/company. Reference should be made to the Code of Crown Prosecutors issued by the Crown Prosecution Service who gives guidance.

7.3 The criteria contained in the relevant Code of Practice must be followed when decisions are being taken on whether to prosecute. The factors to be considered are:

- The previous history of the party concerned;
- The willingness of the party to prevent a recurrence of the problem.
- The public benefit of a prosecution and the importance of the case.
- Any explanation offered by the company or suspected offender.

8.0 STATUTORY NOTIFICATIONS AND REFERRAL TO OTHER REGULATORS

8.1 From time to time other agencies may require the statutory notification of enforcement action within a local authority's area. An example is notification to the County Agriculture Committee when a vermin infestation has been identified on agricultural land and the Council serve an enforcement notice.

9.0 REVIEW

9.1 This policy will be reviewed on an annual basis and in light of any changes in legislation, Codes of Practice or centrally issued guidance.

Human Rights implications:

1. Individuals have the right to their possessions or property (which includes a business) unless interference is justified except in accordance with the law, and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

PERSONS RIGHTS.

Data Protection implications:

1. Only publicly available information is the notice register.
2. Information may be disclosed to Police, Customs and Excise, other Council Services etc. about an individual if they are investigating a specific offence in which that individual may be involved.