

ENVIRONMENTAL HEALTH SERVICES

DOG WARDEN AND ANIMAL WELFARE SERVICE

ENFORCEMENT POLICY

May 2002

DOG WARDEN AND ANIMAL WELFARE ENFORCEMENT POLICY

1. INTRODUCTION

- 1.1. It is the Council's objective to maintain and develop a clean, pleasant and safe environment and ensure that the natural resources and heritage in Ryedale are protected and enhanced. This objective will be achieved through a policy of protecting the public from environmental factors which may affect their health and wellbeing, to improve the condition of the environment of the district and to fulfil mandatory statutory obligations.
- 1.2. The policy will be achieved by the combined policy of enforcement and the proactive work on prevention and education. Enforcement decisions arising as a result of such action will be taken in accordance with the Council's Code of Practice on Enforcement and this policy will have regard to risks to health which may arise because of actions of dog owners or matters relating to animal welfare.
- 1.3. In the enforcement of dog and animal welfare related legislation the Council will have regard to the principles of openness, helpfulness, proportionality, consistency and targeting in deciding on the correct enforcement approach.
- 1.4. The main concern of the Council is the **prevention** of such matters as dog fouling, straying dogs, dangerous dogs and poor animal welfare. As such the Council's enforcement officers will seek to help individuals, businesses and charities to improve responsible dog ownership or animal welfare related matters. Officers will work in consultation, liaison or where relevant in partnership with other Council Departments within Ryedale and other enforcing agencies to provide a co-ordinated service
- 1.5. Enforcement Officers will be trained in order to carry out enforcement functions. Training needs will be managed by the Environmental Health Manager.
- 1.6. Enforcement Concordat
All decisions to which the policy refers shall be taken in accordance with the Council's Code of Practice on Enforcement, which incorporates and is to be read in conjunction with the central and local government Concordat on Good Enforcement which was adopted by the Council on 23 April 1998.
This document should be read in conjunction with the Concordat and the Code for Crown Prosecutors.

2. DELEGATION TO OFFICERS

- 2.1 Decisions about dog related matters and animal welfare enforcement are delegated to officers of the Council as follows.

2.1.1 Environmental Health Manager

- appointment and/or authorisation of officers to exercise statutory functions;

- exercise of powers of entry
- in consultation with the Head of Legal Services, the institution of legal proceedings; and
- approval and amendment of any licence, grant -permit, authorisation or approval.

2.1.2 **Head of Legal Services**

To institute and prosecute on behalf of the Council proceedings in respect of any offence against any legislation including byelaws which the council is authorised to enforce.

2.1.3 **Authorised Officer**

As authorised according to their qualifications, experience and relevant competencies.

- 2.2 Any enforcement decision which may be required and which does not fall within the limits of this policy shall be taken by the Environmental Health Manager or Principal Environmental Health Officer in consultation with the Chief Executive and the Chairman of the Community Services and Licensing Committee, unless it is considered there is a significant risk to the public or animal welfare in delaying the decision.

3.0 **ENFORCEMENT OPTIONS**

- 3.1 The choices for action are as follows:

- to take no action
- to take informal action;
- to use formal cautions; and
- to prosecute

- 3.2 In order to achieve and maintain consistency, decisions about enforcement, action will be taken having regard to the Code for Crown Prosecutors, Circulars, Codes of Practice, other relevant guidance and the local procedure notes for the Dog Warden and Animal Welfare Service.

- 3.3 In all cases where advice is offered either verbal or written on dog or animal welfare related matters there will be a clear distinction between matters necessary to meet legal requirements and those which are recommended as good practice.

- 3.4 The circumstances under which various enforcement actions may be taken are described in the following sections of the policy.

4.0 **INFORMAL ACTION**

- 4.1 Informal action includes verbal warnings or requests for action and the use of letters.

- 4.2 Informal action will be considered where:
- circumstances do not warrant formal action.
 - confidence in the dog owner/proprietor is high; and
 - it is expected that informal action will achieve compliance

4.3 When verbal advice is given it will, if requested, be confirmed in writing.

5. **FORMAL ACTION**

5.1 The issue of a formal caution will be considered as an alternative to prosecution in accordance with Home Office Circular 18/1994.

5.2 Formal caution will be administered by the Council Solicitor.

5.3 The decision to refer matters to the Council Solicitor for formal caution will be taken by the Environmental Health manager or Principal Environmental Health Officer who will consider all relevant evidence and information.

5.4 In order to safeguard the offender's interests the following conditions must be met before a caution can be administered.

- there must be evidence of the offender's guilt sufficient to give a realistic prospect of conviction;
- the offender must admit the offence;
- the offender must understand the significance of a caution and give informed consent.

5.5 In deciding whether a formal caution is appropriate the following factors will be taken into account:

- the nature of the offence;
- the likely penalty if an offender was convicted by a court;
- previous history; and
- the offender's attitude towards the offence including practical expressions of regret.

5.6 Where the offer of a formal caution is refused alternative enforcement action will be considered by the Environmental Health Manager or Principal Environmental Health Officer. Again all relevant evidence and information will be considered.

5.7 In most cases but not necessarily all, refusal of a formal caution will result in a referral for prosecution.

6. **PROSECUTION**

6.1 Prosecution will be considered where there has been a serious breach of dog or animal welfare legislation.

6.2 The decision to refer matters to the Council Solicitor for prosecution will be taken by Environmental Health Manager or Principal Environmental Health officer who will consider all relevant evidence and information.

- 6.3 Where decisions are taken about whether to prosecute the guidance in The Code for Crown Prosecutors and The Code of Practice 2 (Legal Matters) will be followed and the factors which will be considered may include the following:
- the seriousness of the alleged offence;
 - the previous history of the party concerned;
 - the likelihood of a due diligence defence being established;
 - the ability of any important witnesses and their willingness to co-operate;
 - the willingness of the alleged offender to prevent a recurrence;
 - the probable public benefit of prosecution and the importance of the case;
 - whether other enforcement action would be more appropriate; and
 - any explanation offered by the alleged offender.
- 6.4 Circumstances which may warrant the prosecution of offenders include:
- offences which involve a flagrant breach of the law such that public health, safety or animal welfare is put at risk;
 - offences which involve a failure of the offender to correct potential risk to public health or animal welfare safety where a reasonable opportunity to comply has been given by an authorised officer.
 - Offences which involve a failure to comply with the requirements of a warning letter and where there is a history of offences related to public health safety or animal welfare.