



ENVIRONMENT DEPARTMENT

PUBLIC PROTECTION

ENFORCEMENT POLICY

2025

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Document Control

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|------------------|--------------------------------------|
| Name | Public Protection Enforcement Policy |
| Version | 2 |
| Status | Live |
| Produced by | Public Protection |
| Approved by | Craig ap Iago |
| Designation | Cabinet Member - Environment |
| Approved date | 11/12/25 |
| Next review date | 1/04/27 |

Part A: Introduction and General Principals

1 Introduction

1.1 Cyngor Gwynedd's Public Protection Services comprise of; Food and Safety , Trading Standards and Pollution and Licensing. These services have a responsibility for undertaking a significant proportion of the Council's regulatory duties in a diverse range of fields.

1.2 The Authority fully recognises that effective regulation needs to be proportionate and flexible enough to ensure that people are protected from harm whilst simultaneously encouraging economic prosperity.

1.3 Our intent is to work constructively with businesses to ensure fair competition and support thriving, healthy local communities.

1.4 This enforcement policy outlines the basic principles, legislation and approach to our public protection enforcement activities . Authorised officers are required to have regard to this policy whilst undertaking enforcement action on behalf of the Authority.

1.5 This enforcement policy has been developed with reference to and accords with the requirements and/ or instructions /directions issued under

The Regulators Code

Legislative and Regulatory Reform Act 2006

The Human Rights Act 1998

The Regulation of Investigatory Powers Act 2000

The Regulatory and Enforcement Sanctions Act 2008

2 Aim of the Enforcement Policy

2.1 The aim of this enforcement policy is to set out our approach to enforcement in the service areas covered in a clear and concise way.

3 Policy Objectives

3.1 The Council is committed to promoting efficient and effective approaches to regulatory inspections and enforcement which promotes key regulatory outcomes without imposing unnecessary burdens.

3.2 We will utilise our enforcement powers to meet the following broad objectives.

- ⇒ Reduce health inequalities.
- ⇒ Reduce instances of food poisoning and animal disease outbreaks.
- ⇒ Ensure that fewer accidents, injuries and ill health occur to employees at work.
- ⇒ Achieve a reduction in pollution and environmental crime.
- ⇒ Contribute towards safer and stronger communities.
- ⇒ Securing improved levels of business compliance.

3.3 We will adopt a positive, proactive and balanced approach to ensure compliance. This will be achieved through a combination of:



3.4 The Public Protection Services will provide advice, information, help and support for businesses which reflects individual business needs and expectations; and undertake intelligence-led, targeted and proportionate interventions where regulatory breaches have been identified.

3.5 This policy is primarily focused on the regulation of the business community but a number of regulatory functions involve enforcement against individuals. Where enforcement action is contemplated against individuals we will take into account the relevant principles and standards outlined in this policy.

4 What is Enforcement?

4.1 The Authority seeks to ensure that duty holders comply with legislation that protects people and businesses from harm. This is primarily achieved using enforcement tools which are incorporated within the legislation.

4.2 A duty holder can be anyone on whom the law confers a responsibility.

4.3 The term 'harm' has a wide ranging meaning. In terms of public protection harm can range in meaning from physical or mental health injury to individuals to economic disadvantage to a business

4.4 The term 'enforcement' also has a wide ranging meaning. In practice enforcement can be advice, written warnings, formal notices and ultimately prosecution.

5 Equality and Diversity

5.1 The council and its officers will take all reasonable and practicable steps to prevent and eliminate unlawful discrimination and encourage good relations between all parties, treating all those involved with equal respect, both when corresponding with those individuals and businesses and during enforcement activities.

5.2 This will be done irrespective of the individual's ethnic origin, gender, age, marital status, sexual orientation, disability, religious beliefs or non-beliefs, language, nationality, responsibility for any dependents or any other reason.

5.3 As we engage with people who have a wide range of experiences and needs, we will provide a Service, as far as is reasonably practicable, that takes account of each individual's unique circumstances.

5.4 In ensuring that everyone is treated equally and fairly, regardless of background or circumstance, we recognise that we may need to tailor our response to ensure that we are being responsive to individual needs. This could involve, for example, making arrangements to meet an individual at home or arranging support and assistance to an individual to help them deal with a particular issue.

5.5 This policy is available in Welsh and English and may be provided in another language or format on request.

5.6 With prior notice, the Council will also arrange suitable and appropriate translation or interpretation services.

5.7 The Council will regularly review our policies and practices to ensure a continuing commitment to providing services that do not discriminate against minority groups.

6 Freedom of information

6.1 Cyngor Gwynedd is open, accessible and honest in its dealings with the public.

6.2 The Public Protection Services support the aims of the Freedom of Information Act in promoting openness and transparency and by giving the public access to recorded information that is held in our databases.

6.3 The Service maintains a number of registers including details of Gwynedd food premises, agricultural holdings and a raft of permitted premises / processes.

6.4 In order to encourage compliance Cyngor Gwynedd may publish inspection reports and food hygiene ratings online. No individuals will be named in the published reports and commercially sensitive information will also be omitted. Information relating to business who are subject to ongoing enforcement action may not be published or provided to others.

6.5 Details of how to submit a request for information may be found on the Authorities website www.gwynedd.llyw.cymru

7 Data Protection

7.1 The data which we hold is protected in accordance with the Data Protection Act and the General Data Protection Regulations (GDPR). Any personal data will be kept securely, it shall be accurate and disposed of when no longer required.

7.2 We retain and process personal information on duty holders and individuals in order to carry out our statutory functions. This may include the names and contact details of duty holders and people who submit complaints which relate to our work.

7.3 We may share personal data which we hold with other enforcement agencies who are subject to the same requirements. Before sharing we will consider how to transfer the information securely.

7.4 The general data protection arrangements of the Authority may be viewed at www.gwynedd.llyw.cymru

8 Our commitment to You

8.1 This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, we will have due regard to the following;

- Right to a fair trial
- Right to respect for private and family life, home and correspondence

8.2 We are committed to providing open, equal and timely access to our services.

8.3 As we are continually seeking to improve our standards, this policy is subject to regular review.

9 Complaints

9.1 If you are unhappy with the service you have received, or we have failed to live up to our promises, managers are always willing to discuss with you the cause of your dissatisfaction, and will try to find a solution.

9.2 If you wish to make a complaint or send us a compliment or comment about our service:

- please contact the Assistant Head of the Environment Department via 01766 771 000 or gwarehodicyhoedd@gwynedd.llyw.cymru
- you can use Cyngor Gwynedd's online complaints procedure by going to www.gwynedd.llyw.cymru or contacting the Service Improvement Officer

at Corporate Support, Cyngor Gwynedd, Shirehall Street, Caernarfon, Gwynedd, LL55 1SH.

9.3 If you are still not satisfied, and feel you have been subject to an injustice, we will tell you how to complain to the Public Services Ombudsman for Wales.

Part B: Approach to Enforcement

10 How will we work in practice?

10.1 We have adopted accepted principles of the local government concordat on good enforcement and will abide by its principles. These include:

Publishing our Service Standards:

10.2 We will publish clear and explicit service standards

Being Open and transparent:

10.3 We will provide information in clear and simple language and explain how we intend to support legitimate businesses and protect consumers and citizens.

10.4 We are committed to the open provision of information and advice in a format that is accessible and easily understood.

10.5 We will clearly explain the nature of any non-compliance, the advice that we give, the actions required and why the decisions are taken.

10.6 We will ensure that there is always a clear distinction between those actions which are necessary to comply with the law, and those which we recommend as best practice but which are not compulsory.

10.7 Where businesses have acted against the law we may use publicity in order to raise awareness, to increase compliance and to improve monitoring of trade practices.

Being Helpful:

10.8 We believe prevention is better than cure and will therefore explore ways to encourage businesses to seek help and advice so we can help businesses 'get things right first time'.

10.9 Applications for services will be dealt with promptly and efficiently.

10.10 Wherever possible, enforcement activities will be co-ordinated to minimise unnecessary overlaps and delays.

Responding positively to complaints about our service or approach:

10.11 Ideally if we get the approach right we should not get many complaints but we have a clear pathway to report and hopefully resolve complaints satisfactorily.

Taking proportionate and sensible action where legislative breaches are identified:

10.12 Any enforcement action that we take will be proportionate to the risks posed to the public, property and the environment.

10.13 We will minimise the costs of compliance for business, by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action. When carrying out our activities we will have regard to relevant current National Enforcement Priorities for Wales.

10.14 Where possible we will take particular care to work with small businesses and voluntary and community organisations, so that they can meet their legal obligations without unnecessary expense.

10.15 When dealing with individual members of the public, the concept of proportionality will also apply, in so far as the relevant legislation permits.

10.16 We will attempt to identify and contact all individuals concerned with each case, where possible, and take action that balances the potential harm of allowing the activity to continue against the cost or inconvenience to those concerned.

Being fair and consistent:

10.17 We will treat all consumers and businesses in a fair, equitable and consistent manner.

10.18 We aim to give positive feedback to businesses where it is due.

10.19 While Officers are expected to exercise judgement in individual cases, we will have safeguards in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies. This will be achieved through staff development and training, and the use of written protocols and procedures where appropriate.

10.20 We will have regard to national guidelines in our decision-making processes.

Being Accountable

10.21 The Council has a clearly defined scheme for delegated authority in relation to regulatory services . Public Protection Services are led by an officers at managerial level who report to The head or assistant head of The Environment Department .

10.22 The Head of The Environment Department provides elected Members with professional advice and support in addition to leading and managing the service. Regulatory outcomes are normally defined within a Service Strategy/Service Plans framework which also outlines the operational priorities and activities for the next 12 months.

10.23 Service strategies and policies are normally published and generally informed by the needs and expectations of key client groups: consumers and businesses. Needs and expectations are normally identified following formal consultation with these client groups and are reflected in service plans. Regular and systematic work is undertaken throughout the year to assess satisfaction levels and to target improvement activity where these are found to be unsatisfactory.

10.24 Additionally, Service Plans generally contain detailed information about:

- Service standards e.g. response times, opening hours etc.
- Regulatory outcomes
- Service priorities, projects and enforcement activities

11 How will we provide effective regulation?

11.1 When undertaking a regulatory function the Public Protection Services must have regard to the principles of good regulation known as the regulators

code. The code supplements the principles of the local government concordat for good enforcement.

11.2 In some instances a service may decide that a specific provision of the code does not apply to a given situation or that priority should be given to a certain part of the code to the detriment of another part. Any decision taken which does not follow the code will be properly reasoned, based on evidence and documented.

11.3 We will provide effective regulation by:

Supporting Economic Prosperity

11.4 One of our key roles is to encourage economic progress against a background of protection. Wherever possible, we will work in partnership with businesses to assist them in meeting their legal obligations.

11.5 This enforcement policy takes into account the need to support legitimate businesses through a programme of effective advice and information in the first instance to 'help businesses get things right first time'. This approach delivers benefits for regulators and businesses. Our approach really is one of *'prevention is better than cure'*:

11.6 Our approach will involve:

- Working proactively to develop constructive and trusting relationships with local businesses, particularly new businesses, so that they are confident about seeking help if things go wrong rather than trying to hide things and make matters worse.
- Understanding and taking into account the size, complexity and scope of business operations to provide an appropriate and proportionate level of advice and support, particularly having regard to the impact of regulation on small to medium sized businesses.
- Consulting with local businesses, identifying their needs and expectations and providing an appropriate level of advice and support to meet or preferably exceed those expectations.
- Providing a responsive and effective business advice service so that businesses can get access to high quality people to help them comply with the law through the provision of sensible and pragmatic advice.

- Using intelligence-led and targeted interventions based on an objective assessment of risks so that resources are appropriately directed to areas of the highest risk.
- Developing an effective system for the resolution of disputes so that the right regulatory outcomes can be achieved without creating unnecessary burdens for businesses.
- Systematically and regularly reviewing our policies, strategies and practice in order to ensure they remain relevant and effective in achieving regulatory outcomes without imposing unnecessary burdens on businesses.

Determining our regulatory effort based on risk.

11.7 Effective risk assessment will guide all of our regulatory and enforcement activity. It will inform how we use our resources to focus on areas of high risk so that they are used to maximum effect in supporting business and protecting consumers thus leading to improved regulatory outcomes.

11.8 We will use risk assessment to:

- Identify the likelihood of significant risks to health, wealth or wellbeing of local people and communities, the environment and fair trading and economic prosperity; and
- Ensure that our actions and interventions are based on a detailed analysis of the best evidence available so that resources are effectively targeted at and successful in reducing the highest risks to local people, communities and legitimate businesses

11.9 Our risk assessment framework is comprehensive and includes an assessment of the combined effect of:

- the potential impact of non-compliance on regulatory outcomes; and
- the likelihood of that non-compliance occurring.

11.10 Our intelligence-led, evidence-based approach will inform the development of a programme of planned inspections, the balance between preventative and compliance activity and the application of enforcement techniques and the appropriate sanctions in accordance with clearly defined policies.

11.11 In evaluating the likelihood of non-compliance, we will consider the following factors:

- previous levels of business compliance and the identification of potential future risks;
- the existence of effective risk management systems;
- evidence of regular and effective third party certifications; and
- management competence and willingness to comply.

Focusing on Prevention

11.12 A key focus of our approach to prevention will involve developing positive and constructive working relationships with businesses through existing networks and contacts and through the creation of a business support function and an aspiration to create single point of contact for all regulatory enquiries. We recognise that small businesses, in particular, can be overwhelmed by the scale and complexity of legislation covering their business operations. Our approach is to provide easy access to advice, provide simple, clear and concise information and to provide follow-up advice where it is needed. Where national guidance exists, we will promote this to ensure consistency in its application, but where no national guidance exists we will endeavour to consult with businesses to ensure locally developed guidance meets their specific needs, where this is sensible and practical.

11.13 In all our dealings with businesses we will aim to:

- inform them about any new legislation likely to affect their business as soon as we know about it and will apply the same principle in respect of changes to existing legislation;
- where necessary and appropriate, provide sector-based information, advice and guidance;
- provide general information, advice and guidance to make it easier for businesses to understand and implement what needs to be done;
- ensure the information, advice and guidance we provide is simple, clear and concise and is available in a range of formats and media; and
- regularly and systematically assess the quality and accessibility of our information, advice and guidance to ensure it remains accurate, reliable and fit for purpose by assessing satisfaction levels with businesses.

11.14 We will always try to ensure that, in all our dealings with businesses, we differentiate between specific legal requirements and guidance/best practice aimed at delivering improvements above minimum standards. However, we will actively encourage businesses to strive to achieve higher standards and help to support those that wish to take this approach.

11.15 Advice services will generally be provided free of charge. Where charges are applicable we will make this clear in advance of the provision of any of these services to the business community. For example, the provision of specific, tailored advice following a written request form a local business.

Targeting Inspection Visits

11.16 *No inspection without a valid reason* - We will try not to undertake any inspection visits to business premise unless there is a specific and justifiable reason for so doing.

11.17 *Timely and effective feedback* - At the conclusion of any inspection visit, our officers will give a verbal update of his/her findings in order to seek agreement on the proposed corrective actions. Any advice, guidance or specific instructions will normally be confirmed in writing.

11.18 *Joint Inspection Visits* - We will try to coordinate our inspection programmes so that businesses are not subject to multiple inspections.

Reviewing Processes for Requesting Information

11.18 *Keeping requests for information to a minimum* - We will try to ensure that we do not ask businesses for information unless it is absolutely necessary to verify compliance with a key legislation and we will develop information systems to try to avoid any situation where we ask for the same information more than once.

11.19 *Offering choice in the way businesses are able to provide information* - Where information has to be provided we will try to ensure that the systems and processes for providing such information are clear, simple and accessible.

11.20 *Data Protection* - We will ensure that any information or data we hold is accurate, regularly cleansed and safely stored, in accordance with the data protection act.

11.21 *Using Intelligence-led and Targeted Enforcement* – Data which we hold or request will be used to inform and target our enforcement work.

Part C: Obtaining Evidence

12 Investigations

12.1 Investigations may be undertaken to determine;

- i) The facts and cause of a case
- ii) Whether action has been taken or needs to be taken to secure compliance with the law
- iii) To inform an enforcement decision or appropriate response

12.2 In some circumstances the services have discretion in terms of deciding to undertake an investigation or not. Factors to be considered:

- iv) The severity and scale of the potential or actual harm
- v) The duty holder or individual's previous conformance history
- vi) Public Protection Enforcement priorities
- vii) Likelihood of achieving a desired result.
- viii) Is the matter under consideration of serious concern to Gwynedd residents?

12.3 The Public Protection Services will be guided by the advice of other Authorities such as the Health and Safety Executive or the Food Standards Agency when deciding if an event should be investigated.

13 Conduct of Investigations

13.1 All investigations will be undertaken in accordance with current legislative requirements and any associated code of practice or guidance.

13.2 Where the service shares and enforcement role with other enforcement agencies such as the Police or The Health and Safety Executive we will have regard to primacy arrangements, enforcement concordats and any existing designated enforcement roles / priorities that have been agreed and documented.

13.3 Where offenders have committed multiple offences over a number of local authority areas the Service will look to enter into legal agreements with other

Councils for one authority to take the lead with enforcement action such as prosecution. This will be done under enabling powers such as those contained in The Local Government Acts.

13.4 When officers undertake enforcement work in Local Authority owned / managed premises, such as food safety enforcement in schools and care homes, the approach taken in terms of investigation and reporting will mirror that taken in private businesses.

13.5 Where significant non-compliance with statutory requirements or examples of sustained non compliances are identified the issues will be reported to the respective heads of service for consideration /action.

13.6 In addition to the principles set out in this Policy, officers will always present themselves professionally and courteously. Officers will, as the circumstances allow, announce who they are and in what capacity they are acting to someone in authority in the business. However, there may be occasions when officers legitimately delay identifying themselves until a later stage of an investigation. Officers will carry, and show their identity card or authorisation as appropriate.

13.7 Officers will engage with individuals and groups fairly, constructively and effectively without discrimination.

14 Covert Directed Surveillance

14.1 Where a Service wishes to collect evidence or information the requirements of the Regulation of Investigatory Powers Act (RIPA) shall be followed.

14.2 Directed surveillance will only be undertaken following the necessary authorisation and will only be used for the detection of crime which attracts a maximum custodial sentence of six months or more or involves underage sales of alcohol or tobacco.

14.3 In the unlikely event that a Public Protection Service will look to obtain the services of a covert human intelligence source (CHIS) this will only be undertaken following the necessary authorisation and in keeping with current guidance

14.3 Public Protection Services are not permitted to engage in intrusive surveillance.

15 Interviewing Suspects

15.1 Public Protection Officers may formally interview a person whom they suspect of having committed an offence. Such interviews are conducted under the Police and Criminal Evidence Act (PACE).

15.2 Interviews under caution (PACE Interviews) may be conducted in a Council office or by officers out in the field. A suspect's response to questions outside of an office environment will be documented by the interviewer and the suspect will be asked to acknowledge its accuracy by signing and dating the written record.

15.3 Interviewees may bring a solicitor or legal representative to an interview.

15.4 All suspects will be cautioned prior to interview. Interviewing officers must be satisfied that a suspect understands the caution before putting questions to them.

15.5 A PACE interview may be conducted by letter. Any PACE interview correspondence will contain a caution. The questions shall be clear and easily understood.

15.6 Investigating officers will ensure that anyone being interviewed understands the reasons why they are being questioned.

15.7 Under certain specific legislation officers have the power to require individuals to divulge information which is pertinent to an inquiry. Their powers in this respect will be explained to any individual subject to such a request.

16 Primary Authority Partnerships / Home Authority Principle

16.1 The Primary Authority scheme is a formal arrangement whereby businesses or trade groups can receive assured and tailored advice in meeting environmental health, trading standards or fire safety regulations from an Authority.

16.2 Under the scheme businesses or trade groups enter into a formal, legal partnership with a Council or fire authority. The business is expected to meet the costs of the authority in providing advice / assurance.

16.3 The Home Authority principle is a scheme which predates the primary authority scheme. Under this scheme businesses are able to form a partnership with the local authority in which they are based, where they trade or provide services that impact beyond their 'home authority'.

16.4 Under the scheme businesses are able to obtain advice and support from the home authority on matters such as legal requirements, changes to the law and so forth.

16.5 Cyngor Gwynedd has not entered into primary Authority or Home Authority agreement. However, where resources allow the Public Protection Services will attempt to follow the home authority principal for businesses based in our area.

16.6 Enforcement Officers will have regard to both schemes whilst undertaking their duties and in particular will make reference to any instruction / direction specified in individual concordats between Primary Authorities and their respective business partners.

Part D: Enforcement

17 What happens when the preventative/advisory approach fails?

17.1 We recognise that the majority of businesses we come into contact with are legitimate and want to engage constructively with regulators. Our approach will be different for individuals and businesses who:

- operate fraudulently or unfairly; and/or
- persistently use unfair trading practices and fail to follow advice; and/or
- put at risk the health, safety and well-being of staff, customers and consumers; and/or
- persistently fail to follow advice about legal requirements despite significant attempts from the regulator to ensure compliance; and/or
- attempt to gain a competitive advantage over legitimate businesses through fraudulent or unfair trading practices.

17.2 Where evidence of legislative non-compliance has been established the following hierarchy of approach will normally be considered:

Step 1 Promotion – as part of our ongoing programme of advice, information and assistance we will seek to persuade by negotiation the adoption of good practice and to increase the businesses understanding of the legislation in order to secure improved levels of compliance.

Step 2 Informal Warnings – will be used when there is evidence of non-compliance but the nature of that non-compliance does not warrant formal action. .

Step 3 Formal Enforcement Action – this includes the issuing of statutory notices, written undertakings and enforcement orders; refusal to grant or revocation of a licence or registration; the issue of cautions, fixed penalty notices, penalty notices for disorder and/or prosecution.

17.3 Formal enforcement action will only be considered after all other reasonable efforts to achieve compliance have been exhausted, except where immediate action is necessary to prevent or respond to a serious breach / imminent risk to health.

17.4 Where reasonable efforts have been made but failed to:

- achieve compliance including: the use of positive incentives to deliver improvement in appropriate circumstances;
- change the behaviour of the offender;
- eliminate any financial gain or benefit from non-compliance
- stop the harm or damage caused by the offending behaviour; and
- deter future non-compliance;

there will be no alternative but to take formal enforcement action.

17.5 We will ensure that all of our officers are fully aware of, and committed to, following the policies and principles outlined in this document through a programme of learning and development and management review processes. Our aim is to ensure that the policy is applied fairly and consistently across all service areas so that we achieve high compliance levels without the need for

heavy-handed enforcement practice. Officers will only take enforcement action on behalf of the authority for which they have been authorised to do so.

18 Formal Action – Options

Statutory (Legal) Notices

18.1 Legislation enforced by the Council provide for the service of statutory notices. These notices require a person, business or organisation to comply with specific legal requirements. Where a formal notice is served and where relevant, the method of appealing against the notice (i.e. if the recipient feels that the notice is unjustified or excessive in its requirements) will be provided in writing at the same time. The notice will explain what is wrong, what is required to put things right and outline the consequences for failure to comply with the notice.

18.2 In general, a failure to comply with a properly written and served statutory notice will render the recipient liable to prosecution. In some cases the Council is able to carry out works to comply with the notice and recover the cost of doing so from the recipient of the notice. The service of a notice does not preclude the Authority from instigating prosecution proceedings.

Fixed Penalty Notices , Penalty Notices for Disorder and Community Protection Notices

18.3 A fixed penalty notice or a penalty notice for disorder may be used as a means of disposing of an offence by means other than prosecution. It is the offender's opportunity to avoid a conviction if they choose to pay a penalty instead. Non-payment of a penalty notice is generally not an offence in its own right and should a recipient not pay the penalty offered, prosecution will be necessary for the actual offence.

18.4 The Council will comply with any relevant guidance on the use of fixed penalty notices. Fixed penalty notices may be issued without prior warning. The following conditions will be satisfied:

- a) there must be sufficient evidence to give a realistic prospect of conviction;
- b) the offence is not too serious and is of a nature suitable for being dealt with by a penalty notice.

18.5 The service will also follow relevant guidance in issuing such notices to juveniles, vulnerable individuals, persons with learning difficulties or those with a mental health condition which impedes rational thought / judgement.

18.6 Juveniles who choose not to pay a notice may be referred to an Youth Offending Service Intervention Program to discharge their liability by alternative means.

18.7 A fixed penalty notice will not normally be issued to children between the ages of 10-15 years old for isolated incidents. Notification of the offence will , where possible, be provided to the child's parent or guardian.

18.8 Where a child between 10-15 years is found to repeat offend and a fixed penalty notice is considered appropriate the notice should be served , with a covering letter, by post to the parents or legal guardian.

18.9 Community Protection Notices may be issued to deal with persistent antisocial behavior which affects a community. A failure to comply may result in prosecution

18.10 All such notices issued will include details of the applicable appeal procedure.

Suspensions, Revocations and reviews

18.11 The Service has responsibility for issuing a variety of licenses and permits including taxi and public entertainment licenses, caravan site licenses and environmental permits. All such licenses and permits will contain conditions which , if breached, may lead to a review, suspension or revocation.

18.12 The service will follow the relevant procedures or guidance available in dealing with license, registration or permit breaches.

Part 2A orders

18.13 Under a Public Health Act the Council may apply for a part '2A' order to deal with specific threats to human health arising from contamination or infection. A case must be made to a Justice of the Peace for such an order before one is issued. An order can insist, amongst other things, that a person be detained and subject to a medical treatment, that an activity ceases, or that an article or equipment be surrendered or destroyed.

Injunctions, Undertakings and Enforcement Orders

18.14 Where an individual or organisation persistently fails to comply with the law, the Council may seek a written undertaking from that person that they will cease the action complained of. In such circumstances, the Council may determine that no further formal action will be taken.

18.15 In cases where an individual or organisation has breached or has refused to provide a written undertaking to cease the action complained of, an application to a court may be made for an enforcement order, or for other formal action in accordance with the relevant legal provisions. For example, under the Antisocial, Crime and Policing Act 2014 the Authority may apply to magistrates for a premises closure order for up to 3 months at a time, where it is shown that there is substantial antisocial behaviour or public nuisance associated with the premises use.

Voluntary Surrender, Seizure, forfeiture

18.16 The services enforce a number of statutory acts which allow for the detention and seizure of equipment, goods or documents, either as evidence or to prevent harm. Furthermore, there are also formal provisions to enter into a voluntary surrender agreement of products and the voluntary closure of certain businesses.

18.17 Where such formal action is taken affected individuals will be given written confirmation as to the why and an explanation of their rights. Forfeiture may be considered as an option where the removal of goods / products from the market is thought necessary.

Tobacco Restriction Orders.

18.18 When tobacco is sold on a regular basis to young people the service may submit a complaint to the court and apply for a restricted premises order or restricted sale order. An order can prohibit an individual to sell tobacco or the use of a premises to sell tobacco for up to a year.

Taking animals into possession

18.19 Under the Animal Welfare Act 2006, if a veterinary surgeon certifies that 'protected animals' are suffering or are likely to suffer if their circumstances do not change, we will consider taking them into possession and applying for Orders for re-imbursement of expenses incurred and subsequent disposal,

Simple Cautions

18.20 Under certain circumstances, a caution may be an appropriate alternative to prosecution. This option will be considered before prosecution. A caution is a serious matter. It is recorded on the Central Register of Convictions and may be used to influence any decision as to whether or not to institute proceedings if the person should reoffend. It may be referred to in any subsequent court proceedings, if this is in keeping with the Rehabilitation of Offenders Act.

18.21 For the legislation which we enforce, simple cautions can only be offered for certain indictable offences and the Authority must have confidence that the caution will be effective in preventing re-offending.

18.22 The same tests as that required for a prosecution apply –the evidential test and public interest test.

18.23 Cautions serve the following purposes:

- a) to deal quickly and simply with less serious offenders;
- b) to avoid unnecessary appearance in criminal courts;
- c) to reduce the chance of offenders re-offending.

18.24 We will comply with Home Office guidance on the cautioning of adult offenders and in particular before issuing a caution, the following conditions must be satisfied:

- (a) there must be evidence of guilt sufficient to give a realistic prospect of conviction;
- (b) the suspected offender must admit the offence, usually by signing a declaration;
- (c) the suspected offender must understand the significance of a caution and give an informed consent to the caution.

Prosecutions

18.25 The Council will use discretion in deciding whether to initiate a prosecution. Where the circumstances justify it, prosecution without prior warning may take place.

18.26 The Council will consider prosecution when:

- (a) it is appropriate in the circumstances, as a way to draw attention to the need for compliance with the law, especially where there would be a normal expectation of a prosecution, or where,

- (b) through the conviction of offenders, others may be deterred from offending; or
- (c) there is the potential for considerable harm arising from the breach; or
- (d) the gravity of the offence, taken together with the general record and approach of the offender justifies it.

18.27 The decision to prosecute will always take account of the criteria set down in the '**Code for Crown Prosecutors**'.

18.28 We will apply two 'tests: the **Evidential Test** and the **Public Interest Test** before determining whether or not to proceed with a prosecution. .

18.29 For the Evidential Test we will satisfy ourselves that there is sufficient evidence to provide a 'realistic prospect of conviction' against each defendant on each charge. This is an objective test that means a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant.

18.30 For the public interest test the following criteria will normally be taken into account when deciding on the relevance of legal proceedings, although this list is not exhaustive:

- The prevalence of the type of offence
- The need for a suitable deterrent
- The risk of danger or injury to the public
- The failure to comply with a statutory notice or respond to advice about legal requirements
- The disregard of legal requirements for financial reward
- Significant financial loss, potential or actual, to a third party
- A history of similar offences
- Persistent breaches of legislation
- Where fraud, gross negligence or guilty knowledge is a factor
- Minor breaches of a number of statutes

18.31 Where possible an offender will be told as soon as sufficient evidence is obtained that a prosecution may follow. All prosecutions will be brought without unnecessary delay.

18.32 The Council will aim to maximise our effectiveness by working with other authorities and other agencies, whenever appropriate, sharing intelligence where it is lawful to do so and mounting joint operations where they would bring benefits.

Proceeds of Crime

18.33 In appropriate cases, an application may be made under the Proceeds of Crime Act for confiscation of assets to recover the financial benefit that the offender has obtained from a criminal conduct. Proceedings are carried out in accordance with the civil standard of proof and applications are made after a conviction has been secured but before the offender has been sentenced.

Directors

18.34 Where serious breaches are committed with the consent, convenience or are attributable to any director, manager or secretary of a body corporate formal action may be taken against that person.

18.35 If a company director is convicted of an offence the Authority may submit a request to the sentencing court for a disqualification order to be issued under the Company Directors Disqualification Act.

Civil claims

18.36 Cyngor Gwynedd will not assist, unless bound to do so under statute, with any civil claims for compensation or any other remedy sought by any other party.

Publicity

18.37 The Council may choose to publicise the successful prosecution of any offender, in order to educate debtholders and to deter further or similar offending.

19 Accessibility and Advice

Our contact details:

Public Protection, Environment Department, Cyngor Gwynedd,
Pencadlys, Shirehall Street, Caernarfon, LL55 1SH

By post: Public Protection, Environment Department, Cyngor Gwynedd,
Meirionnydd Area Office, , Cae Penarlag, Dolgellau, LL40 2YB

Public Protection, Environment Department, Cyngor Gwynedd,
Dwyfor Area Office, Public Protection Service, Pwllheli, LL53 5AA

Telephone: 01766 771000

Email: GYC@gwynedd.llyw.cymru

Website: www.gwynedd.llyw.cymru

Opening hours: 09.00 – 16.00 (Monday – Friday)

(Please note we cannot accept personal callers without an appointment)

For consumer advice contact Citizen's Advice Consumer Helpline:

Telephone: 0800 702 2020

Web: www.citizensadvice.org.uk/wales

20 Feedback and Comments

We welcome feedback on this or any of our policies. Please direct any feedback or comments on this Enforcement Policy to:

Assistant Head
The Environment Department
Cyngor Gwynedd,
Pencadlys
Caernarfon,
Gwynedd LL55 1SH

Contact us via our website www.gwynedd.llyw.cymru

This Policy can be made available in a variety of formats and media upon request.