

# Gloucester City Council

**Community Engagement**

**&**

**Regulatory Policy**

**2020**

## Executive Summary

Gloucester is a vibrant multicultural city that combines historic architecture with a unique blend of visitor attractions. Our city centre boasts a mixture of major stores and independent and regional retailers, many of which are unique to Gloucester and make the city an ideal place to shop. Gloucester also offers a selection of restaurants, pubs and bars, between Gloucester Quays and the city centre offering something for everyone. Key to the success of the docks and the City Centre is the linkage between the two, and the overall ambience of the main city centre streets is critical to maintaining a good reputation for the general benefit of residents, businesses and visitors. As a City Council, in partnership with local businesses, residents and partner organisations, we are committed to making Gloucester a better place to live, work and play.

While it is important to encourage a vibrant and welcoming street environment, a number of factors may occur at any time and have a negative effect on the overall atmosphere within Gloucester city centre. These factors may be loosely grouped together as “negative behaviours” that impact on other people and may include:

Begging

Rough Sleeping

The consumption of so-called “legal highs”

Street Drinking

There has been increasing demand from city centre businesses and partner agencies for a clear policy on negative behaviours, as expressed through Gloucester City Safe, the Licensed Victuallers Association, Gloucestershire Constabulary and individual complaints submitted directly to the Council. However, as these issues can mostly be categorised as “negative behaviours”, rather than a threat to public health and safety, or criminal activity, there are limited enforcement resources/powers available.

As a regulator Gloucester City Council can enforce against breaches of legislation following investigations and appropriate evidence gathering. Enforcement includes any action taken by Officers aimed at ensuring that individuals or businesses comply with the law. The enforcement options will differ where different pieces of legislation are used, but the principles of application should remain constant.

The purpose of this policy is to clarify the legal position of each of these issues, and to outline potential resolutions. In relation to some issues, it is not recommended that specific action be taken other than regular review of the issue, a wider publication of Gloucester City Council’s policy towards said issue and/or awareness campaigns. Some will benefit from further consultation both internal and external, and further inter-agency working to tackle the issues as trends in our City change. Overall, this policy aims to provide clarity for businesses, visitors, and other stakeholders of the city centre.

## Contents

<b>Executive Summary</b> .....	2
<b>Policy Position</b> .....	4
<b>Engage</b> .....	6
<b>Support</b> .....	6
<b>Enforce</b> .....	6
<b>1. Engaging with Behaviours</b> .....	7
<b>1.1. Begging</b> .....	7
<b>1.2. Rough Sleeping</b> .....	8
<b>1.3. Psychoactive Substances (so-called “legal highs”)</b> .....	8
<b>1.4. Street Drinking</b> .....	9
<b>2. Consultation</b> .....	9
<b>3. Engaging with Regulatory Matters</b> .....	10
<b>Principles of Good Regulation</b> .....	10
<b>4. COMPLIANCE CODE</b> .....	11
<b>Supporting economic progress</b> .....	11
<b>Risk assessment</b> .....	11
<b>Advice and guidance</b> .....	11
<b>Simple and straightforward ways to engage</b> .....	11
<b>Transparency</b> .....	11
<b>5. Reporting Issues</b> .....	12
<b>Appendix 1 Regulatory Enforcement Considerations</b> .....	13
<b>Appendix 2 Enforcement Options &amp; Considerations</b> .....	14
<b>Appendix III Legislation</b> .....	19

## Policy Position

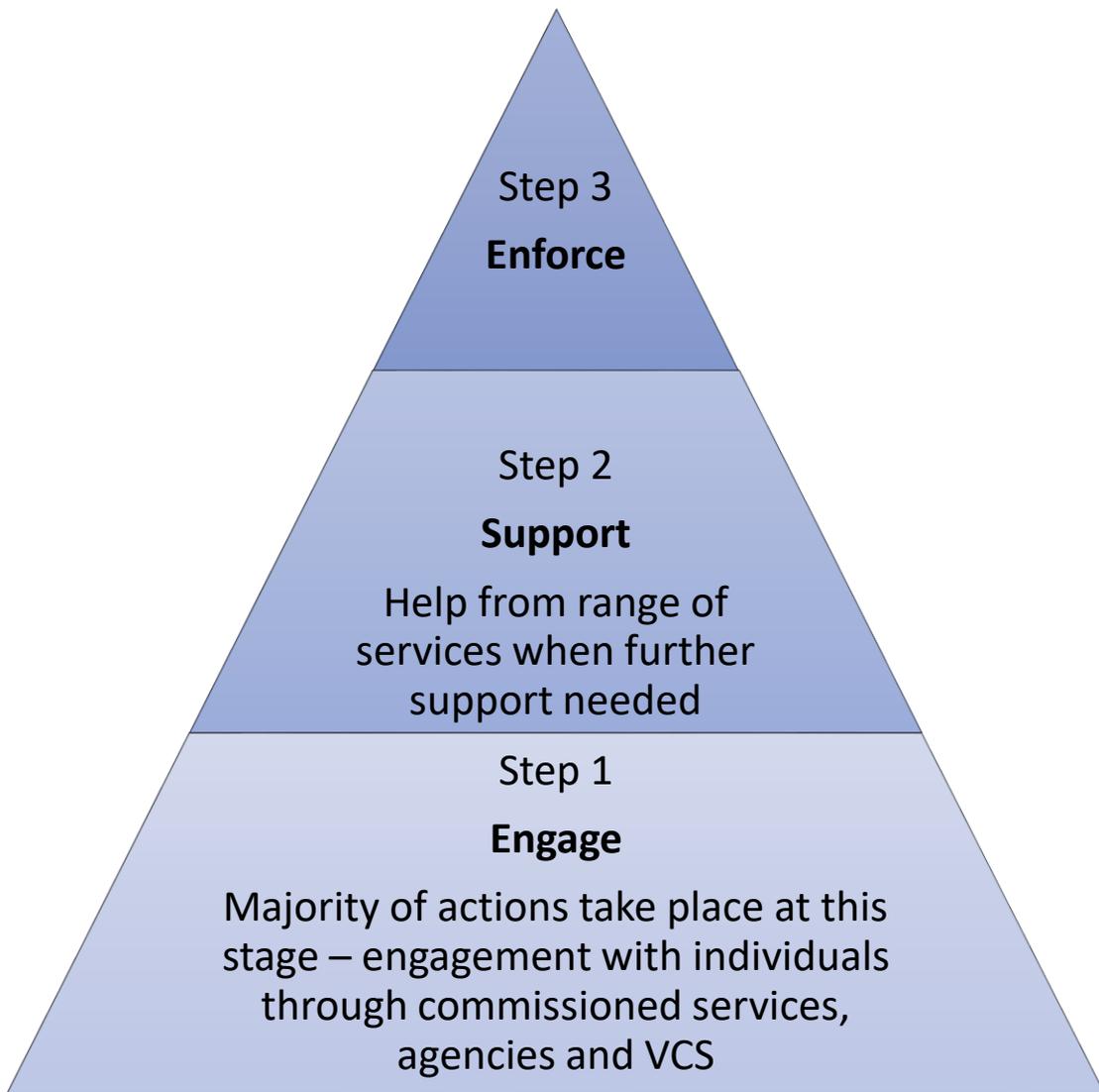
Gloucester City Council is committed to ensuring that Gloucester a safe place to live, work and play. We recognise that negative behaviours, such as begging and street drinking, may fluctuate at times and impact on our residents and visitors. We will work in partnership to tackle and prevent this.

We recognise that issues like begging and rough sleeping are complex and the root causes can be varied. As a local authority we will support those with genuine needs, such as the need for housing or for access to services and ensure, through inter-agency working, that outreach work takes place to help people live, or work towards living, independently without impacting negatively on others.

We do, however, recognise that small numbers of people may already be accessing all of the services they are entitled to, but still engaging in behaviours that are impacting negatively on others. Likewise, there may also be cases where people refuse to engage with support services and choose to engage in behaviours that cause a nuisance to others. In these instances, enforcement action will be taken against individuals where it is appropriate to do so.

We also support our businesses and must when necessary take action as a regulator to enforce against breaches of legislation following investigations and appropriate evidence gathering, ([Appendix 1](#)). This includes any action taken by Officers aimed at ensuring that individuals or businesses comply with the law. The enforcement options will differ according to each of the various pieces of legislation are used, but the principles of application should remain constant ([Appendix 2](#)). Officers have a range of delegated powers set out within legislation to assist them in undertaking their duties. These can include the power to require answers to questions and the power to enter premises ([Appendix 3](#)).

Gloucester City Council, along with our partner agencies, will adopt a shared model of *Engage, Support, and Enforce* to address these complex street issues where they may occur in our City. We believe that where engagement is effective it leads to successful support, and where engagement and support succeed, enforcement is not required. Enforcement is included in this approach for the cases where individuals themselves refuse to engage with community led work, outreach or support and continue to behave in a way that impacts negatively on others. We will enforce only where we cannot resolve issues through appropriate engagement and support.



## Engage

In many cases there are underlying issues that have caused a person to engage in behaviours such as begging, street drinking or rough sleeping. We consider it important to understand reasons for behaviours as opposed to criminalising individuals at the first opportunity. Engagement with individuals through commissioned outreach services and support agencies will take place initially to understand issues and resolve them where possible, then signpost and assess what assistance they are able to access and introduce them to support.

## Support

There can be many support needs identified for one individual and sometimes complex issues can be present which require help from varied range of services. This often takes time to do, during which outreach services may continue working with individuals and encourage their engagement.

Once the appropriate support has been identified, it may be provided through statutory means such as Gloucester City Council's homelessness team. Other support may be accessed, for example through supported housing or tenancy support, health services and charitable organisations including the faith sector. The services available to a person vary depending on their needs.

## Enforce

We do recognise that some individuals categorised in this policy may behave inappropriately and if this is the case then, as with any other person doing so in our City, firm action should be taken to prevent a negative impact on the wider community.

In most cases, where an offence is committed it is the Police who would generally enforce the relevant legislation.

Enforcement powers under the Anti-Social Behaviour, Crime and Policing Act 2014 may be implemented to deal with street nuisance. This could include the use of Public Space Protection Orders and Community Protection Notices, Civil injunctions for example. Such orders relate to specific nuisance behaviours and are ultimately enforced by the local authority and through the Magistrates Court.

Gloucester City Council's statutory function for dealing with anti-social behaviour (ASB) is met by Solace, the City's ASB team which investigates cases of ASB occurring in non-housing association properties and public spaces including the city centre. Through Solace, multi-agency approaches are co-ordinated to resolve negative issues, and enforcement through civil injunctions may be sought where necessary and appropriate.

Gloucester City Safe is a not for profit Business Crime Reduction Partnership (BCRP) formed by members of the Business Community with the sole intention of facilitating the reduction of crime, disorder and anti-social behaviour. City Safe is representative of both the day and night time economies, who work together to reduce shoplifting, theft, anti-social behaviour, alcohol related disorder, street drinking and begging which affect all businesses throughout Gloucester. City Safe operates a yellow and red card scheme for individuals causing nuisance in member premises, which ultimately ban the perpetrators from entering any premises in the City Safe scheme. If breached, a Criminal Behaviour Order may be sought and can impose tougher restrictions. City Safe will work closely with Solace in these cases.

## 1. Engaging with Behaviours

### 1.1. Begging

Complaints focus on beggars occupying doorways, sitting next to cash points and interfering with business trade, occasional aggressive begging, any ASB exhibited by a person begging, beggars approaching members of the public and causing concern to passers-by.

#### Legal Position

Passive begging is not prohibited. Aggressive begging is potentially a breach of the peace and may be dealt with by the Police.

The Vagrancy Act 1824 may be imposed by Police.

Enforcement orders could be implemented through powers under the Anti-Social Behaviour, Crime and Policing Act 2014.

Action against persistent perpetrators may be sought through Solace.

#### Resolution(s)

Solace, the City's anti-social behaviour team, have worked in partnership with Street Link, Gloucester City Council, Police and support agencies to establish a multi-agency model for engaging with street beggars in the City. The model focuses on "Engage, Support, Enforce" in order to offer assertive outreach and support to individuals, adding positive conditions for an individual to engage with these agencies, but taking the necessary enforcement action against those who persistently beg whilst receiving support or whilst refusing to engage.

Solace's multi-agency model has commitment from key support agencies including the Outreach Service via Street Link, Turning Point and faith groups as well as Police and Gloucester City Council to work together to proactively tackle the issue of begging in our City and often addressing the root causes of their offending.

Enforcement actions under the ASB, Crime and Policing Act, where needed, are likely to be implemented by Solace. Civil actions such as injunctions may be sought.

Awareness campaigns will take place to inform members of the public about how best to help beggars and rough sleepers – by donating to Street Link to provide a responsive, local outreach support service, rather than giving money directly to the individual.

## 1.2. Rough Sleeping

Rough sleepers cause concern and the Council frequently receive calls from members of the public that someone is rough sleeping and needs support.

Rough sleeping has significant implications for individual's wellbeing, including physical safety and reduction of healthy life expectancy. To minimise these effects and reduce the fear of crime or perception of safeness on the streets, we commission an assertive outreach programme which works to ensure clients are diverted away from the streets as quickly as possible.

Gloucester City sometimes sees an increase in rough sleeping as some people come here with the assumption that the night shelter is still open.

### Legal Position

Rough sleeping is not a criminal offence.

### Resolution(s)

Gloucester City Council adheres to the "No Second Night Out Policy" which strives to ensure that rough sleepers receive outreach support as possible to prevent further nights sleeping on the streets.

Gloucester City Council commission an Outreach Service, currently through P3, who receive referrals by the Street Link service to provide a proactive service that links in with partner agencies to help rough sleepers access the support they require and are entitled to. A recognised 'homeless pathway' provides a range of options, appropriate to the needs of the individual and for those with complex or uncertain support needs Assessment Centres and high support provision exists to assist with enabling for independent living. This is in addition to advice and assistance that is offered through the City Council's homelessness team.

Awareness campaigns to promote referrals to the Street Link service will be undertaken on a regular basis to ensure that access to support is widely recognised.

## 1.3. Psychoactive Substances (so-called "legal highs")

The Psychoactive Substances Act came in to force on 26<sup>th</sup> May 2016.

Use of these drugs is a national concern, and increasing numbers of small carbon dioxide canisters are found throughout the City. These drugs are not only highly dangerous to use, the paraphernalia that is often blatantly discarded is alarming to see. Associated nuisance includes the litter, and congregating groups.

### Legal Position

Psychoactive substances are often not manufactured for human consumption, and so some can still be bought legally from shops. The new law makes it illegal to produce, supply, or import (even for personal use) so-called “legal highs” for human consumption.

### Resolution(s)

We will carry out work in partnership with Trading Standards and other agencies to educate retail outlets and carry out enforcement where necessary.

Enforcement actions under the Anti-Social Behaviour, Crime and Policing Act 2014 where appropriate.

## 1.4. Street Drinking

Antisocial behaviour associated with street drinking has been recognised as a concern. Associated problems can include; litter, noise, human waste and intimidation all of which have a detrimental impact to the quality of life for residents, visitors and local businesses.

### Legal Position

Only people over 18 are permitted to drink in public, except in areas of towns where Public Space Protection Orders (PSPO) are in place. A PSPO can stop people from drinking alcohol in a public space. PSPOs replace Designated Public Space Protection Orders (DPPOs) to give police officers and authorised officers special powers to order a person to stop drinking alcohol in public and confiscate it from them.

Where a DPPO is already in place, it will remain so until September 2017, after which it will be converted to a PSPO. A new PSPO may be brought in at any time to replace an old DPPO and attach further restrictions, if necessary. The two current PSPOs cover the entire Gloucester City public spaces and an alcohol free Gloucester City centre and a breach of this order can be enforced through Fixed Penalty Notices by Police officers or Gloucester City Council staff who hold delegated powers.

Even outside of these areas, the police can take away alcohol or move on under 18s if they have been drinking. The police can also fine or arrest under 18s drinking in public places

### Resolution(s)

The current DPPO's remains in place.

The Council will take enforcement actions under the Anti-Social Behaviour, Crime and Policing Act 2014 where appropriate.

## 2. Consultation

This policy has been written following feedback and informal consultation with Gloucestershire Constabulary, Solace, Gloucester City Safe, the Licensed Victuallers Association, Nightsafe, P3 (who fulfil the Street Link service), support services, and members of the Faith Forum.

### 3. Engaging with Regulatory Matters

The aim of Gloucester City Council’s Environmental Health service is to maintain and improve the health of local communities through the provision of cost effective advisory, investigation, inspection, monitoring or enforcement services for a range of issues. This will involve enforcing legal requirements in areas including:

Environmental protection, including noise, nuisance and anti-social behaviour, air quality, contaminated land and private water supplies Food Safety, including food poisoning, unfit food and private water supplies. Health and Safety at work. Licensing, entertainment, animal licensing, caravan sites, houses in multiple occupation, gaming machines, lotteries, and street/house to house collections. Public health and pest control regulation and waste.

This team works to make sure that private rented properties are safe and are well maintained and healthy places to live. They provide advice and assistance to both tenants and landlords to make sure a property meets the correct standards and complies with the relevant legislation and, where standards are not maintained, the team has powers of enforcement to ensure that works are carried out. Gloucester City Council has adopted the Central and Local Government Concordat on Good Enforcement. The Legislative and Regulatory Reform Act 2006 also places a duty on Gloucester City Council to have regard to the ‘Principles of Good Regulation’ when exercising specified regulatory functions.

Principles of Good Regulation	
<p><b>Helpfulness</b> Provision of advice and assistance on compliance in a courteous efficient and prompt manner.</p>	
<p><b>Standards</b> Provide and publish clear standards setting out the level of service and performance provided by Gloucester City Council.</p>	<p><b>Openness</b> Provision of information and advice in plain language about how we carry out our work, including consultation with stakeholders.</p>
<p><b>Transparency</b> Access to information regarding regulatory procedures and decisions to be freely available.</p>	<p><b>Accountability</b> Gloucester City Council will be accountable for the efficiency and effectiveness of its regulatory activities.</p>
<p><b>Consistency</b> Duties to be carried out in a fair, equitable and consistent manner and with arrangements in place to promote consistency.</p>	<p><b>Confidentiality</b> Gloucester City Council will ensure information provided in confidence is treated accordingly.</p>
<p><b>Proportionality</b> When making a decision on appropriate enforcement action, Officers will, where discretion is allowed, consider both the circumstances of the case and history of the parties involved and will ensure that the remedial action required is proportionate to the risks and/or disadvantage created by the non-compliance, that it reflects any advice issued by Central Government or other co-ordinating bodies and takes into consideration relevant advice, Policy and the aims of Gloucester City Council.</p>	<p><b>Targeting</b> Gloucester City Council accepts that its enforcement resources are limited and, where appropriate, they should be focused on those persons or companies whose activities give rise to the risks which are most serious or least well controlled on their own premises or public open space. Enforcement is informed through intelligence arising from an investigation or complaints, planned projects, special surveys, enforcement initiatives or as a requirement from a Government Department.</p>

## 4. COMPLIANCE CODE

Gloucester City Council will have regard to the Regulators' Compliance Code with a view to achieving regulatory outcomes without imposing unnecessary burdens on businesses, organisations and other regulated entities by:

### **Supporting economic progress**

To allow and encourage economic progress and choose proportionate approaches to those they regulate based on relevant factors including, for example, business size and capacity.

### **Risk assessment**

To determine the priority risk in the area of responsibility and then allocate resources where they would be most effective in addressing those priority risks.

### **Advice and guidance**

To provide authoritative and accessible advice to businesses.

### **Simple and straightforward ways to engage**

To explain clearly what the noncompliant item or activity is, the advice being given, actions required, or decisions taken and the reasons for these.

### **Transparency**

By publishing a clear set of service standards and setting out what those they regulate should expect from them.

## 5. Reporting Issues

This Policy covers a wide range of issues which may occur in the city centre and as such may be dealt with by one of several departments within Gloucester City Council, depending on the nature of the complaint. Complainants should report to the City Council Customer Services Team who will direct the report to the most appropriate department:

*Telephone:* 01452 396396

*Text telephone:* 01452 396161

*Email:* [heretohelp@gloucester.gov.uk](mailto:heretohelp@gloucester.gov.uk)

*Online:* [www.gloucester.gov.uk](http://www.gloucester.gov.uk)

*By post or in person:* Gloucester City Council Shire Hall, Westgate Street, Gloucester, GL1 2TG

Concerns regarding somebody sleeping rough should be reported to Streetlink by calling 0300 500 0914, or by accessing their website at <http://www.streetlink.org.uk/>

Streetlink also have a smartphone app, where reports can be made directly. Search for “Street Link” in the app store.

Where a crime occurs, it should be reported to Gloucestershire Constabulary by calling 101 if a non-emergency or 999 in an emergency.

Instances of anti-social behaviour should be reported to Solace

*By phone:* on 01452 396396

*Email:* [asb@gloucester.gov.uk](mailto:asb@gloucester.gov.uk)

*By post or in person:* Gloucester City Council, Shire Hall, Westgate Street, Gloucester GL1 2TG

## Appendix 1 Regulatory Enforcement Considerations

### 1. CONFLICTS OF INTEREST AND UNDUE INFLUENCE

The enforcement role of Gloucester City Council is an impartial one, however, as with any organisation, there may be the possibility of a real or perceived conflict of interest or undue influence arising. It is therefore important to the integrity of the enforcement services of Gloucester City Council that people seeking to use it are not the subject of discrimination, nor are they granted advantageous treatment because of their status.

Conflict of interest could include where a customer is socially acquainted with or related to the Enforcement Officer. Under these circumstances it may be difficult for the Officer to act in an impartial manner.

Undue influence arises where a party exercises a dominant influence over the mind of another so that person is unable to exercise a free and independent will in the matter. For example, when an employee knows that a client is a Councillor or a more senior member of staff.

Where an employee believes that there is potential for conflict of interest or undue influence then the matter should be referred to their Line Manager for appropriate action and advice.

### 2. FAIRNESS AND EQUALITY

All enforcement action and investigations will be carried out in a manner which complies with the requirements of legislation and codes of practice governing the collection of evidence and investigatory powers. Officers will take care not to take any action which contravenes human rights and antidiscrimination legislation unless it is necessary and proportionate to do so.

### 3. REFERRALS & CONSULTEES

Gloucester City Council regularly consults (and works) with other agencies including:

Fire and Rescue Services;	Severn Welsh Water/Trent Water/Thames Water;
The Police;	The Environment Agency;
The Department for Environment, Food and Rural Affairs;	The Drinking Water Inspectorate;
The Department for Work and Pensions;	Health and Safety Executive;
The County Council;	Other Councils & Agencies or organisations as appropriate;
Public Health England	The Food Standards Agency

Information of allegations outside the remit of this Council may be referred to the appropriate enforcement authority to enable that agency to investigate the allegation. Gloucester City Council may also provide data to or obtain data from other enforcing authorities. When data sharing between authorities/agencies occurs, this will be done in accordance with all data protection legislation and regulations. The information supplied by an individual may be used to commence or support an investigation. However, Gloucester City Council will ensure that the identity of persons contacting Gloucester City Council is not revealed to a third party except; Where the law requires; Where the case proceeds to Court or Tribunal; With the prior written agreement of the person supplying the information.

## Appendix 2 Enforcement Options & Considerations

### 4. ENFORCEMENT OPTIONS

The options available (but not limited to) are:

- Informal action and advice – written or oral,
- A range of Statutory Notices generally requiring some remedy within a specified timescale (or possibly immediately),
- Fixed Penalty and Civil Penalty Notices,
- Letter of warning,
- Simple Caution,
- Financial Penalty,
- Prosecution,
- Prohibition,
- Injunctions,
- Seizure of goods, equipment, articles or records (paper or computer),
- Execution of work in default i.e. works required by a Statutory Notice where the recipient has not complied,
- A range of Statutory Orders,
- Compulsory purchase and enforced sale of properties or land,
- Attachment to earnings,
- County Court Enforcement,

### 5. ENFORCEMENT ACTION

All enforcement action, whether formal or informal, will be carried out in accordance with the principles set out in this Policy. In deciding to take formal action and, if so, what type of action to take, Officers will consider the following:

Any individual Enforcement Policy or guidance relevant to their practice area; The seriousness of the breach or contravention; the consequences of non-compliance in terms of risk to people, property, the community or the environment; The individual's or company's history in terms of compliance;

Confidence in management, level of awareness of statutory responsibilities and willingness to prevent a recurrence; The likely effectiveness of the various alternative enforcement options;

The public interest, protecting public health, public expectation and the importance of the case in setting a precedent; The application of any national or local guidance to the matter in question;

The aims and priorities of Gloucester City Council (*A city that works for everyone in an ABCD way*);

Information received following liaison with other external enforcing agencies;

Relevant case law and guidance;

The likelihood of the contravener being able to establish a defence;

The information received following liaison with other authorities;

The reliability of witnesses.

The most efficient and effective action will be taken to achieve the desired compliance with the law. The decision will be taken in an objective and fair way in accordance with the principles set out in this Policy.

## **6. PROSECUTION**

Gloucester City Council will use discretion in deciding whether to initiate a prosecution. Other approaches to enforcement can sometimes promote compliance with legislation more effectively. However, where the circumstances warrant it, prosecution without warning and recourse to alternative sanctions may be appropriate.

Each case will be treated as unique and considered on its own facts and merits with due consideration to the Equalities Act 2010 and the Human Rights Act 1998. All the circumstances surrounding the case will be considered including the social benefits and costs associated with bringing the matter to the attention of the Courts.

The prosecution of offenders will be used judiciously but, without hesitation, against those businesses or individuals where the law is broken and the health, safety, well-being or amenity of the public, employees and consumers are subject to risk.

Legal advice will be taken to ensure that only those cases presenting a realistic prospect of conviction will be pursued. Gloucester City Council will have due regard to the availability of any defences and to any explanation, apology or other issue referred to by the suspect by way of mitigation.

The decision to prosecute will consider the criteria set down in the Code for Crown Prosecutors, issued by the Crown Prosecution Service.

## **7. TESTS**

### **7.1. The Evidential Test**

There must be enough evidence to provide a realistic prospect of conviction and the evidence must be admissible and reliable.

In determining the sufficiency of evidence, consideration should be given to the following factors:

### **7.2. Availability of Essential Evidence**

Credibility of witnesses – are they likely to be credible witnesses and whether they are likely to be consistent and fail under cross-examination? – are they willing to attend as witnesses? Could they be ‘hostile’ witnesses?

Where the case depends in part on admissions or confessions, regard should be had to their admissibility;

Where two or more defendants are summonsed together, the sufficiency and admissibility of evidence available against each defendant, if separate trials are ordered.

In determining the admissibility of evidence, regard should be given to the requirements of the Police and Criminal Evidence Act 1984 and the Criminal Procedure and Investigations Act 1996 and associated Codes of Practice.

### 7.3. The Public Interest Test

When satisfied that sufficient evidence is available, consideration must be given to whether the public interest requires a prosecution.

The following considerations should apply:

Seriousness of the offence – the degree of detriment or potential detriment to consumers, employees or the environment. Current public attitudes to the particular breach of law should be considered.

The age of the offence – less regard will be paid to this if the length of time could be attributable to the defendant themselves, the complexity of the case or the particular characteristics of the offence that have contributed to the delay in its coming to light.

The age, circumstances or mental state of the offender – less regard to this is given if there is a real possibility of repetition or the offence is of a serious nature. Whether the defendant is likely to be fit enough to attend Court should also be considered.

The willingness of the offender to prevent a recurrence of the problem. If the circumstances that give rise to the offence have subsequently been rectified and there is little likelihood of a recurrence, then the case may be dealt with more appropriately by other means.

The 'newness' of the legislation transgressed may be a consideration, especially where the offence is of a technical nature, and future compliance may be obtained by less formal means.

Vi) Important but uncertain legal points that may have to be tested by way of prosecution.

### 7.4. Simple Cautions

A Simple Caution may be used as an alternative to prosecution. The aim of a Simple Caution is to deal quickly and simply with offences, save Court time and reduce the likelihood of re-offending.

A decision to offer a Simple Caution must be made having regard to: [\[2\]](#) Home Office circular 30/2005 Cautioning of Offenders.

Guidance to Police Officers and Crown Prosecutors issued by the Director of Public Prosecutions.

LACORS Guidance on Cautioning of Offenders.

Following the offer of a Simple Caution, the individual or company concerned will be required to confirm acceptance within 14 days.

When considering whether to offer a Simple Caution, the following will be considered:

Whether a Simple Caution is appropriate to the offence and the offender;

Whether a Simple Caution is likely to be effective;

## 7.5. Public Interest Considerations

The views of the victim and the nature of any harm or loss;

Whether the offender has made any form of reparation or paid any compensation;

Any known records of previous convictions or Simple Cautions relating to the offender.

A Simple Caution cannot be given where the offence is indictable only or where the offender is under 18 years of age. It may only be offered where the offence has been fully admitted by the offender.

The person administering the Caution will be an appropriate Senior Officer employed within Gloucester City Council.

If the offender fails to admit the offence or does not agree to the Simple Caution, the case will be considered for prosecution.

## 8. Delegations

Officers have a range of delegated powers set out within legislation to assist them in undertaking their duties. These can include the power to require answers to questions and the power to enter premises.

Officers have powers delegated to them, under the relevant schemes of delegation, to undertake duties relating to Gloucester City Council. Officers will carry an identity badge; delegation documentation can be supplied if requested. In the event of any doubt about an Officer's powers, confirmation can be obtained by contacting the Officer's Line Manager who can provide any Statutory Notice describing their powers. It is an offence to obstruct an Authorised Officer who is conducting an inspection or investigation which could lead to prosecution.

## 9. CIVIL CLAIMS

Officers will not become involved in any negotiations on awarding reparation or compensation to victims following offences being committed.

Any enforcement action taken by Gloucester City Council is separate and distinct from any civil claims likely to be made by individuals. Enforcement action is not necessarily undertaken in all circumstances where civil claims may be pursued, nor is it undertaken to assist such claims.

Gloucester City Council may, on request, provide solicitors acting for individuals pursuing a civil claim, a factual report of the investigation. There may be a charge for this report.

## 10. COMPLAINTS PROCEDURE

Gloucester City Council aim to provide an efficient and fair enforcement service. In the first instance, most problems can be resolved with the Officer dealing with the matter or with their Line Manager.

If a person or business is not satisfied with the response received informally, Gloucester City Council has a formal complaints procedure which should be followed.

Gloucester City Council aims to acknowledge all formal complaints immediately and to provide an initial response within an allotted time as set out in the Complaints Procedure.

Please note that a complaint regarding a decision to prosecute cannot be progressed through the formal complaints procedure as this is a matter for the Administrative Court by way of an application for judicial review.

If a person is still dissatisfied having exhausted Gloucester City Council's complaints procedure, a complaint can be made to the Local Government Ombudsman Service.

## **11. IMPLEMENTATION AND REVIEW**

Implementation of the policy is the responsibility of all Enforcement Officers. Departures from this policy will not occur without full consideration of all the circumstances and in consultation with Gloucester City Council's Legal Service save in exceptional or unforeseeable circumstances.

This policy will be reviewed and updated if any changes in legislation, guidance or other circumstances have a significant impact on the enforcement principles set out in this Policy.

In most cases Gloucester City Council will try to resolve matters informally through negotiation and discussion. In some cases, informal resolution cannot be achieved, or the matter being enforced is so serious that the informal stage would be inadequate, Gloucester City Council has a wide range of alternative powers available. Certain breaches of legislation will require urgent and immediate attention, either because the time period for action is limited or because the effect of the activity causes significant harm to the public interest.

Gloucester City Council has the power to issue a Requisition for Information under section 16 of the Local Government (Miscellaneous Provisions) Act 1976, section 330 of the Town and Country Planning Act 1990 and section 85 of the Private Water Supply Regulations 2016. This notice requires the recipient to provide information in respect of land/property in which they are suspected to have an interest. Not returning the form duly completed is an offence which can be prosecuted in the Magistrates' Court and lead to a fine of up to £5,000.

Gloucester City Council can use civil remedies to recover any property or debts and any costs incurred, but Gloucester City Council also has the power to prosecute a wide range of offences under section 223 of the Local Government Act 1972. Where there is enforcement action in a criminal court Gloucester City Council can use Proceeds of Crime Act 2002 legislation to recover money.

## **12. Regulation of Investigatory Powers Act 2000 (RIPA)**

There are three areas under the Regulation of Investigatory Powers Act 2000 (RIPA) and the Investigatory Powers Act 2016 that have to be considered by a Local Authority when conducting investigations.

These are:

- Directed Surveillance.
- Covert Human Intelligence Sources (CHIS).
- Acquisition of Communications Data.

Gloucester City Council has separate Policies and Procedural Guides relating to the use of RIPA and any Officer considering the use of it should follow these.

Where Gloucester City Council uses CCTV it does so in line with the appropriate regulatory guidance and legislation. Gloucester City Council has a separate Policy which Officers must adhere to.

## Appendix 3 Legislation

### 13. Legislation

Animal Boarding Establishments Act 1963

Animal Welfare Act 2006

Anti-Social Behaviour Act 2003

Anti-Social Behaviour Crime and Policing Act 2014

Breeding and Sale of Dogs (Welfare) Act 1999

Breeding of Dogs Act 1973, 1991

Building Act 1984

Caravan Sites Act 1968

Caravan Sites and Control of Development Act 1960

Clean Air Act 1993

Clean Neighbourhood and Environment Act 2005

Contaminants in Food (England) Regulations 2013

Control of Pollution Act 1974, and (Amendment) Act 1989

Control of Waste (Dealing with Seized Property) England and Wales) Regulations 2015

Criminal Justice and Police Act 2001 (Sections 12-16 and 19-20)

Criminal Justice and Public Order Act 1994

Dangerous Wild Animals Act 1976

Defective Premises Act 1972

Energy Act 1976

Environment Act 1995

Environmental Damage (Prevention and Remediation) Regulations 2009

Environmental Permitting (England & Wales) Regulations 2010 (as amended)

Environmental Protection Act 1990 (as amended) where the Council is the Enforcing Authority (Part I) or the local authority (Parts III and VII)

Food and Environment Protection Act 1985 (Part I) (Part III)

Food Safety Act 1990 (Section 32 – powers of entry)

Gambling Act 2005

Hazardous Waste (England and Wales) Regulations 2005

Health Act 2006

Health and Safety at Work etc. Act 1974

Health Protection (Notification) Regulations 2010

Housing Act 1985

Housing Act 1996

Housing Act 2003

Housing Act 2004

Housing Grants Construction and Regeneration Act 1996

Licensing Act 2003

Local Government (Miscellaneous Provisions) Act 1976, and 1982

Local Government Act 1972 and 1985

Local Government Act 2003

Policing and Crime Act 2009 and 2017

Pollution Prevention and Control (England and Wales) Regulations 2000 (as amended)

Pollution Prevention and Control Act 1999

Prevention of Damage by Pests Act 1949

Private Water Industry Act 1991

Private Water Supplies Regulations 2016

Public Health (Control of Diseases) Act 1984

Public Health Act 1875, (Amendment Act 1890), 1936

Public Health Acts 1936 and 1961

Regulation of Investigatory Powers Act 2000

Regulatory Enforcement and Sanctions Act 2008

Regulatory Reform (Housing Assistance) (England and Wales) 2002

Scrap Metal Dealers Act 2013

Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (from 1 October 2015)

Smoke and Carbon Monoxide Regulations 2015 (made under the Energy Act 2013)

Sunbeds (Regulation) Act 2010

The Mobile Homes Act 2013

The Smoke-free (Exemptions and Vehicles) Regulations 2007

The Smoke-free (Penalties and Discounted Amounts) Regulations 2007

The Smoke-free (Premises and Enforcement) Regulations 2006

The Smoke-free (Signs) Regulations 2007

The Smoke-free (Vehicle Operators and Penalty Notices) Regulations 2007

Wildlife and Countryside Act 1981

Zoo Licensing Act 1981