

PERTH AND KINROSS COUNCIL**Community Safety Committee – 24 March 2010****CHARTER FOR GOOD REGULATION – ENVIRONMENTAL AND CONSUMER SERVICES****Report by the Depute Director (Environment)**

This report proposes a Charter which sets out how Council enforcement services such as Environmental Health, Trading Standards, Food Safety and Health and Safety will undertake their activities in a way which is fair, reasonable and consistent. This will also ensure the Service meets the requirements of the Government's Regulator's Compliance Code, which has recently become mandatory recently for certain enforcement functions.

RECOMMENDATIONS

The Committee is asked to approve the attached Charter for Good Regulation, and Annexe.

BACKGROUND

1. Environmental and Consumer Services encompasses various Council regulatory functions which regularly interact with businesses locally, through inspection, responding to complaints and requests for business advice and guidance. These functions include Trading Standards and Environmental Health (a full list is detailed in section 2 of the attached Annexe).

Environmental and Consumer Services' regulatory teams have a good relationship with local businesses and the public. For example:

- Regular customer surveys by Trading Standards show a 100% approval rating amongst businesses they provide business advice to, and an 89% approval from the public they deal with.
 - Food Safety surveys show that 98% of the businesses they inspect agree that they have been dealt with fairly and sensitively by inspecting officers.
2. Effective regulation ensures the safety of our community protects the environment and supports a prosperous economy, by protecting reputable businesses from unfair and unscrupulous traders. Effective regulatory services are a valuable source of advice for businesses on good practice on how to comply with the law. Good enforcement practice also has the following positive impacts:
 - Reducing the burdens on business, the third sector and frontline enforcement officers.
 - Supports economic progress, by not impeding business productivity.
 - Simpler, better-targeted regulation will save organisations time and money. Targeting those which present the most risk of failing to comply

- with their legal responsibilities, encourages a more positive perception of regulation.
- Cuts down on unnecessary bureaucracy – reducing the demands on officers will free them to focus on their jobs, and provide an even better service to the public.
 - Minimise loss of reputational risk and legal action, from poor enforcement practices.
 - Should provide an effective response to prevent unfair or unequal treatment by enforcement officers.
3. However if regulatory services are poorly delivered, or over-zealously enforce legislation, they can stifle innovation and economic growth, create unnecessary costs to businesses, and produce other unintended consequences.
 4. For years, good practice in regulatory services has been based on general principles. Enforcement should be:
 - Transparent – enforcers should clearly state what their actions are
 - Accountable – for performance to stakeholders
 - Proportionate – the level of enforcement should reflect the severity of the offence
 - Consistency – the same standards over time, and between officers
 - Targeted – resources are focussed at activities requiring most attention
 5. These principles form the basis of the **Enforcement Concordat**, introduced in 1998. The Enforcement Concordat is a voluntary, non-statutory code of practice. It sets out the best practice that many enforcers had adopted in their dealings with business before 1998, in terms of the Principles of Good Enforcement. Many organisations with an enforcement function have formally adopted the Enforcement Concordat, including Perth and Kinross Council.
 6. Since the Enforcement Concordat was introduced, further progress has been made to improve approaches to regulatory inspection and enforcement. The **Hampton review**, established by the Government in 2004, was influential in promoting new approaches, which include:
 - Increased use of risk assessment to precede and inform all regulatory enforcement work;
 - Increased use of support and advice to help businesses to understand and meet regulatory requirements more easily
 - Adopting proportionate, targeted and flexible approaches to applying the law and securing compliance.
 7. The **Regulator's Compliance Code** was drafted in response to the **Hampton Review**. It is a central part of the Government's Better Regulation agenda. The Better Regulation agenda aims to ensure regulatory functions across the public service carry out their duties effectively, streamline bureaucracy, and support increased productivity and prosperity, without placing unnecessary

burdens on those who are regulated. Its aim is to embed a risk based, proportionate and targeted approach to regulatory inspection and enforcement among the regulators it applies to. Regulators are expected to consider the Code when determining policies, setting standards or giving guidance in relation to their duties. The UK Government's expectation is that as regulators integrate the Code's standards into their regulatory culture and processes, they will become more efficient and effective in their work.

8. Until recently this Code only applied to England and Wales. However since November 2009, these requirements have been extended to certain enforcement activities in Scotland which are 'reserved' to Westminster Parliamentary control, through an amendment of the Legislative and Regulatory Reform Act 2006. For Environmental and Consumer Services, this applies mainly to Trading Standards and Health and Safety at Work functions. Although there is no indication as yet, the Scottish Government may subsequently choose to adopt this approach for enforcement activities devolved to the Scottish Parliament. The UK Government is encouraging devolved administrations to adopt the Code on a voluntary basis, for regulatory activities under their control. In any case the provisions of the Code are good practice for all enforcement activities carried out by Environmental and Consumer Services, and it is sensible to apply common standards across all the Services' enforcement activities.

PROPOSALS

9. The attached draft Charter for Good Regulation and supporting Annexe sets out how the Council's Environment and Consumer Services will meet the Better Regulation Agenda and the Regulator's Compliance Code, at a local level. The Charter is a summary statement of the Service's intent, (in some regulatory organisations, this document would be referred to as an 'enforcement policy'). The Annexe provides further information as to how we will go about achieving this, including details of actions required to make sure we are meeting the requirements of the Charter.
10. Although many of the provisions in these documents are part of the Services' everyday enforcement activity, it is important to set these out, to make explicit to our own enforcement officers, local businesses and the general public, what service should be expected from our regulatory activities. This will form the basis for induction and ongoing refresher training for officers, as well as for monitoring, to ensure we continue to meet the standards laid out in the Charter and Annexe. Businesses and individuals will know what they should expect from regulatory services and to hold our services to account if we fail to achieve these standards.
11. If the Committee agrees the approach detailed in this report, it may act as a basis to assist other enforcement activities both within the Council and other local regulatory bodies, to develop or revise their own enforcement policies.

CONSULTATION

12. The Head of Legal Services, has been consulted in the preparation of this report. The Charter and Annexe was also presented to the Community Planning Economic Partnership on 5 February 2010. The Perthshire Chamber of Commerce and Federation of Small Businesses were also consulted on the draft Charter and Annexe.

RESOURCE IMPLICATIONS

13. There are no resource implications arising from this report.

COUNCIL CORPORATE PLAN OBJECTIVES 2009-2012

14. The Council's Corporate Plan 2009-2012 lays out five Objectives which provide clear strategic direction, inform decisions at a corporate and service level and shape resources allocation. This report impacts on the following:-
- (i) A Safe, Secure and Welcoming Environment
 - (iii) A Prosperous, Sustainable and Inclusive Economy
 - (iv) Educated, Responsible and Informed Citizens

EQUALITIES IMPACT ASSESSMENT (EqIA)

15. An equality impact assessment needs to be carried out for functions, policies, procedures or strategies in relation to race, gender and disability and other relevant protected characteristics. This supports the Council's legal requirement to comply with the duty to assess and consult on relevant new and existing policies.
16. The function, policy, procedure or strategy presented in this report was considered under the Corporate Equalities Impact Assessment process (EqIA) with the following outcome:
- Assessment as relevant and the following positive outcomes expected following implementation.
 - The Charter and Annexe will provide assurance that regulatory activities are carried out without applying unfair or unequal treatment to any individuals of groups. The Charter will be publicised to Equality groups, to raise their awareness to its contents.

STRATEGIC ENVIRONMENTAL ASSESSMENT

17. The matters presented in this report were considered under the Environmental Assessment (Scotland) Act 2005 and no further action is required as it does not qualify as a PPS as defined by the Act and is therefore exempt.

CONCLUSION

18. Agreement to the Charter for Good Regulation should ensure that the Service meets the requirements of the Regulators' Compliance Code, as well as being able to demonstrate fairness and openness in its regulatory enforcement activity.

JIM VALENTINE
DEPUTE DIRECTOR (ENVIRONMENT)

No background papers as defined by Section 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information) were relied on to any material extent in preparing the above Report.

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Date of Report 17 March 2010

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Council Text Phone Number 01738 442573



Charter for Good Regulation - Environmental and Consumer Services

This Charter sets out how the regulatory services within Environmental and Consumer Services will carry out their enforcement functions. Environmental and Consumer Services covers activities such as Environmental Health, Food Safety, Trading Standards, Health and Safety, Animal Health and Welfare and Waste Services.

The purpose of our enforcement activity is to meet the Council's objectives for ensuring the safety of our community, protecting the environment, and ensuring a prosperous economy. We are also required to comply with certain statutory enforcement duties placed on the Council by legislation.

Regulation is an important part of the context within which businesses operate. Effective and well targeted regulation by the Council plays an important role in ensuring the economic well-being of Perth and Kinross. It protects the vulnerable and the environment. It promotes equality, and helps raise the standards of service. It provides the platform for fair competition, giving reassurance to consumers and businesses alike. As such, regulation is a key enabler to economic activity.

The Charter sets out the key principles under which enforcement officers will seek to achieve compliance with the civil and criminal legislation enforced by our regulatory services. It is intended to guide enforcement officers in deciding what course of action to take when discovering infringements. It also seeks to ensure consistency in the decision making process regarding the enforcement actions taken by our officers.

The Charter is designed to help businesses and individuals understand our objectives and methods for achieving compliance, as well as the criteria considered when deciding what the most appropriate response is to a breach of legislation.

Through this Charter, we will:

- (1) Carry out our enforcement activities in a fair, helpful, transparent, accountable, proportionate and consistent way.
- (2) Advise businesses and individuals who might be affected by our regulatory activities, what our enforcement approach is in order to build understanding between our regulatory teams and the local community.

- (3) Inform our own staff what our enforcement standards are, both on induction to the Service, and during their enforcement careers.
- (4) Establish a clear framework for our officers, to ensure they are acting in a fair, consistent and reasonable manner when they take enforcement action.
- (5) Monitor our actual performance against what we say we should be doing, so that any variances from good practice are spotted early, and corrected.
- (6) Translate national Government initiatives such as the Enforcement Concordat, and the Regulator's Compliance Code, into our own activities.
- (7) Contribute to the Council's aspirations for community safety, protection of the environment, economic prosperity, equalities and fairness to all.

All citizens should benefit from the Charter through better information, choice, safety and fair treatment.

This Charter is supplemented by an Annex which provides more detail on our regulatory activities, our aims for ensuring good practice, the steps we will take to meet our Charter commitments, and what actions are open to you if you do not think we are meeting the terms of our Charter.

Keith McNamara
Head of Environmental & Consumer Services
January 2010

Perth and Kinross Council

Charter for Good Regulation - Environmental and Consumer Services

Annexe

January 2010



Good Practice Charter for Regulation - Annexe

<u>Index</u>	<u>Page</u>
1. Introduction	3
2. What activities does it apply to	4
3. Objectives of the Charter	6
4. Principles of Good Regulation	7
5. What Enforcement Options are Available	10
6. When we will take Enforcement Action	11
7. How do we know we are Complying with the Charter?	13
8. If you are unhappy with our Regulatory Activities	14
9. Future Suggestions/Proposals	16

1. Introduction

The Charter for Good Regulation sets out how the regulatory services within Environmental and Consumer Services will carry out their enforcement functions. In some organisations, this type of document would be known as an “enforcement policy”. This Annexe explains in more detail our regulatory activities, the steps we will take to ensure we meet our Charter commitments, and what actions are open to you if you do not think we are meeting the terms of the Charter.

The purpose of our enforcement activity is to meet the Council’s objectives for ensuring the safety of our community, protecting the environment, and ensuring a prosperous economy. We are also required to comply with certain statutory enforcement duties placed on the Council by legislation.

Regulation is an important part of the context within which businesses operate. Effective and well-targeted regulation by the Council plays an important role in ensuring the economic well-being of Perth and Kinross. It protects the vulnerable and the environment. It promotes equality, and helps raise the standards of service. It provides the platform for fair competition, giving reassurance to consumers and businesses alike. As such, regulation is a key enabler to economic activity.

Regulatory services are a valuable source of advice for businesses on good practice, and how to comply with the law. However, where regulations are over- zealously implemented or enforced, they can stifle innovation and economic growth, and produce other unintended consequences.

At a national level, the Government is driving forward a “Better Regulation” agenda. This agenda is about finding more effective ways of designing and enforcing regulation, without placing unnecessary burdens on those who are regulated. It is about streamlining bureaucracy in order to support increased productivity and prosperity.

In order to ensure that Environmental and Consumer Services meet Better Regulation aspirations – to maximise regulatory outcomes while minimising burdens on businesses and other regulated entities – we have prepared this Charter.

The Charter sets out the key principles under which enforcement officers will seek to achieve compliance with the civil and criminal legislation enforced by our regulatory services. It is intended to guide enforcement officers in deciding what course of action to take when discovering infringements. It also seeks to ensure consistency in the decision making process regarding the enforcement actions taken by our officers.

The Charter is designed to help businesses and individuals understand our objectives and methods for achieving compliance, as well as the criteria considered when deciding what the most appropriate response is to a breach of legislation.

2. What Activities does it Apply to?

Environmental and Consumer Services is part of the Council's Environment Service, and covers the following four main areas of regulatory activity.

Environmental Health

The Environmental Health Division's primary function is to carry out statutory duties in relation to the potential adverse effects of the environment on public health. This is achieved by monitoring aspects of the environment and regulating and enforcing a variety of legislation. The primary areas of environmental factors which this team deals with are:

- Air Quality
- Antisocial Noise
- Contaminated Land
- Dog Control and Welfare
- Housing Standards and Grants
- Licensing of certain types of activity
- Planning consultations
- Pollution
- Public Health

Food/Health and Safety/Private Water Supplies

This team implements the Council's responsibilities in terms of the enforcement of legislation, covering food safety and standards, health and safety at work, smoking in public places, and the quality of private water supplies. The work of the teams is both proactive and reactive in that each area of work involves programmed inspection and sampling activities in addition to responding to complaints and enquiries. The Food and Health and Safety teams work to agreed Council approved enforcement policies (as required by the Food Standards Agency (Scotland) and the Health and Safety Executive), which ensures that a graduated approach to enforcement is consistently achieved. These approved enforcement policies satisfy the general requirements of this Charter.

Trading Standards/Animal Health and Welfare

This team has a statutory duty to enforce numerous laws, regulations and codes of practice under the primary headings of agriculture, consumer safety, fair trading and metrology (weights and measures).

The overall objective is to safeguard consumers, local businesses interests and visitors to the area by effectively and efficiently promoting a fair, safe and healthy trading environment for the benefit of all who live, work and visit Perth and Kinross.

Waste Services

The Waste Services mission is to contribute to the protection and enhancement of the environment through the promotion and delivery of sustainable waste management practices in Perth and Kinross. This is achieved, in part, by regulatory means, covering areas such as:

- Litter
- Graffiti removal (in certain public places)
- Refuse collection and waste disposal

The activities of Environmental and Consumer Services fit within the overall objectives of the Environment Service, which are:

1. To promote sustainable development
2. To develop and support a thriving and inclusive economy and promote Perth and Kinross as a place to live, work and visit
3. To manage, maintain and enhance the public realm and provide safe and convenient access for all users
4. To protect and promote the health, safety and well being of communities
5. To provide efficient and effective service delivery

The Environmental and Consumer Services Vision is:

“To contribute to the protection and improvement of public/animal health and wellbeing in Perth and Kinross, through the equitable enforcement of legislation, and provision of advice and guidance, while influencing behaviour to prevent the negative effects of environmental impacts, antisocial behaviour and unfair trading practices”.

The primary focus of our enforcement work is to protect the public, the environment and those who live, work and visit Perth and Kinross from unfair and unsafe practices.

3. Objectives of the Charter

Through the Charter we will:

- (1) Carry out our enforcement activities in a fair, helpful, transparent, accountable, proportionate and consistent way.
- (2) Advise businesses and individuals who might be affected by our regulatory activities, what our enforcement approach is in order to build understanding between our regulatory teams and the local community.
- (3) Inform our own staff what our enforcement standards are, both on induction to the Service, and during their enforcement careers.
- (4) Establish a clear framework for our officers, to ensure they are acting in a fair, consistent and reasonable manner when they take enforcement action.
- (5) Monitor our actual performance against what we say we should be doing, so that any variances from good practice are spotted early, and corrected.
- (6) Translate national government initiatives such as the Enforcement Concordat, and the Regulator's Compliance Code, into our own activities.
- (7) Contribute to the Council's aspirations for community safety, protection of the environment, economic prosperity, equalities and fairness for all.

All citizens should benefit from the Charter through better information, choice, safety and fair treatment.

4. Principles of Good Regulation

In carrying out our enforcement activities, we will apply the following principles:

Fairness

- Our decisions on enforcement activities will be fair, independent and objective and will not be influenced by issues such as ethnicity or national origin, gender, religious beliefs, political views or the sexual orientation of the suspect, victim, witness or offender. Such decisions will not be affected by improper or undue pressure from any source.
- We will take into account the views of any victim, injured party or relevant person to establish the nature and extent of any harm or loss, and its significance, in making the decision whether to take enforcement action.
- Perth and Kinross Council is a public authority for the purposes of the Human Rights Act 1998. We will, therefore, apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms, in particular:
 - Article 6 – the right to a fair trial
 - Article 8 – the right to respect for private and family life, home and correspondence
 - Article 14 – prohibition of discrimination on any grounds
- If we receive information [for example from a complainant] that may lead to enforcement action against a business or individual we will notify that business or individual as soon as is practicable of any intended enforcement action, unless this could impede an investigation or pose a health and/or safety risk to those concerned or the general public.
- During the course of enforcement investigations/actions, business proprietors or individuals and witnesses will be kept informed of progress. Confidentiality will be maintained and personal information about individuals will only be released to a Court when required and/or in accordance with the Data Protection Act 1998.
- All enforcement officers will be expected to adhere to the enforcement policy in order to achieve consistent, balanced and fair enforcement and to co-operate in helping businesses and individuals to comply with the law.

Helpfulness

- We believe that prevention is better than cure. Our role will involve actively working with businesses, (especially small and medium sized ones), to advise on, and assist with, compliance so businesses and others can meet their legal obligation without unnecessary expense.
- We will provide guidance and advice in a range of formats, such as face to face interactions, telephone, and online. We have access to translation services to communicate in a wide range of languages. We will seek to maximise the reach, accessibility, and effectiveness of our advice.
- We will provide a courteous and efficient service and officers will identify themselves by name. We will provide a contact point and telephone number and will encourage businesses to seek advice/information from us.
- While it is understood that it is primarily the responsibility of individuals and businesses to ensure compliance with the law, enforcement officers will help them, wherever possible, to understand their legal responsibilities.
- We will provide information and advice, in plain language, on the rules and regulations that apply.
- We will discuss general issues, specific non-compliances or problems with anyone experiencing difficulties.
- When carrying out inspections we will give positive feedback to businesses and individuals, to encourage and reinforce good practices.
- If asking you for information, we will ensure that it is entirely necessary and that we will avoid duplicate requests for information.

Proportionality

- We will minimise the costs of compliance for businesses by ensuring that any action we require is proportionate to the risks involved. As far as the law allows, we will take account of the circumstances of the case and the attitude of the parties involved when considering action.
- We will take firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly.
- We will ensure that our inspections and regulatory actions are targeted at those activities which present the greatest risk, or deliberately flout the law, rather than using our resources to target businesses that are low risk, and are genuinely striving to meet their obligations. We will reward consistently good levels of compliance with lower frequencies of inspection and reporting requirements.

Consistency

- We will carry out our duties in a fair, equitable and consistent manner.
- While officers are expected to exercise judgement in individual cases, arrangements are in place to promote consistency. This includes liaison with other authorities and enforcement bodies through schemes, such as the Home Authority Principle, set up by the Local Authorities Co-ordinating Office on Regulatory Services (LACORS).

Transparency

- Transparency means helping regulated entities understand what is expected of them and what they should expect from the enforcing authorities. It also means making clear to regulated entities not only what they have to do but, where relevant, what they don't. This means distinguishing between statutory requirements and advice or guidance about what is desirable but not compulsory.
- Advice from an officer will be clear and simple and will be confirmed in writing, if requested. It will explain why any remedial work is necessary and over what time-scale.
- Before formal enforcement action is taken, officers will provide an opportunity to discuss the issues. If possible, points of difference will be resolved, unless immediate action is needed (for example, in the interests of food safety, health and safety, environmental protection, or to prevent evidence being destroyed).
- Where immediate action is necessary, an explanation of why such action is required will be given at the time.
- We will be open about how we carry out our duties, including any charges that we set.
- Where appropriate, we will consult businesses, voluntary organisations, charities, consumers and workforce representatives on relevant issues

Accountability

- As regulators we are accountable to the public for our actions. This means that enforcing authorities must have policies and standards (such as the enforcement principles above) against which we can be judged, and an effective and easily accessible mechanism for dealing with enquiries and complaints.
- We will work with business, interested parties and technical experts where appropriate, to draw up clear standards. These will set out the level of service and performance that the public and businesses can expect to receive. We will publicise the results of our performance.

5. What Enforcement Options are Available

'Enforcement action' includes any action taken by duly authorised enforcement officers aimed at ensuring that businesses or individuals comply with the law. This is not limited to formal enforcement, and includes other 'enforcement activities' such as advisory visits, inspection, licensing and assisting with compliance.

In reaching enforcement decisions officers will consider all the relevant facts and circumstances.

The enforcement actions available are:-

- (a) Informal action and advice
- (b) Fixed Penalty Notices
- (c) Penalty Charge Notices
- (d) Statutory notice including Emergency Prohibition or Closure
- (e) Seizure of goods/equipment/documents
- (f) Undertaking or Enforcement Order
- (g) Interdict
- (h) Anti-Social Behaviour Order (ASBO)
- (i) Antisocial Behaviour Agreements (ABA)
- (j) Refusal/revocation of a licence/registration/approval
- (k) Formal warning
- (l) Prosecution report

These actions, and when we might use them, are detailed in Appendix 1.

6. When will we take Enforcement Action

In Scotland the Procurator Fiscal decides whether to bring a prosecution. This may be on the basis of a recommendation by an enforcing authority such as ourselves. Enforcing authorities must use discretion in deciding whether to report to the Procurator Fiscal with a view to prosecution.

In Scotland, before prosecutions can be instituted, the Procurator Fiscal will need to be satisfied that there is sufficient evidence and that prosecution is in the public interest:

- Evidence – the enforcement officer must be satisfied that there is enough evidence to provide a ‘realistic prospect of conviction’ against an accused. This is an objective test that means that ultimately the Sheriff is more likely than not to convict the accused of the charge/s alleged.
- Public Interest - Before submitting a report to the Procurator Fiscal, we will give consideration to balance the factors for and against any proposed report carefully and fairly. Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the accused. Some factors may increase the need to submit a report to the Procurator Fiscal, for example, where an individual or business:
 - Endangers, to a significant degree, the health, safety or well being of people, animals or the environment.
 - Deliberately, negligently or persistently breaches legal obligations likely to cause significant material loss, harm or nuisance to others
 - Deliberately or persistently fails to act on, or comply with, previously issued warnings or notices, having been given reasonable opportunity to do so.
 - Has a history of similar breaches and/or previous convictions
 - Assaults or obstructs an enforcement officer in the course of their duties
 - Is unlikely to be able to establish any relevant statutory defences
 - Is unwilling to prevent a recurrence of the problem

The sanctions and penalties will:

- Aim to change the behaviour of the offender
- Aim to eliminate any financial gain or benefit from non-compliance
- Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction
- Be proportionate to the nature of the offence and the harm caused

- Aim to restore the harm caused by regulatory non compliance, where appropriate and
- Aim to deter future non compliance

Our authorised enforcement officers will abide by this Charter when making enforcement decisions and all operational procedures will be written to accord with it. Any departure from policy must be exceptional, capable of justification and be fully considered by senior management of the Service before the decision is made; unless it is believed that there is a significant risk to the public or environment in delaying the decision.

7. How do we Know we are Complying with the Charter?

There is no point in us having this Charter if we do not meet the commitments we make in it. Therefore we will:

- Only employ officers who meet the relevant national standards of competency for their jobs, such as Trading Standards Officers, Environmental Health Officers, and Food Safety Officers. These officers have undergone lengthy training and practical examination to qualify for their posts. No officers will carry out enforcement work unless they are suitably trained, experienced and duly authorised to do so.
- Ensure new enforcement officers are trained in the contents of this Charter, when they join the Service, while ensuring existing enforcement officers have also been trained on its requirements.
- Prepare a checklist of good practice, and will monitor each of our enforcement activities, to ensure we meet the Charter's objectives.
- Review this Charter, and monitor our own activities on a two yearly basis; or sooner if the need arises.
- Ensure regulatory/enforcement issues are a standing item on the Environmental and Consumer Services Management Team Meetings Agenda.
- Ensure our officers take part in national liaison groups to enhance their knowledge and ensure our enforcement actions are proportionate to those carried out by other local authority regulatory services.

8. If You are Unhappy with our Regulatory Activities

We welcome your comments on the services we provide. Should you consider that our enforcement approach has been unfair, unreasonable, or our actions are contrary to this Charter, then you can seek redress in one of the following ways:

(a) Contacting the Manager for the enforcement activity:

<u>Activity</u>	<u>Contact</u>
Environmental Health (Public Health, Pollution, Housing, Pest control etc)	Tom Brydone Environmental Health Manager Telephone: 01738 476457 E-mail: TJBrydone@pkc.gov.uk
Food/Health and Safety (Food Hygiene; Food Standards; Health and Safety at Work; Smoking Enforcement)	Jim Dixon Food/Health and Safety Manager Telephone: 01738 476471 JJDixon@pkc.gov.uk
Trading Standards (Fair Trading; Weights and Measures; Consumer and Product Safety, Animal Health and Welfare, Business and Consumer Advice etc)	Sandy Nicoll Trading Standards Manager Telephone: 01738 476480 AMNicoll@pkc.gov.uk
Waste Services (Litter; Illegal presentation or Dumping of Waste)	Bruce Reekie Waste Services Manager Telephone: 01738 476448 BReekie@pkc.gov.uk

(b) Council Formal Complaints Procedure

The Council has service standards for responding to complaints. The Council is committed to providing a complaints system which is speedy, responsive to customers and acknowledges when things go wrong and seeks to correct them. The following is a brief summary of the complaints procedure. Further, more detailed advice is available on the Council website (www.pkc.gov.uk) or by contacting the Council's Customer Service Centre (telephone: 01738 476476)

When making a formal complaint, please try to describe what happened as clearly and simply as possible, and let us know how you think we can put things right.

Formal complaints are dealt with in two stages as follows:

Stage 1

Complaints will be investigated by someone who works in the Service complained about, but they will normally be from a different section and won't have any connection with the complaint – so it can be investigated independently and objectively. The investigating officer must acknowledge receipt of a complaint within 5 working days of receiving it, and must provide the complainant with a response, including any remedial action that will be taken, within 15 working days.

At this point, if a complainant is not satisfied with the outcome their complaint will move on to Stage 2.

Stage 2

Stage 2 complaints will be investigated on behalf of the Chief Executive by an independent investigator.

We always do our best to give complainants a response to their complaint within the 15 day deadline. However, if this is not possible we will regularly let them know how we are progressing and when they can expect to receive a more detailed response.

If a complainant is still not happy after completing both stages of our corporate complaints procedure then they can ask the Scottish Public Services Ombudsman, 4 Melville Street, Edinburgh EH3 7NS. (Tel 0870 011 5378) to investigate it

The Scottish Public Services Ombudsman's office can be contacted at any time for advice, but they won't normally investigate a complaint until both stages of the Council's complaints procedure have been exhausted.

9. Future Suggestions/Proposals

The Government's Better Regulation agenda will develop over the coming years, and combined with our own evolving experience of providing better customer focussed regulatory services, we will regularly review this Charter.

If you have any comments or suggestions as to how we can improve the Charter, please let us know by contacting:

Keith McNamara
Head of Environmental and Consumer Services
Phone: 01738 476404
E-mail: KDMcNamara@pkc.gov.uk
Fax: 01738 476406

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Service Development 01738 476161

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الاسم: Service Development
رقم هاتف للاتصال المباشر: 01738 476161

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Service Development 01738 476161
來替你安排。

Jeżeli chciałbyś lub ktoś chciałby uzyskać kopię owego dokumentu w innym języku niż język angielski lub w innym formacie (istnieje możliwość uzyskania streszczenia owego dokumentu w innym języku niż język angielski), Proszę kontaktować się z
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Jestliže vy a nebo někdo, koho znáte, by si přál kopii tohoto dokumentu v jiném jazyku nebo formátu, (v případě nutnosti bude přeložen pouze stručný obsah dokumentu), může to být zajištěno kontaktováním
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Если вам или кому либо кого вы знаете необходима копия этого документа на другом языке или в другом формате, вы можете запросить сокращенную копию документа обратившись
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Council Text Phone Number 01738 442573

All Council Services can offer a telephone translation facility

Appendix 1

(a) Informal Action and Advice

Minor incidents are normally dealt with by means of informal action and would involve the enforcement officer drawing the matter to the attention of the individual or to the owner of the business or to an appropriate employee, and giving advice where necessary. A report may be left at the time of the visit or contained within a written warning or advisory letter. Rarely will a minor or technical infringement result in more formal action being taken, particularly if it is capable of immediate rectification.

A follow-up visit will be made, where circumstances demand, to ensure minor matters have been rectified. However, if previous advice has been ignored, an enforcement officer may choose to treat the continuing breach in a formal way.

(b) Fixed Penalty Notices

Certain prescribed offences are subject to fixed penalty notices. These notices are recognised as a low-level enforcement tool and avoid a criminal record for the offender, if paid on time.

(c) Penalty Charge Notices

Penalty Charge Notices are prescribed by certain legislation as a method of enforcement by which the offender pays an amount of money to the enforcement agency in recognition of the breach. Failure to pay the Penalty Charge Notice will result in the offender being pursued in the civil court for non-payment of the debt. A Penalty Charge Notice does not create a criminal offence, if paid on time.

(d) Statutory Notice including Emergency Prohibition or Closure

Certain legislation allows statutory notices to be served requiring offenders to take specific actions or cease certain activities. These notices may require activities to cease immediately where required by circumstances relating to health, safety, environmental damage, commercial disadvantage or nuisance. In other circumstances, the time allowed will be reasonable, and take into account the seriousness of the contravention and the implications of the non-compliance. All statutory notices issued will include details of any appeal process.

Certain types of statutory notice allow works to be carried out by default. This means that if the statutory notice is not complied with (breach of the notice) the Council may carry out any necessary works to satisfy the requirements of the notice. Where the law permits, the Council may then charge the business

or individual served with the notice for any costs incurred in carrying out the remedial work.

(e) Seizure of Goods/Equipment/Documents

Certain legislation enables enforcement officers to seize goods, equipment or documents. When goods/equipment/documents are seized the enforcement officer will, when circumstances permit, give the business or individual from whom the goods are being taken the relevant legal documentation and an appropriate receipt.

(f) Undertaking or Enforcement Order

Proceedings may be brought against a business or individual under the Enterprise Act 2002, where they have acted in breach of community or domestic legislation with the effect of harming the collective interests of consumers. In most circumstances action will be considered where there have been persistent breaches or where there is significant consumer detriment. The following enforcement action can be taken:

- Informal Undertaking – business or individual informally agrees with enforcement officers to desist from breaching specified legislation where the breach harms the collective interests of consumers.
- Formal Undertaking – business or individual agrees to formally sign a written undertaking to desist from breaching specified legislation where the breach harms the collective interests of consumers.
- Enforcement Order - enables specified enforcers to apply to the courts for an enforcement order to stop a business or individual from breaching specified legislation where the breach harms the collective interests of consumers.

(g) Interdict

In certain circumstances an interdict (i.e. a civil court order) can instruct a business or individual not to do something or stay away from a particular place or person. If the recipient breaches the interdict, then the Police may be able to arrest them if the interdict gives them the power to do so.

(h) Anti-Social Behaviour Order (ASBO)

Anti Social Behaviour Orders (civil court orders which forbid specific threatening or intimidating actions) can be applied for, in conjunction with the Council's Anti-Social Behaviour Team, where the non-compliance under investigation amounts to anti-social behaviour. Any subsequent breach of an ASBO by an offender becomes a criminal offence.

(i) Antisocial Behaviour Agreement (ABA)

Anti-social behaviour agreements are used to address unacceptable behaviour in the community which causes people to feel frightened or angry. Offenders can be interviewed by the Police/Council officers and may be asked to sign an Acceptable Behaviour Agreement aimed at helping them improve their behaviour. If they require support then this may be provided. Breaching an Acceptable Behaviour Agreement may lead to the Police/Council seeking an Anti Social Behaviour Order.

(j) Refusal/Revocation of a Licence/Registration/Approval

Where there is a requirement for a business or individual to be licensed/registered/approved by the local authority for a prescribed activity, the licence/registration/approval may be granted unless objections or other relevant grounds for refusal are received against the application. If a business or individual does not comply with the conditions of licence/registration/approval then the licence/registration/approval may be refused or revoked depending on the circumstances.

Licences/registrations/approvals may be suspended or revoked with immediate effect if such a decision is deemed necessary in the interests of protecting the environment, public health or safety.

(k) Formal Warning

A formal warning may be issued to a business or individual where it is decided that:-

- 1) Informal action or advice has been tried without success
- 2) Past history warrants this action
- 3) There is lack of confidence in the businesses or individual's management system that matters will be rectified.
- 4) Consequences of non-compliance could pose a significant risk or detriment to consumers, the public or other businesses.
- 5) The events are serious enough to warrant a prosecution report, however a decision is taken not to follow that course of action after considering all the relevant facts.

Formal warnings will be sent by recorded delivery with clear timescales for compliance indicated to the business or individual concerned and an indication that failure to comply may result in a report to the Procurator Fiscal.

Formal warnings will be signed by the Service Manager or other nominated signatory in their absence, such as Principal Officer.

A copy of the formal warning will be sent by recorded delivery to the head/registered office of a business or individual where appropriate. In addition, a copy may also be sent to the 'Home Authority' regulatory service where the business or individual has their head/registered office.

(l) Prosecution Report

A prosecution report will normally only be submitted to the Procurator Fiscal in relation to more serious matters, see section 6 above for more details.

