

REPORT TO: POLICY & RESOURCES COMMITTEE – 10TH SEPTEMBER 2001

REPORT BY: DIRECTOR OF ENVIRONMENTAL AND CONSUMER PROTECTION

**REPORT ON: ENFORCEMENT CONCORDAT – COSLA GOOD PRACTICE GUIDE
(TOWARDS ADOPTION)**

REPORT NO: 557-2001

1.0 PURPOSE OF REPORT

- 1.1 To obtain the support of the Council for the corporate adoption of the “good enforcement” principles of the Enforcement Concordat.

2.0 RECOMMENDATIONS

- 2.1 The Council adopts the principles in paragraph 6.9 in line with COSLA's Enforcement Concordat and Good Practice Guide.
- 2.2 The Chief Executive invites key representatives of the business community and others with a regulatory interest, to secure their engagement in the regulatory policies of the Council and share the commitment to see the Concordat adopted and implemented.
- 2.3 The Director of Environmental and Consumer Protection is appointed Lead Officer for the purpose of adopting and implementing the Enforcement Concordat.

3.0 FINANCIAL IMPLICATIONS

- 3.1 There are no direct financial implications arising from this report.
- 3.2 Any secondary costs arising from the report will be contained within departmental revenue budgets.

4.0 EQUAL OPPORTUNITY IMPLICATIONS

- 4.1 Adoption of the report will assist in ensuring that all businesses subject to enforcement are dealt with in a fair and consistent manner by officers of the Council.

5.0 DUNDEE 21 IMPLICATIONS

- 5.1 All sections of the community are empowered to participate in decision-making.

6.0 BACKGROUND

- 6.1 A number of departments within the Council are charged with the enforcement of legislation made at national level.
- 6.2 The impact of these enforcement responsibilities on businesses operated within the city can be substantial, in some cases incurring significant costs for such businesses.

- 6.3 In many cases, the legislation being enforced by local authorities is not specific in its requirements, and leaves a significant amount to the individual judgement of the enforcing officer.
- 6.4 Inevitably, differences in interpretation can result from council to council, and even between officers applying the same provisions within one authority.
- 6.5 Such differences can never be wholly “designed out” of the enforcement system, but a recognition has arisen that systems can be put in place to minimise discrepancies, and ensure that enforcement burdens on businesses are applied fairly and consistently.
- 6.6 Such an approach would benefit all “stakeholders” in the enforcement process, the local authority (members and officials) the proprietor of the business, employees and the customer.
- 6.7 COSLA has recognised the above principles, and has supported the Enforcement Concordat as a mechanism for achieving best practice in enforcement duties.
- 6.8 The Enforcement Concordat was published by the Cabinet Office in March 1988 in partnership with the Scottish Office, COSLA and other principal local authority associations.
- 6.9 The Enforcement Concordat is based on six principles that can be summarised as follows: -
- 6.9.1 Standards – the publication of clear standards setting out the level of service and performance the public and business people can expect to receive.
- 6.9.2 Openness – the provision of information and advice in plain language, and consultation with affected groups.
- 6.9.3 Helpfulness – the provision of a courteous and efficient service at all times with the provision of contact points, telephone numbers etc.
- 6.9.4 Complaints About Service – the provision of well publicised, effective and easily accessible complaints procedures.
- 6.9.5 Proportionality – ensuring that action required is proportionate to the risks.
- 6.9.6 Consistency – ensuring duties are carried out in a fair, equitable and consistent manner.
- 6.10 A full description of each of these principles is given in the leaflet “Enforcement Concordat”; a copy of which is attached to this report.
- 6.11 The process for adopting the Concordat is described in the COSLA document “The Enforcement Concordat Good Practice Guidance”.
- 6.12 The first stage of the recommended process is headed “Towards Adoption” and the measures necessary to achieve this stage are outlined in 2.1, 2.2 and 2.3 of this report.
- 6.13 The second stage of the process i.e. “The Adoption Process” requires the appointment of Lead Officer to drive the process forward. Recommendation 2.4 covers this aspect.
- 6.14 A further report on the second stage of this process will be brought forward in due course.

6.15 The departments affected by the adoption of the Concordat are: -

<u>Department</u>	<u>Services</u>
Environmental Protection and Consumer	Environmental Health, Trading Standards
Planning and Transportation	Building Control, Planning
Social Work	Registration and Inspection Unit
Support Services	Licensing Section
Housing	Housing Acts

7.0 BACKGROUND PAPERS

7.1 Enforcement Concordat
COSLA Enforcement Concordat Good Practice Guide

8.0 SIGNATURE

Director of Environmental and Consumer Protection

Date: 22nd August 2001

ENFORCEMENT CONCORDAT

Principals of Good Enforcement:

Policy

STANDARDS

In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.

OPENNESS

We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

HELPFULNESS

We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage business to seek advice/information from us. Applications for approval of establishments, licenses, registrations etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

COMPLAINTS ABOUT SERVICE

We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

PROPORTIONALITY

We will minimise the cost 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.

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, where practicable.

CONSISTENCY

We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies through schemes such as those operated by the Local Authorities Co-ordinating Body on Food and Trading Standards (LACOTS) and the Local Authority National Type Approval Confederation (LANTAC).

Principals of Good Enforcement:

Procedures

Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within 5 working days and, in all cases, within 10 working days.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

The Principals of Good Enforcement:

Policy and Procedures

This document sets out what business and other being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.

The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe trading environment.

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice and safety.

We have therefore adopted the central and local government Concordat on Good Enforcement. Included in this term "enforcement" are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the concordat we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them.