

Nottingham City Council - Community Protection

Service Standards

What you can expect from Regulatory Services in Nottingham City Council – Citizens at the Heart of everything we do.

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This document explains what you can expect of Regulatory Services in Nottingham City Council. Whether you run a business, are an employee or a member of the public, we are committed to the Council's Plan to make Nottingham a Great City through putting citizens at the heart of everything we do by providing you with an efficient, courteous and helpful service. This document tells you how we aim to do that and what standards we will meet.

Regulatory Services support the Council's aim to be an internationally successful and prosperous city that offers its residents the means and opportunities to realise their potential. We will work with businesses and partners such as D2N2, to support and promote a thriving economy while protecting citizens from harm.

Areas we regulate

We deliver services in a number of areas. The key areas of work are below but the list is not exhaustive;

Pollution/Environmental Protection	Private Sector Housing	Food Safety & Food Standards
Health and Safety	Trading Standards	Fire Safety
Antisocial Behaviour.	Licensing	Waste
Sports Grounds Safety	Health Protection	Noise Control

How we deliver our services

We make a fundamental contribution to the maintenance and improvement of public safety, quality of life and wellbeing. Our service aim is to:

- Ensure a safer, healthier and confident community,
- Protect the public, businesses and the environment from harm
- Support the local economy to grow and prosper

We determine our activities by assessing the needs of local people and our business community, and considering the risks that require addressing. We do this through a variety of ways such as interactions with local Councillors, local area committees, feedback from businesses, D2N2 Local Enterprise Partnerships, through using data/advice from central government and other information available to us and our partner agencies. In this way we ensure our resources are targeted appropriately, in the light of these local needs and of national priorities.

We are committed to being transparent in our activities. We measure what is important and we are committed to providing annual statutory returns to central government departments who publish a range of information about Council's performance.

We carry out all our activities in a way that supports those we regulate to comply and grow:

- We ensure that information, guidance and advice is available to help you to meet legal requirements (see [Helping you to get it right](#)).
- We carry out inspections and other activities to check compliance with legal requirements, and we target these checks where we believe they are most needed (see [Inspections and other compliance visits](#)).
- We deal proportionately with breaches of the law as set out in our Enforcement Policy, including taking firm enforcement action when necessary (see [Responding to non-compliance](#)).
- We provide a range of services to businesses, including pest control, licences, registrations, food hygiene courses. (See [Requests for our service](#)).

Our services will be delivered in a way that has had regard to the requirements of the [Regulators' Code](#).

Working with you

In all your dealings with us you can expect, and will receive, an efficient and professional service. Our officers will:

- Be courteous and polite
- Always identify themselves by name in dealings with you, and provide you with contact details
- Seek to gain an understanding of how your business operates
- Provide details of how to discuss any concerns you may have
- Agree timescales, expectations and preferred methods of communication with you
- Ensure that you are kept informed of progress on any outstanding issues.

We recognise that your business will receive advice and inspections from other organisations, and we will do our best to work with them to ensure that you receive the best service.

What we expect from businesses

While we recognise that dealing with officers from the Council can at times be stressful it is important that business representatives act with courtesy, consideration and cooperation. Some visits by officers have to be made without prior appointment by law; it is recognised that this can put strain on businesses at the time but courtesy and understanding of the officer's role will ensure that we can work together to achieve compliance as this is more cost effective for businesses as well as the Council.

Helping you to get it right

We want to work with you to help your business to be compliant and successful and it is important to us that you feel able to come to us for advice when you need it. We won't take enforcement action just because you tell us that you have a problem.

We make information and guidance on meeting legal requirements available through a variety of methods including the website and when we make on-site visits.

Where you need advice that is tailored to your particular needs and circumstances we will:

- Discuss with you what is required to achieve compliance
- Provide advice that supports compliance and that can be relied on
- Provide clear advice that can be easily understood and implemented
- Distinguish legal requirements from suggested good practice
- Ensure that any verbal advice you receive is confirmed in writing if requested
- Acknowledge good practice and compliance.

Inspections and other compliance visits

We monitor and support compliance in a number of different ways including through inspections, sampling visits, test purchases, advisory visits and complaint investigations. These visits will always be based on an assessment of risk – we won't visit without a reason.

Many of our visits and inspections have to be carried out without notice but we try and choose times that are suitable for your type of business to avoid causing major disruption. If it is appropriate we will inform you about certain visits we intend to make.

When we visit you our officers will:

- Explain the reason and purpose of the visit
- Carry their identification card at all times, and present it on request when visiting your premises
- Exercise discretion in front of your customers and staff
- Have regard to your approach to compliance, and use this information to inform future interactions with you
- Provide information, guidance and advice to support you in meeting your statutory obligations, if required
- Provide a written record of the visit when appropriate.

Responding to non-compliance

Where we identify any failure to meet legal obligations, we will respond proportionately, taking account of the circumstances, in line with our Enforcement Policy [[hyperlink here](#)].

We deal proportionately with breaches of the law as set out in our Enforcement Policy, including taking firm enforcement action when necessary.

Where we require you to take action to remedy any failings we will:

- Explain the nature of the non-compliance
- Discuss what is required to achieve compliance, taking into account your circumstances
- Clearly explain any advice, actions required or decisions that we have taken
- Agree timescales that are appropriate to the risk, in relation to any actions required
- Provide in writing details of how to informally appeal against any advice provided, actions required or decisions taken, including any statutory rights to appeal
- Explain what will happen next
- Keep in touch with you, where required, until the matter is resolved

Requests for our services

We clearly explain the services that we offer, including details of any fees and charges that apply by displaying on our website.

In responding to requests for our services, including requests for advice and complaints about breaches of the law, we will:

- Acknowledge your request
- Tell you when you can expect a substantive response
- Seek to fully understand the nature of your request
- Explain what we may or may not be able to do, so that you know what to expect
- Keep you informed of progress throughout our involvement
- Inform you of the outcome as appropriate

How to contact us

You can contact us by:

Telephone: 0115 915 5555

Online: <http://www.protectnottingham.co.uk/contact/>

Web information: <http://www.protectnottingham.co.uk/>

By post: Community Protection, *Loxley House, Station St. Nottingham NG2 3NG*

We will seek to work with you in the most appropriate way to meet your individual needs. We can make information available in different formats, and have access to translation and interpretation services.

If you contact us we will ask you for your name and contact details to enable us to keep in touch with you as the matter progresses. We treat all contact with the service in confidence unless you have given us permission to share your details with others as part of the matter we are dealing with on your behalf or there is an operational reason why we need to do so. We will respond to anonymous complaints and enquiries where we judge it appropriate to do so.

Personal data will be managed in accordance with Nottingham City Council's Data Protection Policy. <http://www.nottinghamcity.gov.uk/privacy-statement>

Our Team

We have a dedicated team of officers who have the appropriate qualifications, skills and experience to deliver the services provided. We have arrangements in place to ensure the ongoing training and professional competency of all officers.

Where specialist knowledge is required in an area outside of our expertise we have arrangements in place, with neighbouring authorities, other regulatory organisations and specialist service providers, to call on additional resources as necessary.

Safeguarding

We aim to protect citizens from harm particularly those that are vulnerable such as the elderly, children or due to disability, immigration or refugee status. As part of the routine regulatory work officers will be mindful of safeguarding considerations and will where necessary report concerns that they may have about vulnerable persons. In doing, so officers will be proportionate and sensitive as far as reasonably practicable.

Working with others

We are part of a much wider regulatory system in the Nottingham City and East Midlands area. We have good working relationships with other regulators; this includes sharing information and data on compliance and risk, where the law allows, to help target regulatory resources.

Our officers are familiar with the work of our partners and can help signpost you to the advice and guidance you need.

Having your say

Complaints and appeals

Where we take formal enforcement action, there is often a statutory right to appeal. We will always tell you about this at the appropriate time.

We are always willing to discuss with you the reasons why we have acted in a particular way, or asked you to act in a particular way. If you have been unable to resolve your concerns with the inspecting officer then you can contact the officer's line manager for an informal review of the matter.

We manage formal complaints about our service, or about the conduct of our officers, through Nottingham City Council's Corporate Complaints Policy (hyperlink to: <http://www.nottinghamcity.gov.uk/abouthaveyoursay#guide>)

Feedback

We value input from you to help us ensure our service is meeting your needs. We would like to hear from you whether your experience of us has been good or in need of improvement. This helps us to ensure we keep doing the right things and make changes where we need to. We use customer satisfaction surveys from time to time but we would welcome your feedback at any time. You can provide feedback through our Have Your Say website: <http://www.nottinghamcity.gov.uk/abouthaveyoursay#guide>

Developing our services with you

Individual Council service areas carry out regular customer surveys to find out and understand the views of citizens and businesses. We have a number of groups that we liaise/consult with to ensure that we are delivering our services to meet your needs.

Appendix A: Legislation, Guidance and Codes that Influenced the Preparation of the Enforcement Policy

A. Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006, Part 2, requires Nottingham City Council to have regard to the Principles of Good Regulation when exercising a specified regulatory function¹. For local authorities, the specified functions include those carried out by our environmental health, trading standards and licensing services.

We will exercise our regulatory activities in a way that is:

- (i) Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence,
- (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
- (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities,
- (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

B. Regulators' Code

Nottingham City Council has had regard to the [Regulators' Code](#) in the preparation of this policy. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

C. Human Rights Act 1998

Nottingham City Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

D. Data Protection Act 1998

Where there is a need for Nottingham City Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1988.

E. The Code for Crown Prosecutors

When deciding whether to prosecute Nottingham City Council has regard to the provisions of [The Code for Crown Prosecutors](#) as issued by the Director of Public Prosecutions.

¹ Specified by the Legislative and Regulatory Reform (Regulatory Functions) Order 2007, available at www.legislation.gov.uk

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied commonly referred to as the 'Evidential Test' and the 'Public Interest Test':

- a. Evidential Test - is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, Nottingham City Council will consider what evidence can be used in court and is reliable. We must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.

- b. Public Interest Test - is it in the public interest for the case to be brought to court?

Nottingham City Council will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The public interest factors that we will take into account are detailed under the enforcement options available to us in [Appendix C](#).

F. Regulatory Enforcement and Sanctions Act 2008 ('the RES Act')

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a primary authority, and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.

Appendix B: Conduct of Investigations

All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Nottingham City Council :

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

Appendix C: Enforcement Actions available to Nottingham City Council in Respect of Criminal and Civil breaches

A. Compliance Advice, Guidance and Support

Nottingham City Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter or 'letter before action' will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence. Nottingham City Council recognises that where a business has entered into a partnership with a Primary Authority, the Primary Authority will provide compliance advice and support, and Nottingham City Council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the primary authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, Nottingham City Council recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

B. Voluntary Undertakings

Nottingham City Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. Nottingham City Council will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

C. Statutory (Legal) Notices

In respect of many breaches Nottingham City Council has powers to issue statutory notices. These include: 'Stop Notices', 'Prohibition Notices', 'Suspension Notices', 'Emergency Prohibition Notices', and 'Improvement Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

D. Financial penalties

Nottingham City Council has powers to issue fixed penalty notices in respect of some breaches. A fixed penalty notice is not a criminal fine, and does not appear on an individual's criminal record. If a fixed penalty is not paid, Nottingham City Council may commence criminal proceedings or take other enforcement action in respect of the breach.

If a fixed penalty is paid in respect of a breach Nottingham City Council will not take any further enforcement action in respect of that breach. Payment of a fixed penalty

does not provide immunity from prosecution in respect of similar or recurrent breaches.

Nottingham City Council is only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their issue is at Nottingham City Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a fixed penalty notice.

E. Injunctive Actions, Enforcement Orders etc.

In some circumstances Nottingham City Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

Nottingham City Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, Nottingham City Council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

F. Simple Caution

Nottingham City Council has the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, Nottingham City Council will consider prosecution.

If a simple caution has previously been issued it is likely to influence how Nottingham City Council deal with any future breaches and may be referred to in court if the offender is subsequently prosecuted for a similar offence. It is likely to influence how Nottingham City Council and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.

G. Prosecution

Nottingham City Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute Nottingham City Council has regard to the provisions of [The Code for Crown Prosecutors](#) as issued by the Director of Public Prosecutions.

Prosecution will only be considered where Nottingham City Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s) and where a prosecution is required in the public interest.

The finding that there is a realistic prospect of conviction is based on an objective assessment of the evidence, including whether the evidence is admissible, reliable and credible and the impact of any defence.

In every case where there is sufficient evidence to justify a prosecution Nottingham City Council must go on to consider whether a prosecution is required in the public interest. When deciding the public interest Nottingham City Council will consider all relevant circumstances carefully and will have regard to the following public interest criteria:

- The seriousness of the alleged offence;
- Culpability;
- Any harm caused to the victim;
- The impact on the community;
- Whether prosecution is a proportionate response.

The above criteria are not exhaustive and not all factors may be relevant in every case. The criteria enables Nottingham City Council to form an overall assessment of the public interest and the weight to be attached to each factor will also vary according to the facts and merits of each case. In some cases Nottingham City Council may be satisfied that the public interest can be properly served by an out of court disposal rather than a prosecution.

A successful prosecution will result in a criminal record. The sentence that the court may impose is specified in legislation and varies for each offence; depending on the seriousness of the offence the court may impose a financial penalty, community order or a term of imprisonment. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

H. Refusal/Suspension/Revocation of Licences

Nottingham City Council issues a number of licences and permits. Nottingham City Council also has a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment. Failure to apply for or renew certain licences and registrations may lead to the Council considering whether a management order is appropriate; reasonable warnings and advice about the consequences of such actions would be provided to duty holders.

When considering future licence applications, Nottingham City Council may take previous breaches and enforcement action into account.

1 December 2015