



SELBY DISTRICT COUNCIL ENVIRONMENTAL HEALTH ENFORCEMENT POLICY

**'To improve the quality of life of those who live and
work in the district'**

This document is the enforcement policy for Selby District Council's environmental health service. It sets out the key principles under which officers will seek to achieve compliance with the legislation enforced by this service. In carrying out their duties officers will adhere to the principles of good enforcement set out in the 'Statutory Code of Practice for Regulators' and all other relevant codes of practice.

1.0 Introduction

The main purpose of the environmental health service is to protect public health, protect and improve the environment and fulfil our statutory obligations. We recognise that effective and well-targeted regulation is essential in achieving this. We will ensure legal compliance by:

- Helping and encouraging businesses and individuals to understand and comply with the law.
- Responding proportionately to breaches of the law.

The Council will work in consultation, liaison, or where relevant in partnership with the Council's other departments and other enforcement agencies, where necessary, to ensure that the objectives of this policy are achieved.

2.0 Economic Progress

We will consider the impact that our regulatory activities may have on businesses, including consideration of costs, effectiveness and fairness. We will only adopt a particular approach if the benefits justify the costs and in doing so will endeavour to keep any perceived burdens to a minimum.

(References to costs and benefits include economic, social and environmental costs and benefits).

3.0 Risk Assessment

We will allocate our resources where they will be most effective by assessing the risks due to non-compliance with the law. The risk factors include:

- The potential impact on residents, consumers and business in failing to meet legal requirements.
- The likelihood of non-compliance taking into account matters such as: the past history, the systems the business has in place, management competence and willingness to comply.

4.0 Advice and Guidance

We recognise that prevention is better than cure and will actively work with businesses and residents to advise and assist with, compliance with the law. In doing this we will ensure that:

- Legal requirements are made available and communicated promptly upon request.
- The information we provide will be in clear, concise and accessible

- language. Advice will be confirmed, in writing, where necessary.
- We will clearly distinguish between legal requirements and guidance aimed at improvements above minimum standards.

5.0 Inspections and Other Visits

All inspections and other visits to businesses will be undertaken after consideration of the risk the business poses if it fails to comply with the law (see paragraph 3.0 above), where the business has requested advice or where intelligence/information suggests that an inspection or visit is appropriate.

- Where we carry out inspections we will give feedback to the business on what the officer has found; this will include positive feedback to encourage and reinforce good practice.
- Where practicable, we will co-ordinate inspections with other regulators to minimise the burden on businesses.
- Random inspection will be undertaken where government guidelines require us to do so. A small amount of random inspection may also be undertaken to test our risk assessments or the effectiveness of any action we have taken.

6.0 Information Requirements

We will only ask businesses for information that is necessary after considering the cost and benefit to obtaining the information. Where possible we will share this information with our partners (taking account of data protection) to prevent the need for providing the information more than once.

7.0 Compliance and Enforcement Actions

We recognise that most businesses and individuals wish to comply with the law. However, firm action will be taken against those who flout the law or act irresponsibly.

For the purposes of this policy “informal” action includes advice, verbal warnings, and requests for action, letters, informal notices and inspection reports left at the premises following an inspection.

For the purposes of this policy “formal enforcement action” includes serving a legal notice (this includes but is not limited to an improvement, detention, seizure, prohibition, fixed penalty or abatement notice), the seeking of an injunction, the issue of a ‘simple’ written caution and prosecution.

The following officers are authorised to issue Simple Cautions and are designated “Cautioning Officers”.

- Head of Service (Environmental Health & Leisure)
- Principal Environmental Health Officer

We will carry out all of our enforcement duties, including taking formal enforcement action, in a fair, equitable and consistent manner. Whilst officers exercise judgement in individual cases, we will have arrangements in place

to promote consistency including liaison with other agencies and authorities. Formal enforcement action will only be considered and taken in the first instance in cases involving occupational health and safety, public safety, a risk to public health, statutory nuisances and damage to the environment.

Formal enforcement action will also be considered and may be taken where advice has been ignored.

Only competent enforcement officers, duly authorised by the Council, shall initiate enforcement action.

Where formal enforcement action is necessary, we will consider the most appropriate course of action (from the range of sanctions and penalties available) with the intention of:

- Aiming to change the behaviour of the offender.
- Aiming to eliminate any financial gain or benefit from non-compliance.
- Being responsive and considering what is appropriate for the particular offender and issue involved, including punishment and the public stigma that may be associated with a criminal conviction.
- Being proportionate to the nature of the offence and harm caused.
- Aiming to restore the harm caused by non-compliance.
- Aiming to deter future non-compliance.

Before formal enforcement action is taken:

- Where possible, there will be an opportunity to discuss the circumstances unless immediate action is required.
- Where immediate formal enforcement action is taken, which will usually be the service of a written notice, reasons for such action will be given at the time (if possible) and confirmed, in writing, within 10 working days.
- Where there are rights of appeal against formal enforcement action, notification of the appeal mechanism will be clearly set out, in writing, at the time the action is taken.
- Clear reasons will be given for any formal enforcement action taken and confirmed in writing.

In cases of food safety and the issue of legal notices and voluntary closure of premises we will follow guidance set out in the appropriate Food Standards Agency Food Law Code of Practice. In cases involving health and safety and the issue of legal notices we will follow guidance set out in the appropriate Health and Safety Executive guidance and approved codes of practice. In cases involving environmental protection and the issue of legal notices we will follow guidance set out in the appropriate Department for the Environment, Food & Rural Affairs (DEFRA) environmental permitting and air quality guidance and approved codes of practice. In cases involving private housing and the issue of legal notices we will follow guidance set out in the appropriate Department for Communities & Local Government (DCLG) guidance and approved codes of practice. In cases involving street scene services and the issue of legal notices we will follow guidance set out in the appropriate DEFRA guidance and approved codes of practice. If the formal enforcement action being considered is a prosecution we will

also consider a number of additional factors in line with the Code for Crown Prosecutors and any other nationally recognised guidance such as the Enforcement Management Model published by the Health and Safety Executive. These factors may include the following:

- The seriousness of the alleged offence.
- The history of the party concerned.
- The willingness of the business, or the individual, to prevent a recurrence of the problem and co-operate with officers.
- Whether it is in the public interest to prosecute.
- The realistic prospect of a conviction.
- Whether any other action (including other means of formal enforcement action) would be more appropriate or effective.
- The views of any complainant and other persons with an interest in prosecution.

These factors are NOT listed in order of significance. The rating of the various factors will vary with each situation under consideration.

The Head of Service (Environmental Health & Leisure) must authorise any recommendation to prosecute.

The recommendation to prosecute will initially be made by the investigating officer and must be agreed, in writing, by a Principal Environmental Health Officer and the Head of Service (Environmental Health & Leisure).

The Solicitor to the Council will review the case file and determine whether to institute proceedings and prosecute on behalf of the Council in respect of any offence against any legislation, for which the Council is the Enforcing Authority.

8.0 Accountability

We will be accountable for the efficiency and effectiveness of our activities, while remaining independent in the decisions we take.

- We shall provide businesses and individuals with effective consultation and opportunities for feedback on our service.
- Officers will be courteous, fair and efficient at all times and will identify themselves by name.
- Any complaints about our enforcement service will follow Selby District Council's complaints procedure, which is easily accessible to all service users and explains how to make a complaint and the timescales involved. A copy of the complaints procedure can be obtained from Access Selby, Market Cross Shopping Centre, Selby, YO8 4JS, by telephoning 01757 705101 or via our website at www.selby.gov.uk

9.0 Application of our Enforcement Policy

All officers will have regard to this document when making enforcement decisions. Any departure from this policy must be exceptional, capable of justification and be agreed by the Head of Service (Environmental Health &

Leisure) or, in the absence of the Head of Service, a Principal Environmental Health Officer before a final decision is taken. This proviso shall not apply where a risk of injury, or to health, is likely to occur due to a delay in any decision being made.

In cases of emergency, or where any exceptional conditions prevail, the Chief Executive may suspend any part of this policy, where necessary, to achieve effective running of the service and/or where there is a risk of injury or to health of employees or any members of the public.

The Council is committed to promoting equality of opportunity for all people and recognises that some members of the community may have specific needs, which require further advice and assistance. If enforcement action is being considered every effort will be made to ensure that there is no discrimination and the gravity of the situation is fully explained. Officers shall comply with the Council's Equalities Policy.

The annexes to this policy set out, in more detail, specific enforcement options in relation to food safety, health & safety, private housing, environmental protection & street scene services.

10.0 Review

This document will be subject to an annual review with additional reviews as and when required. Improvements will be made if there are any changes in legislation or in local needs.

If you have any comments please contact the Head of Service (Environmental Health & Leisure) by calling 01757 705101 or by writing to Civic Centre, Portholme Road, Selby, YO8 4SB or email to envfeedback@selby.gov.uk.

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Annexe 1 Food Safety

This annexe covers the enforcement of food safety in the District in accord with statutory obligations and requirements of the Food Standards Agency.

1.0 Statement of Objectives

It is this Council's policy to enforce food safety legislation concerning food and drink intended for human consumption, which is produced, stored, distributed, handled or sold within the District to protect public health and to meet the duties placed on the local authority by the Statutory Code of Practice for Regulators.

2.0 Achieving the Objectives

Food safety enforcement will be carried out by duly authorised Environmental Health Officers or Technicians who must carry out duties in line with the Environmental Health Enforcement Policy, this annexe and the relevant legislation. All officers will be made aware of this policy and any amendments to it.

This annexe will be reviewed and amended as necessary on an annual basis, or as and when new legislation or guidance is produced regarding food enforcement activities. Statutory Codes of Practice and Local Authorities Co-ordinators of Regulatory Services (LACORS) guidance will have a significant contribution.

3.0 Quality Assurance

The food service operates to a formal quality management system accredited to ISO9001. All enforcement action shall be taken in accordance with the North Yorkshire Food Safety Quality Management System and all officers of the Council shall comply with the quality procedures.

The Council shall seek to ensure, as far as possible, that enforcement action is consistent with neighbouring local authorities and national guidance through the North Yorkshire Food Liaison Group. The Principal EHO (Commercial) shall raise enforcement issues, as necessary, with the Food Liaison Group or, through the group, with LACORS.

4.0 Formal Action

The first step in formal action is usually to serve a Statutory Notice. Failure to comply with a Statutory Notice will normally lead to Court proceedings.

Home Authorities must be informed of formal action against a relevant business.

When it is proposed to take enforcement action that may impact upon the advice issued by a Home Authority, or where the central policy of an enterprise is in question, then the Home Authority shall be consulted.

5.0 Statutory Notice

Statutory Notices include Hygiene Improvement Notices and Seizure & Detention. Hygiene Emergency Prohibition Notices are dealt with in more detail below. Remedial Action & Detention Notices can only be used in respect of premises subject to approval under EC Regulation 853/2004.

Statutory Notices should be used where the guidance criteria specified in the Statutory Code of Practice are fulfilled. In addition, the procedures in the North Yorkshire Food Safety Quality Management System will be adhered to.

The service of all Statutory Notices must meet the principles detailed in the Environmental Health Enforcement Policy.

The authorised officer who issues the Statutory Notice must witness the contravention(s) concerned.

6.0 Hygiene Emergency Prohibition Notices

Use of a Hygiene Emergency Prohibition Notice for premises, equipment or process should be considered in one or more of the following circumstances:

- The consequences of not taking immediate and decisive action to protect public health would be unacceptable.
- An imminent risk of injury to health can be demonstrated.
- The guidance criteria specified in the relevant Statutory Code of Practice are fulfilled.
- There is no confidence in an offer made by a food business operator to voluntarily close premises or cease the use of any premises, equipment or process associated with the identified imminent risk.
- A food business operator is unwilling to confirm, in writing, an offer of voluntary prohibition.
- In addition to prosecution, it is felt that action must be taken to remedy a situation where there is an imminent risk to public health.
- There would be sufficient evidence to successfully institute Court proceedings for non-compliance with the notice.

In view of the possible financial implications authorised officers must consult with a Principal EHO or the Head of Service (Environmental Health & Leisure) before issuing the Hygiene Emergency Prohibition Notice.

Hygiene Emergency Prohibition Notices shall only be issued by competent officers who are authorised by the Head of Service (Environmental Health & Leisure). A “competent officer” is deemed to be one as defined in the Statutory Code of Practice and in respect of Hygiene Emergency Prohibition Notices must have two years post qualification experience in food safety.

The authorised officer who issues the Hygiene Emergency Prohibition Notice must witness the contravention(s) concerned.

7.0 Prohibition Order

The Court may issue a Prohibition Order upon conviction of a food business

operator if the Court considers that the premises, equipment or process put public health at risk. Similarly, they may also prohibit a person from carrying on or managing any food business where they deem public health is at risk. Where appropriate, the Council will draw this power to the attention of the Court.

8.0 Alternative Enforcement Strategy

Low risk food premises will be subject to the alternative enforcement strategy (desk-top survey) in accordance with North Yorkshire Quality Management procedures and Statutory Code of Practice.

Low risk premises will be removed from the alternative strategy where the authority determines that higher risk activities are being undertaken or where other intelligence gives rise for concern such as sampling results, complaints or information from other agencies.

9.0 Imported Food

The authority recognises the role of inland authorities in relation to imported food controls. Officers will be mindful of imported food issues and traceability in conjunction with their enforcement duties.

10.0 Meat Crime

Liaison is maintained with North Yorkshire Trading Standards and the Meat Hygiene Service to share intelligence regarding illegal meat crime.

11.0 Local Authority Run Premises

The findings of inspections of local authority-run premises will be communicated, in writing, to the relevant line-manager. Any serious breaches of food law will be brought to the attention of the Chief Executive without undue delay.

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Annexe 2 Health & Safety

This annexe covers the enforcement of health & safety in the District in accord with statutory obligations and requirements of the Health & Safety Executive.

1.0 Statement of Objectives

It is the Council's policy to enforce health & safety legislation concerning the health, safety and welfare of employees and the public, who may be exposed to risks within the District from work activity and to meet the duties placed on the local authority by the Statutory Code of Practice for Regulators.

2.0 Achieving the Objectives

Health & safety enforcement will be carried out by duly authorised Environmental Health Officers or Technicians who must carry out duties in line with the Environmental Health Enforcement Policy, this annexe and the relevant legislation. All officers will be made aware of this policy and any amendments to it.

This annexe will be reviewed and amended as necessary on an annual basis, or as and when new legislation or guidance is produced regarding health & safety enforcement activities.

3.0 Quality Assurance

The health & safety service currently operates to an informal quality management system. All enforcement action shall be taken in accordance with the North Yorkshire Health & Safety Quality Management System and all officers of the Council shall comply with the quality procedures.

The Council shall seek to ensure, as far as possible, that enforcement action is consistent with neighbouring authorities, the Health and Safety Executive and national guidance through the North Yorkshire Health and Safety Liaison Group. The Senior Environmental Health Officer (Health and Safety) shall raise issues, as necessary, with the Liaison Group or, through the group, with the Local Authority Unit of the Health and Safety Executive.

4.0 Formal Action

The first step in formal action is usually to serve a Statutory Notice. Failure to comply with a Statutory Notice will normally lead to Court proceedings.

Lead Authorities must be informed of formal action against a relevant business.

When it is proposed to take enforcement action that may impact upon the advice issued by a Lead Authority, or where the central policy of an enterprise is in question, then the Lead Authority shall be consulted.

5.0 Statutory Notices

Statutory Notices include Improvement Notices, Seizure & Detention and

Prohibition.

Statutory Notices should be used where the guidance criteria specified in the Statutory Code of Practice are fulfilled. In addition, the procedures in the North Yorkshire Health & Safety Quality Management System will be adhered to.

The service of all Statutory Notices must meet the principles detailed in the Environmental Health Enforcement Policy.

The authorised officer who issues the Statutory Notice must witness the contravention(s) concerned.

6.0 Prohibition

The use of a Prohibition Notice should be considered in one or more of the following circumstances and will be issued in accordance with the guidance issued by the Local Authority Unit of the Health and Safety Executive:

- Where the use of premises, equipment or processes pose a serious risk of personal injury and other consequences of not taking immediate and decisive action would be unacceptable.
- In addition to prosecution, it is felt that action must be taken to remedy a situation where there is an imminent risk to health and safety.
- There is no confidence in the integrity of an offer to voluntarily close premises or cease the use of any equipment or process that poses a risk of serious personal injury.
- Where the proprietor will not confirm, in writing, his/her offer of voluntary prohibition.
- There would be sufficient evidence to successfully institute Court proceedings for non-compliance with the notice.

In view of the possible financial implications authorised officers must consult with a Principal EHO or the Head of Service (Environmental Health & Leisure) before issuing the Prohibition Notice.

Prohibition Notices shall only be issued by competent officers who are authorised to do so by the Head of Service (Environmental Health & Leisure). A competent officer is deemed to be one as defined in statutory codes of practice and Government guidance and advice.

The authorised officer who issues the Prohibition Notice must witness the contravention(s) concerned.

7.0 Alternative Enforcement Strategy

Low risk health & safety premises will be subject to the alternative enforcement strategy (desk-top survey) in accordance with North Yorkshire Quality Management procedures.

Low risk premises will be removed from the alternative strategy where the authority determines that higher risk activities are being undertaken or where other intelligence gives rise for concern such as accidents, complaints or information from other agencies.

8.0 Local Authority Run Premises

The findings of inspections of local authority-run premises will be communicated, in writing, to the relevant line manager. Any serious breaches of health & safety law will be brought to the attention of the Chief Executive without undue delay.

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Annexe 3 Private Housing

This annexe covers the enforcement objectives in respect of those service areas included in but not limited to the Council's Private Housing Strategy and in particular in relation to the improvement of private housing standards to agreed and acceptable levels.

1.0 Statement of Objectives

It is the Council's policy to monitor and address private housing standards throughout Selby District with a view to ensuring that all privately owned dwellings are maintained to a satisfactory standard and to meet the duties placed on the local authority by the Statutory Code of Practice for Regulators.

2.0 Achieving the Objectives

Where, in the light of a review of housing conditions or following a complaint or request for assistance from a member of the public, or for any other reason the authority considers it appropriate to inspect premises to assess conditions, the authority must arrange for an inspection to take place. Such an inspection should be carried out by a duly authorised Environmental Health Officer or Technician who must carry out duties in line with the Environmental Health Enforcement Policy, this annexe and the relevant legislation. All officers will be made aware of this policy and any amendments to it.

This annexe will be reviewed and amended as necessary on an annual basis, or as and when Central Government Departments and Agencies produce new legislation, protocols or guidance.

3.0 Formal Action

The first step in formal action is usually to serve a Statutory Notice. Failure to comply with a statutory notice will normally lead to Court proceedings.

4.0 Statutory Notice

The service of all Statutory Notices must meet the principles detailed in the Environmental Health Enforcement Policy. Enforcement Notices served under Part 1 of the Housing Act 2004 will be subject to a charge based on the time spent by the Council in carrying out an inspection, of drawing up and service of the Enforcement Notice. All charges will reasonably reflect the cost of enforcement. Where a fire hazard is identified, the Council will consult the Chief Fire Officer of North Yorkshire Fire and Rescue Service on works required before taking enforcement action.

5.0 Shared Enforcement

When investigating potential breaches of legislation, there is the potential that other departments or bodies may be involved in the same issue. In this case the investigation becomes shared enforcement.

Areas where shared enforcement must be considered are:

- Houses in Multiple Occupation – HSE jointly involved in gas safety, the Fire officer involved in fire safety.
- Privately rented accommodation – NYCC Trading Standards enforce Fire and Furnishings Regulations.

Where shared enforcement situations are found, or anticipated, joint visits should be arranged and action taken as detailed in the Environmental Health Enforcement Policy and this annexe.

6.0 Referrals to other Regulators

When receiving information regarding possible breaches of legislation, there is the potential for issues to be identified that should be solely regulated by another body. In such cases full written details should be passed to the relevant body within 48 hours of the information being received. (the officer will assess whether the situation necessitates immediate verbal referral)

7.0 Works in Default

Some legislation gives the local authority the option to carry out works in default, i.e. completing the works required on the notice after the expiry of the notice time period.

When considering work in default, the following should be taken into account:

- The costs of the work to be carried out (some legislation gives a maximum cost of work).
- The risk to public health and safety and environmental safety pending any prosecution.

Where a decision to carry out work in default is made the Council will advise the occupiers of the property to ensure the minimum inconvenience.

The Council will advise the occupier and/or owner or manager of the property of the nature of the works to be carried out as works in default and take account of any representations the occupier and/or owner or manager might make in relation to works where alternative design options occur.

Costs incurred in completing work in default shall be reclaimed from the recipient of the original notice. This may require the service of an additional notice to reclaim the cost of the issue of an invoice. The cost should include the actual cost of the work but exclude VAT. The hourly rate for officer time is the cost to the Council of employing the officer.

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Annexe 4 Environmental Protection

This annexe covers the enforcement of environmental protection and environmental permitting statutory obligations.

1.0 Statement of Objectives

It is the Council's policy to monitor and address pollution and public health issues throughout Selby District and to meet the duties placed on the local authority by the Statutory Code of Practice for Regulators.

2.0 Achieving the Objectives

All duly authorised Environmental Health Officers and Technicians shall investigate requests for service from the public regarding pollution and public health issues and shall carry out enforcement duties in line with the Environmental Health Enforcement Policy, this annexe and the relevant legislation. All officers will be made aware of this policy and any amendments to it.

This annexe will be reviewed and amended as necessary on an annual basis, or as and when Central Government Departments and Agencies produce new legislation, protocols or guidance.

3.0 Formal Action

The first step in formal action is usually to serve a Statutory Notice. Failure to comply with a statutory notice will normally lead to Court proceedings.

4.0 Statutory Notice

The service of all Statutory Notices must meet the principles detailed in the Environmental Health Enforcement Policy.

A wide range of legislation is available under which notices may be served to deal with public health and pollution. The legislation specifies when it shall be necessary to serve such a notice.

5.0 Shared enforcement

When investigating potential breaches of legislation, there is the potential that other departments or bodies may be involved in the same issue. In this case the investigation becomes shared enforcement. Areas where shared enforcement must be considered are:

- Waste disposal e.g. burning waste, dumping waste or spreading waste on the land – joint with the Environment Agency.
- Defective drainage causing contamination of a watercourse – joint with the Environment Agency and potentially NYCC Highways.
- Noise from mineral extraction sites – joint with NYCC Planning.
- Building Control and Planning Departments involved in joint enforcement of a number of environmental health issues.

Where shared enforcement situations are found, or anticipated, joint visits should be arranged and informal or formal action taken as detailed in this policy document.

6.0 Referrals to other Regulators

When receiving information regarding potential breaches of legislation, there is the potential for issues to be identified that should be solely regulated by another body. In such cases full written details should be passed to the relevant body within 48 hours of the information being received. (the officer will assess whether the situation necessitates immediate verbal referral)

7.0 Works in default

Some of the legislation gives the local authority the option to carry out works in default, i.e. completing the works required on the notice after the expiry of the notice time period.

When considering work in default, the following should be taken into account:

- The costs of the work to be carried out, some legislation gives a maximum cost of work.
- The risk to public health pending any prosecution.

The Council will advise the owner or manager of the premises of the nature of the works to be carried out as works in default and take account of any representations the owner or manager might make in relation to works where alternative design options occur.

Costs incurred completing work in default shall be reclaimed for the recipient of the original notice. This may require the service of an additional notice to reclaim the cost of, the issue of an invoice. The cost should include the actual cost of the work but exclude VAT. The hourly rate for officer time is the cost to the Council of employing the officer.

The following points refer to principles of enforcement in respect of environmental permitting.

8.0 Statement of Objectives

It is the Council's duty to:

- Control emissions to atmosphere from installations prescribed for Local Authority Pollution Control (LAPPC) under the provisions of Pollution Prevention and Control Act 1999 and The Environmental Permitting (England and Wales) Regulations 2007.
- Control emissions to multi-media from installation prescribed for Local Authority Integrated Pollution Prevention and Control (LA-IPPC) under the provisions of Pollution Prevention and Control Act 1999 and The Environmental Permitting (England and Wales) Regulations 2007.

9.0 Achieving the Objectives

All duly authorised Environmental Health Officers and Technicians shall carry out environmental permitting & associated enforcement duties in line with the Environmental Health Enforcement Policy, this annexe and the relevant legislation. All officers will be made aware of this policy and any amendments to it.

This annexe will be reviewed and amended as necessary on an annual basis, or as and when Central Government Departments and Agencies produce new legislation, protocols or guidance. Process Guidance notes, Sector Guidance notes, Air Quality (AQ) notes, General Guidance Manual and Yorkshire and Humberside Pollution Advisory Council (YAHPAC) guidance will have a significant contribution.

10.0 Public Register

The Council will maintain separate Public Registers, for each process permitted by the local authority, containing all relevant information in accordance with the Act and associated Regulations. All public registers will be available to members of the public upon request. A charge shall be made, in accordance with approved levels, for the copying of any documents in the public register file.

11.0 Triviality

The Council will determine whether emissions from prescribed processes are trivial and thus exempted from the requirement to be authorised, in accordance with the Regulations. Operators will be notified of a determination of triviality, in writing, normally within 14 days of an application regarding triviality.

This time period will be extended where additional information is required to determine triviality.

12.0 Confidential Information

Where there is a request for information to be excluded from the Public Register in accordance with Government guidance on the grounds that it is commercially confidential the Council shall determine whether it agrees in accordance with Government guidance and the operator shall be advised of the determination, in writing, within 14 days specifying the information deemed to be commercially confidential excluded from the Public Register.

13.0 Requiring Information

The Council will seek out businesses operating prescribed processes without Permit under Regulation 12 of the Regulations.

Where a company or individual is suspected of operating, whether knowingly or not a process which requires Permit the Council will make the company or individual aware of the fact and depending on the circumstances request relevant information informally, in writing, within 14 days or such other longer time as is agreed.

If the relevant information is not provided within the above timescale a Notice shall be served, under Regulation 60, to determine whether the process requires Permit. Where a process is deemed to require Permit the operator will be requested, in writing, to submit an application within 14 days or such other longer time as is agreed. The subsequent failure to make a relevant application and the carrying on of a prescribed process without a relevant Permit will normally result in prosecution by the Council. Upon application the Company will be given information and advice as to the legal requirements, technical guidance and the need to adopt the Best Available Techniques (BAT).

Where the Council requires additional information, from an applicant, for the purpose of determining an application which has been made by the operator the relevant additional information shall be requested, by letter and submitted to the local authority within 14 days or such other longer time as is agreed.

Where the operator fails to provide the additional information for the purpose of determining an application within the agreed timescale a Notice shall be served under the provisions of Schedule 5, Part 1, paragraph 4 of the Regulations detailing the information required, the form in which it is to be submitted and the timescale within which it is required.

In the case of any other information which the Council reasonably considers that it needs for the purpose of the discharge of its functions, under the Regulations, the individual or company shall be requested, by letter, to submit the relevant information within 14 days or such other longer time as is agreed.

Failure to provide the relevant information within the agreed timescale shall result in the service of a Notice, under Regulation 60, detailing the information required, the form in which it is to be submitted and the timescale within which it is required.

14.0 Payment of Fees

No application for Permit will be considered without the payment, in advance, of the appropriate fee.

Any application received without the appropriate fee (set annually by the Secretary of State) will be returned to the applicant as not being duly made and the appropriate fee requested.

The Council will request payment of the annual subsistence fee promptly on 1 April each year.

The Council will not consider issuing a Variation Notice, under Regulation 20, in respect of a substantial change to the process unless the appropriate fee has been paid.

15.0 Determining Applications

The relevant Environmental Health Officer will usually determine applications for new and existing installations within 4 months of the duly made date, unless otherwise specified for a particular process, under the Regulations. If

either party requires an extension, to the determination period, this can be done by agreement in writing.

Reduced fee application will be determined in a shorter timescale laid down by the Regulations.

The relevant Environmental Health Officer will usually issue a draft determination for an application for a new or existing LA-IPPC installation. The draft determination will be published on the Pollution – Prevention and Control page of Selby District Councils website and is open for public representation for a period of 20 working days.

A final determination will be published, taking into account representations made and will again be published on the Pollution – Prevention and Control page of Selby District Councils website.

The Council will issue a draft Permit (including Variation to existing Permits) to the operator and allow 21 days for comment prior to the issue of the Permit.

The Council will normally review process permits six years from the date of issue and thereafter, six years from the date of the last six year review and in accordance with the Regulations.

16.0 Inspections

All installations (with the exception of waste oil burners with a net rated thermal input of less than 0.4 megawatts, dry cleaners and petrol vapour recovery installations) will be risk assessed during inspection of the installation. The assessment and inspections will be carried out in line with the Local Authority Integrated Pollution Prevention and Control: Risk Assessment Methods for A2 and Part B Installations issued by DEFRA. Inspections include:

- Inspection to check compliance with conditions, compliance with upgrading programmes and in response to complaints.
- Inspection associated with consideration of applications for Permits, proposals for process changes and requests for advice.

17.0 Variation to Permits

The Council will consider applications for Variation, under Regulation 20, in respect of a substantial change to the installation in accordance with the Regulations.

The Council will issue a Variation Notice, under Regulation 20, where it considers that improvements are required in order to comply with updated process guidance or sector guidance to achieve BAT, or where the installation is subject to a significant degree of complaints from members of the public and improvements are required and in both cases the Council will seek to agree a mutually convenient time period, with the operator, for the said improvements. The Council reserves the right to impose a time where agreement cannot be reached.

18.0 Enforcement Notices

The Council will exercise its powers, under Regulation 36, by serving formal Enforcement Notices where necessary.

19.0 Suspension Notices

The Council will exercise its powers, under Regulation 37, by serving Suspension Notices on part or all of the installation, where the officer is satisfied that there is an actual or imminent risk of serious pollution of the environment.

The use of Suspension Notices is considered to be an emergency measure to prevent serious pollution occurring or continuing and to promote immediate remedial action by the operator. It need not relate to a breach of Permit conditions. A Suspension Notice will take immediate effect and stop the operation of part or all of the installation, until such time as the Council is satisfied that the risk has been abated. Such notices will normally be served, by hand, on the most senior representative of the operator on site at the time and a copy will be served on the Company Secretary or Director by post.

The operator should note that failure to comply with a Suspension Notice will normally result in prosecution.

20.0 Appeals

The Council will advise operators on the procedures for making an appeal under Regulation 31 and Schedule 6.

Where an operator is considering an appeal the Council would wish to enter into meaningful discussions to endeavour to resolve the matter to mutual satisfaction.

When the operator wishes to proceed with the appeal the Council will give advice on the correct procedure to be adopted. In order to minimise costs, the Council will normally agree to the appeal being considered by the Secretary of State on the basis of written submissions. However, where an appeal is related to matters of public concern, the Council may request a public hearing.

Cont.

Annexe 5 Street Scene

This annexe covers the enforcement objectives in respect of those service areas included in but not limited to the Council's Street Scene Strategy and in particular in relation to waste management, litter, fly-tipping, abandoned vehicles, graffiti, fly-posting, dog fouling on public and private land.

1.0 Statement of Objectives

It is the Council's policy to monitor and address street scene and environmental crime throughout Selby District with a view to ensuring that streets, open spaces and other land are maintained to a satisfactory standard and to meet the duties placed on the local authority by the Statutory Code of Practice for Regulators.

2.0 Achieving the Objectives

All duly authorised Environmental Health Officers and Technicians (including Dog Warden, Monitoring Officers and Car Park Wardens) shall investigate requests for service from the public regarding street scene issues and shall carry out enforcement duties in line with the Environmental Health Enforcement Policy, this annexe and the relevant legislation. All officers will be made aware of this policy and any amendments to it.

This annexe will be reviewed and amended, as necessary, on an annual basis, or as and when Central Government Departments and Agencies produce new legislation, protocols or guidance.

3.0 Formal Action

The first step in formal action is usually to serve a Fixed Penalty Notice or Statutory Notice. Failure to comply with a Fixed Penalty Notice or Statutory Notice will normally lead to Court proceedings. Where a fixed Penalty Notice or Statutory Notice is not available (e.g. Fly-tipping) the use of prosecution or Simple Caution will be the preferred response where the use of formal action is indicated.

4.0 Fixed Penalty Notice

Where legislation specifically allows the service of Fixed Penalty Notices (eg: littering, dog fouling) these will normally be issued in the first instance unless consideration of the facts, relevant to the offence, unless immediate prosecution is considered more appropriate.

5.0 Statutory Notice

The service of all Statutory Notices must meet the principles detailed in the Environmental Health Enforcement Policy.

6.0 Shared enforcement

When investigating potential breaches of legislation, there is the potential that other departments or bodies may be involved in the same issue. In this

case the investigation becomes shared enforcement.

Areas where shared enforcement must be considered are:

- Fly-tipping - Environment Agency jointly involved in accordance with fly-tipping protocol and the relevant planning authority where unlicensed tipping has occurred.
- Anti-Social Behaviour (including litter dropping, graffiti, abandoned vehicles) – the Police, other agencies forming part of the District Community Safety Partnership.

Where shared enforcement situations are found, or anticipated, joint visits should be arranged and action taken as detailed in the Environmental Health Enforcement Policy and this annexe.

7.0 Referrals to other Regulators

When receiving information regarding potential breaches of legislation, there is the potential for issues to be identified that should be solely regulated by another body. In such cases full written details should be passed to the relevant body within 48 hours of the information being received. (the officer will assess whether the situation necessitates immediate verbal referral)

8.0 Anti Social Behaviour Orders

Where individuals have a pattern of behaviour that causes harassment, distress or alarm to a community then the Council may apply to the Magistrates Court (or in certain circumstances a County Court) for an Anti-social Behaviour Order (ASBO).

In addition, a Magistrate may attach an ASBO to a conviction under other legislation heard in the Court.

In most circumstances the Council will consult with partner agencies prior to application for such an Order.

An alternative to application for an ASBO in certain circumstances is to negotiate an Anti-social Behaviour Contract with the individual concerned and the partner agencies.

The Council will discuss with partner agencies whether an Anti-social Behaviour Contract may be applicable on a case-by-case basis in place of application for a full ASBO.

9.0 Works in Default

Some legislation gives the local authority the option to carry out works in default, i.e. completing the works required on the notice after the expiry of the notice time period.

When considering work in default, the following should be taken into account:

- The costs of the work to be carried out (some legislation gives a

- maximum cost of work).
- The risk to public health and safety and environmental safety pending any prosecution.

Where a decision to carry out work in default is made, the Council will advise the occupiers of the property to ensure the minimum inconvenience.

The Council will advise the occupier and/or owner or manager of the property of the nature of the works to be carried out as works in default and take account of any representations the occupier and/or owner or manager might make in relation to works where alternative design options occur.

Costs incurred in completing work in default shall be reclaimed from the recipient of the original notice. This may require the service of an additional notice to reclaim the cost of the issue of an invoice. The cost should include the actual cost of the work but exclude VAT. The hourly rate for officer time is the cost to the council of employing the officer.