



PADSTOW HARBOUR COMMISSIONERS

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PADSTOW HARBOUR COMMISSIONERS

ENFORCEMENT POLICY

Introduction

One of the functions of the PADSTOW HARBOUR COMMISSIONERS (“the Commissioners”) is to act as a regulator and enforcer for a range of legal duties and powers contained in Acts of Parliament, particularly the Padstow Harbour Acts and the harbour bye laws made pursuant to those Acts.

The purpose of enforcement is to regulate the use of the harbour and harbour estate to enable business to be conducted efficiently and safely; thereby protecting harbour users, local residents and visitors to Padstow and safeguarding the environment. Enforcement is a very broad term which covers a large spectrum of work and includes offering advice and information through to bringing prosecutions for more serious offences.

Aims

The Commissioners will:-

- Seek to achieve compliance in a fair, consistent, proportional, transparent and targeted manner
- Seek to be clear, open and helpful in its approach to enforcement
- Seek to target enforcement resources at areas of highest risk, including non-compliant businesses and individuals

In doing so it will act in accordance with national guidance and standards and any supplementary local policies.

Guiding Principles

The Guiding Principles that the Commissioners will have regard to when undertaking their regulatory and enforcement role are:-

- Any decision regarding enforcement action will be impartial and objective, and will not be influenced by race, gender, politics, sexual orientation, disability or

religious beliefs of any alleged offender, victim or witness; such decisions will not be affected by improper or undue pressure from any source

- In dealing with any enforcement, the Commissioners actions will be proportionate to the scale, seriousness and intention of any non-compliance
- There will be consistency of enforcement, whilst recognising that there are different, satisfactory solutions to each issue
- This policy is built around a process of escalation. Except in the most serious cases or where advice/warnings have not been heeded, adequate opportunity will be given to rectify non-compliance before formal legal action commences
- Prosecution will normally only be considered where it is in the public interest to do so and where there have been serious breaches or where other enforcement measures have failed
- Regard shall be had to the relevant legislation and codes of practice which protect the rights of the individual and guide enforcement action (e.g. Human Rights Act, Code for Crown Prosecutors, Regulators Compliance Code)

Clear Standards

Enquiries into breaches of bye laws and other regulatory matters will only be undertaken by members of staff who have had adequate and appropriate training

- Matters relating to enforcement and regulation will be dealt with promptly
- Members of staff undertaking an investigation will announce themselves on arrival and show identification (unless they are already well known to the person). Members of staff will always explain the purpose of their visit/enquiry.
- Members of staff will provide their name and contact details to those persons or businesses with whom they are in contact concerning a regulatory or enforcement matter
- Complaints relating to enforcement or regulatory matters will normally only be dealt with if the name and address of the complainant is given. Any such identification will be treated in confidence, but may need to be disclosed (with prior consent) should formal legal proceedings be taken against the person or business to which the complaint relates. Anonymous complaints may however be investigated if the matter relates to a serious health and safety or navigational issue etc
- Members of staff cannot act as consultants or legal advisors to individuals or businesses, but will be available (by appointment if necessary) to discuss general issues or matters of specific enforcement with the aim of assisting or guiding compliance

- Members of staff will be professional, courteous and helpful in their conduct of regulatory or enforcement matters, and wherever possible will seek to work with individuals and businesses towards compliance
- Members of staff will endeavour to provide advice in a clear and simple manner and where any corrective action is necessary, an explanation will be given as to why it is necessary, and over what timescale it is required. Where non-compliance may result in further enforcement action or prosecution the matter will normally be confirmed in writing by way of a “Formal Warning”
- Members of staff will generally seek an informal resolution to cases of non-compliance except where immediate formal enforcement action is required (e.g. serious issues relating to the safety of the harbour or harbour estate, including the control of pollution and anti-social behaviour)
- Where there is known to be involvement of any other enforcement agency, or any case involves joint enforcement arrangements, the Commissioners will consult and share intelligence with that other agency prior to taking any formal enforcement action
- Any complaints concerning the Commissioners failure to comply with procedures, rules, statutory obligations or the Commissioners published service standards will be dealt with under the Commissioners Compliant Procedure and Policy; copies of which are available from the Harbour Office or by accessing the Commissioners website.

Consistency

Consistent enforcement action is desirable, but uniformity in approach would not always recognise individual circumstances. Consistency of approach will be achieved by

- Providing appropriate training and supervision of members of staff
- Ensuring compliance with the standards set out in this policy
- Recognising that the Commissioners should not normally take formal enforcement action or prosecution in the case of minor infringements
- Equally, recognising that in some situations, we have no legal discretion but to pursue enforcement action
- Taking into consideration the guidance issued by Government Departments and other national agencies, e.g. Department for Transport, Maritime & Coastguard Agency, Health and Safety Executive, etc

Targeting and Proportionality

Any formal enforcement procedures will

- Aim to remove any financial gain or benefit to the individual or business from non-compliance
- Be responsive and consider what is the most appropriate sanction for the particular offender and regulatory issue
- Be proportionate to the nature of the offence and the harm caused
- Aim to deter future non-compliance

The Commissioners' greatest enforcement effort will be where an assessment has shown that both

- (i) A compliance breach or breaches would pose a serious risk
- (ii) There is a high likelihood of non-compliance

Review

This Policy, and the performance of the Commissioners and its staff in implementing it, will be subject to annual review.