

Causeway Coast & Glens District Council

ENVIRONMENTAL SERVICES ENFORCEMENT POLICY

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1. Introduction

The Causeway Coast and Glens Council is the enforcing authority for a wide range of legislation. This enforcement role has been delegated to the staff of the Environmental Services Directorate.

The Council's aim is to provide a better environment for its citizens both for the present and the future. It will achieve much of this through education by providing advice and regulating the activities of others. Securing compliance with legal regulatory requirements using enforcement powers, including prosecution, is an important part of achieving this aim.

2. Policy Statement

This policy sets out the principles and approach which the Council's Environmental Services Directorate and its officers will follow so as to provide an effective and fair service, and to ensure consistent and open enforcement. It is written for the guidance of the Council and its officers and will be made available to any business representatives or members of the public who enquire about our policies and procedures. It applies to all dealings whether formal or informal between officers of the Council and businesses and members of the public in relation to Environmental Services matters.

Signed: _____ Date: _____
Presiding Councillor (or Chair post 1st April 2015)
Causeway Coast and Glens Council

Signed: _____ Date: _____
Chief Executive
Causeway Coast and Glens Council

3. Definitions

The **Enforcement Concordat** was introduced by government in collaboration with business and regulators with the aim to promote good enforcement that brings benefits to business, enforcers and consumers. The Concordat encourages partnership working and sets out the principles which enforcers should apply in order to achieve higher levels of voluntary compliance.

The **Home and Lead Authority Principle** provides a way for local authorities to work effectively in partnership with businesses within their local area to deliver robust and consistent enforcement and advice services across the UK. For food matters that authority is referred to as Home Authority and for health and safety matters the authority is referred to as the Lead Authority. The principle is effective in minimising duplication and reducing public expenditure.

The **Primary Authority Partnership** scheme is administered by the Better Regulation Delivery Office and enables businesses to be involved in their own regulation by forming a statutory partnership with one local authority which provides robust and reliable advice for other local regulators to take into account when carrying out inspections or addressing non-compliance. A Primary Authority can recover costs.

4. Accountability and Responsibilities

The Council and its officers fully recognise that they are accountable to the public for their actions. Consequently policies and standards have been put in place against which the Council's actions can be judged and procedures exist for dealing with comments and handling complaints.

5. Associated Procedures

In addition to this generic policy, officers have been issued with a range of more specific enforcement guidelines and procedural documentation to support them in their enforcement decisions, which they are also required to follow. Officers will also refer to any centrally issued guidance in reaching decisions on enforcement action, such as, the Food Law Code of Practice, DOE guidance etc.

The Council has also adopted the central and local government Concordat on Good Enforcement.

This policy and any enforcement carried out shall have regard to the Human Rights Act 1998. In particular regard shall be had for the right to a fair trial, right to respect for private and family life, prohibition of discrimination and protection of property.

The Council supports and is committed to the Local Government Regulation (formerly LACORS) Home and Lead Authority Principle and the Better Regulation Delivery Office Primary Authority Partnership Scheme.

6. Principles of Enforcement

The Council believes in firm but fair regulation. This should be informed by the principles of **proportionality** in application of the law and in securing compliance; **targeting** of enforcement action; **consistency** of approach, **transparency** about how the Council operates and what those regulated may expect from the Council, and **accountability** for the Council's actions.

6.1 Proportionality

Proportionality means relating enforcement action to the risks and costs.

The Council will minimise the costs of compliance by ensuring that any action it requires is proportionate to the risks. As far as the law allows, the Council will take account of the circumstances of the case and the attitude of the offender (operator or member of the public) when considering action.

Some incidents or breaches of regulatory requirements cause or have the potential to cause serious injury/illness and/or environmental damage. Others may have a lesser effect e.g. interference with people's property or rights. When officers are deciding on the most appropriate enforcement action, they will take account of:

- The degree of any risks posed.
- The seriousness of any breach of the law.
- The burden which would be placed on the business in taking action, compared with the benefit of risk reduction.

- The attitude and intent of the offender, individually or corporately.
- Foreseeability of offence or circumstances leading to it.
- Relevant good practices as obtained in codes of practice and published guidance.

6.2 Consistency

Consistency means taking a similar approach in similar circumstances to achieve similar ends. The Council aims to ensure consistency in advice provided, the response to incidents and complaints, and the use of powers and decisions on whether to prosecute.

The Council recognises that consistency does not mean simple uniformity. Officers need to take account of the many variables, the scale of environmental impact etc., the attitude and actions of offenders and the history of previous incidents or breaches. Decisions on enforcement action are a matter of professional judgement and the Council, through its officers, needs to exercise discretion. The Council will continue to develop arrangements to promote consistency including effective arrangements for liaison with other enforcing authorities, such as, the Health and Safety Executive, PSNI and DOE.

6.3 Transparency

Transparency is important in maintaining public confidence in the Council's ability to regulate. It means helping those regulated and others to understand what is expected of them and what they should expect from the council. It also means making clear why an officer intends to take, or has taken, enforcement action.

Transparency is an integral part of the role of council officers and the council continues to train its staff and to develop its procedures to ensure that:-

- Where remedial action is required, it is clearly explained (in writing, if requested) why the action is necessary and when it must be carried out; a distinction being made between legal requirements and advice on best practice.
- Opportunity is provided to discuss what is required to comply with the law before formal enforcement action is taken, unless urgent action is

required, for example, to prevent serious illness/injury or to prevent evidence being destroyed.

- Where urgent action is required, a written explanation of the reasons is provided as soon as practicable after the event.
- Written explanation is given of all rights of appeal against formal enforcement action at the time the action is taken.
- Having due regard to legal constraints and requirements, keeping all other relevant parties informed during investigations and with respect to enforcement decisions.

6.4 Targeting

Targeting means making sure that regulatory effort is directed primarily towards those whose activities give rise to the greatest risk of serious environmental damage/injury/illness etc. Action will be primarily focused on law-breakers or those directly responsible for the risk and who are best placed to control it.

7 Accountability & Customer Complaints

The Councils and its officers are accountable to the public for their actions. In the event that the “customer” is dissatisfied with the service provided, there are a number of forms of recourse available as outlined below, which officers will ensure the customer is made aware of. The exact procedure followed in any particular case will depend not only upon the nature of the grievance itself but also the course of action the complainant wishes to pursue.

7.1 Complaints related to enforcement action decisions

- Officers will advise persons whom they have required to take any action, of their right to make representation to the Director of Environmental Services and, if not satisfied to the Chief Executive and ultimately the Local Government Ombudsman.

- Officers will when serving Notices provide with those Notices appeal details to be used should the recipient wish to lodge a formal appeal against same.

7.2 Complaints relating to issues other than enforcement action decisions

The Council's formal complaints procedure will be used to investigate those complaints which relate to dissatisfaction with the service, for example:-

- Failure to follow Council procedure policy or standards;
- Discrimination;
- Failure to respond quickly enough to requests for service and
- Conduct of authorised officers.

8. Investigation

The Council recognises that it is neither possible nor necessary to investigate all issues of non-compliance with the law uncovered in the course of preventive inspection, or in the investigation of reported events such as accidents and complaints. The Council will use its discretion and have regard to the aforementioned principles in deciding whether an investigation should be initiated and in deciding the level of resources to be committed. The following factors will be taken into account:

- The severity and scale of the potential or actual harm;
- The seriousness of any potential breach of the law;
- Knowledge of the duty holder's past performance;
- The enforcement priorities;
- The practicality of achieving results and
- The wider relevance of the event, including serious public concern.

In certain circumstances, contraventions of the law may not warrant any action. This can be where the cost of compliance of the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to Causeway Coast and Glens Council outweighs the detrimental impact of the contravention on the community. A decision of no action may also be taken where formal enforcement is inappropriate in the circumstances, such as where the offender is elderly and frail or is suffering from serious mental or physical health issues, and formal action would

seriously damage their wellbeing. In such cases Council will advise the offender and the complainant of the reasons for not taking action.

9. Enforcement Action

Officers will determine what, if any, enforcement action is appropriate, in accordance with the aforementioned principles, from the following informal and formal options:

9.1 Informal Action

The Council recognises informal action as one means to secure compliance with the law. Informal action includes:

- a) **Verbal advice**
- b) **Advisory letter** where advice is being confirmed or remedial action requested informally.
- c) **Inspection reports** generated on the premises following an inspection.

Informal action is appropriate in the following circumstances:

- Where the action or omission is not serious enough to warrant formal action;
- From the individual/enterprise's past history, it can be reasonably expected that informal action will achieve compliance;
- Confidence in the individual/enterprise's management involved is high;
- The consequences of non-compliance will not pose a significant risk to public health.

Failure to comply with an informal approach could result in an escalation of enforcement action to formal action.

9.2 Formal Action

In cases where informal action has failed to achieve the necessary outcome or the breach is serious enough to warrant formal action in its own right, the following enforcement options will be considered:

- a) **Verbal warning**
- b) **Warning/enforcement letter**
- c) **Enforcement Notice** e.g. Improvement Notice, Prohibition Notice, Abatement Notice etc. – required in certain cases to be served prior to legal proceedings being instigated. The Council will give due consideration to the issue of enforcement notices as soon as the necessary evidence is available, and where one or more of the following criteria apply:
- There are significant contraventions of legislation;
 - There is a lack of confidence in the proprietor or enterprise to respond to an informal approach;
 - There is a history of non-compliance with informal action;
 - Standards are generally poor with little management awareness of statutory requirements;
 - The consequences of non-compliance could be potentially serious to public health and although it is intended to prosecute, effective action also needs to be taken as quickly as possible to remedy conditions that are serious or deteriorating.
- d) **Formal Caution** - where a business admits to an offence, and extenuating circumstances exist which make prosecution inappropriate.

A formal caution is a written acceptance by an offender that they have committed an offence and may only be used where a prosecution could properly have been brought. Where appropriate, it will be registered with the Office of Fair Trading and brought to the Courts attention if the offender is convicted of a subsequent offence.

The Council will take account of current Home Office guidelines when considering whether to offer a formal caution. Where a person declines such an offer the Council will consider taking alternative enforcement action, which will usually take the form of a prosecution.

A formal caution should not be given where the person has been cautioned for or convicted of the same or similar offences within two years of the commission of current offence unless there are exceptional circumstances.

The Council recognises that other bodies such as home and originating authorities will require to be advised of the formal cautions issued by the Council and their outcome.

The cautioning officers for the Council will be a senior officer authorised by the Council on the recommendation of the Director of Environmental Services.

- e) **Works in default** – this action is permitted under certain legislation and is reserved for those cases where there is an imminent danger to persons or property and the legal process would not provide adequate remedy. In cases where work in default is carried out, the Council will make every effort to recover the costs of the works from the relevant party.
- f) **Fixed Penalty Notice** - Council officers will only serve a Fixed Penalty Notice if they are in possession of sufficient evidence to prove the offence in Court as legal proceedings may be instigated for that offence in the event of non-payment of a Fixed Penalty Notice.

Council will instigate legal proceedings if a Fixed Penalty Notice goes unpaid unless there is good reason not to do so.

- g) **Prosecution** - The use of the criminal process to institute a prosecution is an important part of enforcement. It aims to punish wrongdoing to avoid a recurrence, and to act as a deterrent to others. It follows that it may be appropriate to use prosecution to ensure certain requirements are met. Where the circumstances warrant it, prosecution without prior warning or recourse to alternative sanctions will be pursued.

The council recognises that the institution of a prosecution is a serious matter that should only be taken after full consideration of the implications and consequences. Decisions about prosecution will take account of the Code for Crown Prosecutors (Crown Prosecution Service).

A prosecution will not be commenced or continued by the council unless it is satisfied that there is sufficient, admissible and reliable evidence that the offence has been committed and that there is a realistic prospect of conviction. If the case does not pass this evidential test, it will not go ahead, no matter how important or serious it may be. Where there is

sufficient evidence, a prosecution will not be commenced or continued by the council unless it is in the public interest to do so.

Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the offender and whether, through the conviction of offenders, others may be deterred from similar failures to comply with the law.

Where there is sufficient evidence the council will normally prosecute in any of the following circumstances:-

- Where the offence involves a failure to comply in full or in part with the requirement of a statutory notice.
- Where there is a history of similar offences in relation to non-compliance with notices or where a formal caution has been issued.
- Excessive or persistent breaches of regulatory requirements.
- Obstruction of Council staff in carrying out their powers.
- Where the gravity of the alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it.

h) Suspension and Revocation of a Licence

Where there is a breach of condition of a Council issued licence or permit, upon hearing evidence, Council may suspend, revoke or refuse to renew the licence/permit subject to the provisions of the specific legislation.

10. Decision making process

In cases of Health and Safety legislation it is the authorised officers who have the power to take legal action. Council will be advised of any decision to prosecute.

In other cases a full report will be presented to Council, or if the power of decision has been delegated, to the officer with delegated authority, advising them of all the relevant matters for consideration. A recommendation will

always be provided guiding them towards a particular decision or option. The report will consider whether or not there is a reasonable prospect of conviction and where there is the following matters will also be considered :-

- a) the seriousness of the offence;
- b) the previous history of the party concerned;
- c) the strength of any statutory defence;
- d) the strength of evidence;
- e) the credibility of any important witness and their willingness to co-operate;
- f) the willingness of the party to prevent recurrence;
- g) the probable public benefit of a prosecution;
- h) any explanation offered by the company/offender;
- i) whether other action such as issuing a formal caution would be more appropriate and
- j) the possibility of costs being awarded against council.

Where there is reasonable doubt as to the success of the proceedings and the possibility of costs being awarded against the Council the information will be presented to the council before a decision is made to proceed.

Where legal advice is necessary before a decision is made this will be sought through Council's legal adviser.

11. Working with other Regulators

Where the Council and other enforcement bodies have the power to prosecute, the council will liaise with that other body to ensure effective co-ordination, to avoid inconsistencies and to ensure that any proceedings instituted are for the most appropriate offence.

12 Sharing Intelligence

The Council will share intelligence relating to wider regulatory matters with other regulators and enforcement agencies, such as, police and fire authorities, government agencies, statutory undertakers and other local authorities.

13 Work-related Death

Where there has been a breach of the law leading to a work-related death, Council, when it is the enforcing authority, needs to consider whether the circumstances of the case might justify a charge of manslaughter.

The police are responsible for deciding whether to pursue a manslaughter investigation and whether to refer a case to the Director of Public Prosecutions (DPP) to consider possible manslaughter charges. If in the course of its health & safety investigation evidence indicating that manslaughter may have been committed, the Council will work to the principles of the Northern Ireland agreement for liaison (Investigation of Work-Related Deaths) and ensure that decisions on the investigation and prosecution of such matters are properly coordinated with both the PSNI and the DPP. Should the decision be made not to pursue a manslaughter case, the Council will make its own decision on whether to bring a health and safety prosecution.

14. Juveniles

The rights and welfare of the child will always be of paramount importance when considering any course of action. This approach reflects the paramountcy principle enshrined in the Children (NI) Order 1995. Where an offence has been committed by a person under the age of eighteen the taking of formal enforcement action (for example, formal caution, fixed penalty or prosecution) shall only be undertaken in exceptional circumstances such as:

- The offender has committed similar previous offences and /or
- The offender acts in an abusive, aggressive and/or obstructive manner when approached by an officer of the council.

Where a person under eighteen is believed to have committed an offence under the relevant legislation but formal enforcement action is not to be taken then the following steps shall be employed:

Formally write to the young person outlining details of their actions, that an offence appears to have been committed and that further offences committed may result in action including, depending on the seriousness of the offence, the following:

- Formal written warnings/caution;

- Acceptable Behaviour contracts;
- Anti-social Behaviour Orders or a combination of the above.

Council may, where the information is available, write to the young person's parents or guardians outlining details of the officer's contact with the young person and provide a copy of any correspondence sent to that young person in relation to the matter.

Council will also work to prevent young people offending by undertaking schools based education and interacting with local youth clubs and community groups.

15. Public Access to Information

This policy will be made freely available to all members of the public on request.

Officers will adhere to the restrictions placed on them by legislation in relation to the release of any information to a third party, obtained by them in the course of their duties. When convictions have been obtained however, the Council will, in addition to reporting the details to the appropriate authorities, consider alerting the media and making the details of the conviction public. Such action will serve to draw the attention of a wider audience to the need to comply with legal requirements and deter others tempted to disregard their legal duties.

In accordance with the Environment and Safety Information Order, the Council will keep and make available, a public register of statutory notices which have implications for the general public.

16. EVALUATION AND REVIEW OF THE POLICY

This policy will be reviewed by the Environmental Services Directorate at least every two years or as necessary to ensure that it satisfies legal requirements, government policy and our customers' expectations of the service.

17. SECTION 75 EQUALITY AND GOOD RELATIONS

Causeway Coast and Glens Council is fully committed to meeting its obligations in relation to Equality and Good Relations under Section 75 of the Northern Ireland Act. In this regard this policy will be screened using Section 75 guidelines and will be subject to an Equality Impact Assessment if found necessary as a result of the screening process.

18. CONTACT DETAILS

The Council welcomes comments on this policy and on how we can improve our services. Any issues or queries relating to this policy should be addressed to:

Chief Executive
Telephone: 028 XXXXXXXX
Address: Causeway Coast and Glens Council,
Email: info@causewaycoastandglens.gov.uk

APPENDIX 1

Additional information regarding litter and dog offences

1 LITTER OFFENCES

Council recognises that littering offences, in particular dog fouling, can be a serious and public health issue for the residents and visitors to the Borough. The Department will continue to educate the public and dog owners of their responsibility. The following action will be taken with detected incidents of littering and dog fouling:

1.1 Litter Offence (Litter Order (NI) 1994 Article 3 (1))

First Offence -The person who deposited the litter will be offered the opportunity to discharge any liability to conviction of the offence by payment of a fixed penalty.

If the person demonstrates blatant disregard to the legislation it may result in the matter being recommended for immediate legal proceedings.

Second Offence - In the second and subsequent offence legal proceedings will be considered as a first option or a fixed penalty notice issued depending on the circumstances of the case.

1.2 Dog fouling offences (Litter Order (NI) 1994 Article 3 (1))

First Offence - The person in charge of the dog will be offered the opportunity to discharge any liability to conviction of the offence by payment of a fixed penalty.

Second Offence – For the second and subsequent offence legal proceedings will be considered as a first option or a fixed penalty notice issued depending on the circumstances of the case.

**1.3 Permitting a dog to foul
(Sec 40 of the Clean Neighbourhoods and Environment Act (NI) 2011-
Dog Control Order)**

The person in charge of the dog will be offered the opportunity to discharge any liability to conviction of the offence by payment of a fixed penalty.

**1.4 Litter Clearing Notices and Street Litter Control Notices
(Article 12C (2) or 14(8) of Litter (NI) Order 1994)**

The person who deposited the Litter will be offered the opportunity to discharge any liability to conviction of the offence by payment of a fixed penalty.

2 DOG CONTROL OFFENCES

2.1 Unlicensed Dog Offence (Article 17 Dogs (NI) Order 1983)

Council aims to ensure all dogs that come to the attention of Council, through dog control functions or other matters such as barking dog complaints, will be checked to ensure any such dog is properly licensed.

First Offence - The owner of any unlicensed dog will be written to and advised to licence the dog within 14 days.

Failure to licence the dog within the specified timescale will result in the owner being sent a warning letter. This letter will explain that failure to licence the dog within a further specified time will result in the issue of a Fixed Penalty Notice.

Second Offence and further offences within two years - The owner of any unlicensed dog will be issued with a fixed penalty notice without warning.

Failure to pay the Fixed Penalty Notice will result in a recommendation for legal proceedings being instigated.

2.2 Micro-chipping of Dogs

If no proof of micro-chipping is provided a licence cannot be issued and Council will follow the same procedure for the offence of keeping a dog without a licence.

2.3 Dogs not wearing collar identification (Article 31 Dogs (NI) Order 1983)

First Offence - All first offences will be dealt with by way of verbal advice and/or a letter advising that any further detected offences may result in the issue of a fixed penalty.

Second Offence and further offences within two years may be dealt with by way of the issue of a Fixed Penalty Notice on the person responsible. A recommendation may be made for legal proceedings to be instigated for any further detected offences depending on the circumstances of the case.

2.4 Stray Dog Offence (Article 22 Dogs (NI) Order 1983)

Council aims to ensure compliance with the requirement for dog owners to prevent their dogs from straying, as stray dogs provide a risk to the public and contribute to fouling problems.

First Offence - All first offences will be dealt with by the person receiving verbal advice and/or letter advising that any further detected offences of straying may result in the issue of a fixed penalty.

Any further detected offences of straying within one year should be dealt with by the issue of a Fixed Penalty Notice to the person responsible or a recommendation for instigation of legal proceedings depending on the circumstances of the case.

Failure to pay a Fixed Penalty Notice should be dealt with by a recommendation for legal proceedings to be instigated against the responsible person. This prosecution will be for the original offence of permitting a dog to stray.

2.5 Seized Stray Dogs (Article 23 Dogs (NI) Order 1983)

Council Officers will endeavour to try and identify the owner of the dog through collar identification and scanning for microchips and return the dog to them. Any dogs without any identification or a responsible person available to take them will be impounded.

Council may impound dogs involved in repeat episodes of straying and subsequently advise the owner of this action after the dog is impounded. The cost of keeping the dog at the kennel and the licence fees must be paid before the dog is released from the kennel.

2.6 Control of Greyhounds

Section 1 &2 Control of Greyhounds Act (NI) 1950

Offences include greyhounds not controlled or muzzled and more than two greyhounds being exercised on a lead in a public place.

First Offence - All first offences will be dealt with by the person receiving verbal and/or written advice that any further detected offences may result in the issue of a fixed penalty.

Any further detected offences within two years should be dealt with by way of the issue of a Fixed Penalty Notice on the person responsible.

2.7 Dog Control Orders (Other than Permitting Dogs to Foul)

Offer the person in charge of the dog, the opportunity of the discharge of any liability to conviction of the offence by payment of a fixed penalty.

2.8 Dog Attack on a Person (Article 29 Dogs (NI) Order 1983)

Council will seek to instigate legal proceedings against the owners of any dog involved in an attack on a person where the circumstance of the matter satisfies the prosecution criteria.

Council considers a dog attack on a person to be a serious matter and recognises that prosecution is a valid enforcement option for such offences.

The following list of criteria will be considered before instigating legal proceedings:

- Is there a public interest.
- Attitude of the dog owner.
- Any previous history with regard to the dog owner and/or particular dog.
- The seriousness of the incident.
- The risk and potential risk provided to persons including the general public.
- The extent of any injury from the attack.
- If more than one dog was involved.
- Whether the dog still poses a risk.

2.9 Offence of a Dog Attacking another Dogs/Pets/livestock

Council will seek to instigate legal proceedings against the owners of any dog involved in an attack on another animal where the circumstance of the matter satisfies the prosecution criteria.

The Department will use the same prosecution criteria for a dog attack on a person when deciding if a prosecution is warranted.

2.10 Licence Control Conditions

Council aims to use the facility of special licence conditions to increase the available controls over problem dogs.

Councils can impose special licence conditions upon the keeper of any dog who has committed any relevant offences such as allowing their dog to stray or if a dog attacks another animal or persons.

The following conditions may be imposed:

- That the dog is kept muzzled while in a public place.
- That the dog is kept under control by means of a leash when in a public place.
- That the dog is kept secure in a building, yard or other enclosure.
- That the dog is kept away from any specified place.
- That the dog is neutered.
- That both the dog and keeper undergo specified training.

Council will impose control conditions that are appropriate and proportionate to the offences committed.

It will be an offence to contravene a control condition. Any breaches of special licence conditions should result in the issue of a fixed penalty notice or instigation of legal proceedings for that offence if warranted by circumstances.

Failure to notify Council of the transfer of a dog, which has control condition(s) attached to its licence, to another council area will result in the issue of a fixed penalty notice.

2.11 Keeping a Banned Breed Dog

Since 1991 it has been illegal for anyone in Northern Ireland to keep, breed or sell several banned breeds of dogs. These dogs are:

Fila Brasileiro
 Dogo Argentino
 Japanese Tosa
 Pit Bull Terriers

Previously if a person was convicted of keeping such a banned breed the Court was obliged to make an order for that dog to be humanely destroyed. In 2001 a change to the legislation resulted in the option for a Court to find a person guilty of the offence of keeping a banned breed

but allowed that person to hold on to the dog if the Court was satisfied the dog could be kept without risk to the public. This legislation also allows for Council to seize a banned breed dog and, without prosecution of the owner, seek a Contingent Destruction Order for that dog. A Contingent Destruction Order is one whereby an exemption for destruction can be obtained if the Court is satisfied the dog is no risk to the public, however if the Court is satisfied the dog poses a risk to the public it must be destroyed.

If anyone is suspected of keeping a banned breed dog, Council will bring the matter before a Court.

Council will seek a Contingent Destruction Order. This order allows the keeper of such a dog two months to comply with the following conditions:

- That the dog is neutered.
- That the dog is kept leashed and muzzled when in a public place.
- That the dog is kept at a secure place.
- That the dog is made available for an authorised officer to inspect.
- That the Council is notified of any change of address for the dog.
- That the Council is notified if the dog dies.
- That third party insurance has been taken out by the owner in respect of the dog.

It is presumed by the Court that if these conditions are met then the dog can be kept safely without risk to the public. In such cases Council can then issue a Certificate of Exemption for that dog and that dog may then be licensed.

Council will seek the destruction of any dog that is kept in contravention of these conditions.

While a person may keep a banned breed it will still be an offence to advertise the dog for sale or transfer ownership without notifying Council and legal proceeding may be instigated.

2.11 Other Litter and Dog related offences

Should a litter or dog related offence not be detailed in this policy the offence will be considered in accordance with the Environmental Services Generic Enforcement Policy.