

London Borough of Lambeth

**Housing, Regeneration & Environment
Directorate**

Public Realm

Public Health and Pest Control

Animal Welfare Services Enforcement Policy

September 2010

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Enforcement Policy for the Animal Welfare Service

Introduction

The London Borough of Lambeth Animal Welfare Service is part of the Public Health & Pest Control Department based at 26 Wanless Road London SE24 0HW.

The Animal Welfare Service comprises of one Animal Welfare Officer backed up by support from other members of staff within the Public Health Section. The depot has its own facilities for temporarily holding animals.

The Corporation of London Animal Health & Veterinary Service are contracted to carry out inspections and act on behalf of the Animal Welfare Service. In times of emergency (eg a rabies outbreak) the Animal Welfare Service would come under the jurisdiction of the Department of Energy, Food, and Regional Affairs (DEFRA) with the Corporation of London as the Lead Authority for this Borough and the London area as a whole.

The Animal welfare Service is responsible for enforcing the provision of the following legislation (this list is not exhaustive):

- a) Animal Welfare Act 2006
- b) The Animal Boarding Establishment Act 1963
- c) The Animal Health Act 1981
- d) The Breeding of Dogs Act 1973
- e) The Breeding and Sale of Dogs (Welfare) Act 1999
- f) The Dangerous Wild Animals Act 1976
- g) The Environment Protection Act 1990
- h) The Performing Animals (Regulation) Act 1925
- i) The Pet Animals Act 1951
- j) The Riding Establishment Act 1964 and 1970
- k) The Zoo Licensing Act 1981
- l) The Control of Dogs Order 1992
- m) Dogs (Fouling of Land) Act 1996
- n) Clean Neighbourhood and Environment Act 2005

The Animal Welfare Service works alongside and in partnership with other council departments, other agencies and government bodies in enforcing legislation and encouraging responsible animal ownership.

Animal Welfare Service Enforcement Policy Statement

In exercising its duties the Animal Welfare Service will enforce all of the above Acts and will seek to do so in a firm but fair, open, consistent and helpful way, in line with the principles of good enforcement outlined in The Regulators' Compliance Code ¹, The Code for Crown Prosecutors ² and the LACORS ³ Guidance for Councils on the Regulators' Compliance Code

We will liaise with other enforcement agencies or bodies where there is a shared enforcement role. For example: The RSPCA, DEFRA, police and other council departments. It is recognised that some service users and stakeholders will have particular needs e.g. out of hours visits, translation facilities and we will endeavour to accommodate these needs where practicable. We aim to carry out enforcement duties in line with the council's equality policies. In doing so we will provide enforcement services to all sections of the community without prejudice or bias and act promptly if we receive any complaints about the way that services are provided.

Our staff will act in an efficient and courteous manner in carrying out their duties. We will review and monitor satisfaction with our services and we will identify where improvements can be made.

This enforcement policy aims to promote efficient and effective approaches to regulatory inspection and enforcement, which will improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.

In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by other considerations. We will ensure that any decision to depart from the Code will be properly reasoned and documented

What we will do:

1. We will provide clear advice and information on how to comply with any legislation, Code of Practice or Guidance in an open and transparent manner.
2. We will serve Statutory Notices, informal or formal warning letters where required, making clear what steps are being required for compliance.
3. Where there are rights of appeal against any Statutory Notices or warning letters, advice on any appeal mechanism will be clearly set out in writing at the time the notice is served.
4. We will provide advice and information to businesses where appropriate and endeavour to ensure that all our correspondence on enforcement matters is clear and unambiguous.
5. We will advise individuals and businesses of a named officer responsible for dealing with their case.
6. We will expect full voluntary compliance with Statutory Notices and warning letters but will not hesitate to use enforcement powers, where necessary, this may include the seizure of animals and the instigation of legal proceedings.
7. Follow up all enforcement action so as to measure the success of the action taken
8. We aim to provide an efficient and fair enforcement service. However in the event that a person or business is not satisfied with the Animal Welfare Service the Council has a formal 3 stage complaints procedure for the registering of complaints. Once stage 3 of the complaints procedure is invoked it is reviewed by a Senior Council Officer wholly unrelated to the Animal Welfare Service.
9. Details on how to complain can be obtained from the officer dealing with the case or from the Council's website.

Animal Welfare Inspection Visits

1. Licensed premises will receive two random inspection visits per annum which will be carried out by the LBL Animal Welfare Officer
2. In addition we will arrange for two inspections to be carried out by a qualified Animal Health Inspector or Vet per annum
3. Additional inspections will only be carried out if non-compliance follow up visits are required or where there has been an infringement of the licence

Animal Welfare Service Enforcement Powers

We regard enforcement as encompassing all the actions we may take to achieve compliance with the conditions of statutory notices / notices of action. We will take the appropriate level of enforcement action within our statutory powers and the framework of this enforcement policy.

The following courses of action exist to deal with infringements:

	Action	Comment
1	No action	Generally for unsubstantiated allegations or anonymous complaints
2	Verbal advice	<p>General advice where allegations of non-compliance with the appropriate Animal Welfare legislation are unsubstantiated, or where they are issued as general advice regarding good housekeeping or animal care</p> <p>Where there is a one off infringement but it is brought to our attention by the licensee and our advice and guidance is sought to achieve an immediate remedy (LACORS 5.6)</p>
3	Warning letters	General advice where allegations of statutory infringement are unsubstantiated or where immediate action was taken by the alleged offender to abate the infringement. Warnings are also given where there is insufficient evidence available to establish statutory infringement or where extenuating circumstances apply (e.g. where a sick animal has been abandoned or left on the doorstep of a pet shop, therefore ensuring that it is not being offered for sale in it's current state of ill health)
4	Service of statutory notices or warning letters.	Served where statutory nuisance has been substantiated, or where such action is considered necessary and appropriate
5	Prosecution in a Magistrate's Court	For substantiated breaches of statutory notices, i.e. where statutory notices and warning letters have not been complied with. For the obstruction of authorised officers carrying out their duties. Prosecutions and seizures will first be authorised by the Head of Service
6	Seizure of pets or animals offered for sale, breeding, riding or performance etc.	Where the individual Act deems such action is appropriate, statutory infringement continues unabated in breach of warning letters or Judgements previously given
7	High Court Injunction	For serious and persistent breaches or infringement of the relative Animal Welfare Acts and of Judgements previously given

Animal Welfare Service Enforcement Decision Policy

Each case will be considered on its own facts and merits. The decision on what level of enforcement action is necessary will take into account:

- Proven degree of Animal Suffering or Maltreatment. We will be more likely to prosecute where the breach of condition has resulted in the serious suffering or maltreatment of the animal(s)
- Foresee ability of an offence or circumstances leading to it. Where an offence is clearly foreseeable, or where there have been a series of breaches or incidents that the offender or his or her employees are clearly aware of and have failed to take effective remedial action, we will be more likely to prosecute
- Intent of the offender individually/corporately. We will be more likely to prosecute where the offender knows that a course of action or inaction is likely to lead to a breach of a statutory notice or Act
- History of offending. We will be more likely to prosecute where we have evidence of a history of offences, even if these offences are not the subject of legal proceedings e.g. because they are past the legal deadline for bringing an action
- Attitude of the offender. We will be more likely to prosecute where the offender shows reluctance to take appropriate remedial action to prevent further breaches of statutory notices

Any enforcement action will be proportionate and appropriate to the offence or infringement; it will aim to change the behaviour of offenders and aim to restore any harm that has been caused by non compliance and to deter future non compliance

Presumption to prosecute

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

- Failure to comply with statutory notices, notice of action or written warning letters
- Following the seizure of any animal, equipment or assets
- Obstruction of Council Officers or the Council's appointed contractor or agents

Prosecution of companies and individuals

Where a company is involved it will be usual practice to prosecute the company. However where individuals have caused offences e.g. the maltreatment of animals or obstruction then we will consider prosecuting those individuals as well. We will also consider the part played in the offence by directors and managers and action may be taken against such personnel, if

appropriate. Where an offence is of special gravity, the Council will consider taking action in the High Court.

Public Information

Details of prosecutions including the offences, verdict and sentence will be entered on the public register. The Council believes that public information about enforcement is important to maintain confidence in the regulatory system and to impress on perpetrators the gravity with which the Council regards offences. It will therefore be our policy to give factual information about prosecutions to the media.

References:

1. *The Regulators' Compliance Code was introduced in 2007 by central government following consultation with business, the voluntary sector, the enforcement community and consumer groups. It provides a basis for fair, practical and consistent enforcement*
2. *The Code of Crown prosecutors is available from the Crown Prosecution Service Information Branch, 50 Ludgate Hill London EC4M 7EX. Tel: 0207 796 8000*
3. *LACORS - Promoting quality of regulation February 2008*