

EAST AYRSHIRE COUNCIL

POLICY AND RESOURCES COMMITTEE – 27 NOVEMBER 2003

BUSINESS CONCORDAT

Report by Director of Community Services

1. PURPOSE OF REPORT

- 1.1 To invite the Committee to approve the development and introduction of a Council-wide Business Concordat.

2. BACKGROUND

- 2.1 The Cabinet Office (in partnership with the Scottish Office, Cosla, and other principal local authority associations) have published the Central and Local Government Concordat on Good Enforcement. The Concordat sets out what businesses and others being regulated can expect from Enforcement Officers employed by local authorities and other agencies. The Concordat was introduced as an alternative to the implementation of Section 5 of the Deregulation and Contracting Out Act 1994 and as a step to promote “business friendly” enforcement of regulations.
- 2.2 As far as the Council is concerned, the Concordat must be applied across all regulatory services in the authority where these have an impact on the business community. Such services include Trading Standards, Environmental Health, Planning, Building Control, Roads and Licensing.
- 2.3 The Government is determined that all local authority regulatory services adopt and implement the Concordat. If this is not achievable then the enforcement provisions of the Regulatory Reform Act 2001 provide the Minister with the power to create a statutory Code of Practice relating to enforcement. This power enables the Government to bring pressure to bear on enforcers that fail to apply “business friendly” best practice along the lines set out in the Enforcement Concordat.
- 2.4 The Regulatory Reform Act allows:-
- For any Code to be targeted at particular enforcers, regulations or geographic areas;
 - For any business found to be in breach of a statutory requirement to ask for the enforcer’s failure to follow the Code to be taken into account in determining the appropriate penalty, costs or other action.

- 2.5 In his budget speech of Wednesday 9th April 2003, the Chancellor made specific reference to his intention to impose statutory Codes of Practice where enforcers are not implementing satisfactory voluntary Codes of Practice.
- 2.6 A number of meetings have been held with representatives of all Council departments to develop a Council-wide Concordat and it was agreed that only those services having regulatory responsibilities in respect of businesses should be included in the Concordat.
- 2.7 The document has been prepared on the basis of each individual regulatory service having it's own statement of enforcement policy which will deal with specific issues pertaining to that regulatory service.

3. DISCUSSION

- 3.1 The document submitted for approval by this Committee (Appendix 1) reflects good practice across a wide range of Local Authority enforcement activities which already exist within East Ayrshire Council.
- 3.2 Once the Concordat has been formally adopted by Policy and Resources Committee and the final version printed, Council staff will distribute copies during routine and other regulatory visits to businesses. Copies will also be made available at libraries and local offices and displayed on the Council's website.

4. FINANCIAL IMPLICATIONS

- 4.1 Using the information gained by the development of the Enforcement Concordat in the Community Services Department, it is the view that the cost of the exercise could be met from within existing resources allocated to individual departments.

5. LEGAL IMPLICATIONS

- 5.1 It is understood that if the Council does not make positive efforts to develop a Council-wide Concordat then a more onerous statutory Code of Practice might be imposed by Central Government.
- 5.2 The finalised documents take cognisance of the Race Equality Scheme which will impact on the Council's regulatory functions in respect of ethnic minorities.

6. POLICY IMPLICATIONS

- 6.1 Nil.

7. CONCLUSIONS

- 7.1 Following detailed discussions with representatives of all departments, a Council-wide Business Concordat has now been compiled and approved by Senior Staff Management Meeting.
- 7.2 Once approved by the Council, the Business Concordat allows the Council to demonstrate to Central Government that Council enforcement staff apply “business friendly” best practice during their routine work.

8. RECOMMENDATIONS

- 8.1 The Committee is invited to: -
- (i) approve the finalised version of the Business Concordat as set out in Appendix 1;
 - (ii) note that Council Enforcement staff will distribute copies of the Concordat during routine and other visits to businesses;
 - (iii) remit to the Director of Community Services to confirm with Cosla and the Scottish Executive that the Committee have adopted an Enforcement Concordat; and
 - (iv) otherwise note the report.

William Stafford
Director of Community Services

WS/JFC/CAM

24th October 2003

LIST OF BACKGROUND PAPERS

Nil

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EAST AYRSHIRE COUNCIL

ENFORCEMENT CONCORDAT

Background

East Ayrshire Council is involved in enforcement work when council officers, for example, issue building control warrants; deal with planning applications and breaches of the planning laws; ensure food hygiene in restaurants and factories; implement consumer protection laws through trading standards officers or monitor the licensing regime under the Civic Government Scotland Act.

This document sets out what business and others being regulated can expect from enforcement officers. It commits us to good enforcement policies and procedures. It may be supplemented by additional statements of enforcement policy.

The primary function of central and local government enforcement work is to protect the public, the environment and groups such as consumers and workers. At the same time, carrying out enforcement functions in an equitable, practical and consistent manner helps to promote a thriving national and local economy. We are committed to these aims and to maintaining a fair and safe trading environment.

The effectiveness of legislation in protecting consumers or sectors in society depends crucially on the compliance of those regulated. We recognise that most businesses want to comply with the law. We will, therefore, take care to help business and others meet their legal obligations without unnecessary expense, while taking firm action, including prosecution where appropriate, against those who flout the law or act irresponsibly. All citizens will reap the benefits of this policy through better information, choice, and safety.

East Ayrshire Council has therefore adopted the central and local government Concordat on Good Enforcement. Included in the term "enforcement" are advisory visits and assisting with compliance as well as licensing and formal enforcement action. By adopting the concordat we commit ourselves to the following policies and procedures, which contribute to best value, and will provide information to show that we are observing them.

Principles of Good Enforcement: Policy

- **Standards**

In consultation with business and other relevant interested parties, including technical experts where appropriate, we will draw up clear standards setting out the level of service and performance the public and business people can expect to receive. We will publish these standards and our annual performance against them. The standards will be made available to businesses and others who are regulated.

- **Openness**

We will provide information and advice in plain language on the rules that we apply and will disseminate this as widely as possible. We will be open about how we set about our work, including any charges that we set, consulting business, voluntary organisations, charities, consumers and workforce representatives. We will discuss general issues, specific compliance failures or problems with anyone experiencing difficulties.

- **Helpfulness**

We believe that prevention is better than cure and that our role therefore involves actively working with business, especially small and medium sized businesses, to advise on and assist with compliance. We will provide a courteous and efficient service and our staff will identify themselves by name. We will provide a contact point and telephone number for further dealings with us and we will encourage business to seek advice /information from us. Applications for approval of establishments, licenses, registrations, etc, will be dealt with efficiently and promptly. We will ensure that, wherever practicable, our enforcement services are effectively co-ordinated to minimise unnecessary overlaps and time delays.

- **Costs**

We will minimise the costs of compliance for business by ensuring that any action we require is proportionate to the risks. As far as the law allows, we will take account of the circumstances of the case and the attitude of the operator when considering action.

We will take particular care to work with small businesses and voluntary and community organisations so that they can meet their legal obligations without unnecessary expense, where practicable.

- **Consistency**

We will carry out our duties in a fair, equitable and consistent manner. While inspectors are expected to exercise judgement in individual cases, we will have arrangements in place to promote consistency, including effective arrangements for liaison with other authorities and enforcement bodies.

- **Complaints about service**

We will provide well publicised, effective and timely complaints procedures easily accessible to business, the public, employees and consumer groups. In cases where disputes cannot be resolved, any right of complaint or appeal will be explained, with details of the process and the likely time-scales involved.

Principles of Good Enforcement: Procedures

Advice from an officer will be put clearly and simply and will be confirmed in writing, on request, explaining why any remedial work is necessary and over what time-scale, and making sure that legal requirements are clearly distinguished from best practice advice.

Before formal enforcement action is taken, officers will provide an opportunity to discuss the circumstances of the case and, if possible, resolve points of difference, unless immediate action is required (for example, in the interests of health and safety or environmental protection or to prevent evidence being destroyed).

Where immediate action is considered necessary, an explanation of why such action was required will be given at the time and confirmed in writing in most cases within 5 working days and, in all cases, within 10 working days.

Where there are rights of appeal against formal action, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken (whenever possible this advice will be issued with the enforcement notice).

Complaints about Service

East Ayrshire has published a leaflet "It's Better to Listen" which details complaints procedures easily accessible to business, the public, employees and consumer groups. The leaflet can be obtained from Council Libraries and Local Offices or from any of the contacts listed below. In cases where disputes cannot be resolved, the right of complaint or appeal is explained, with details of the process and the

likely timescales involved. If you are dissatisfied with the Council's response, you have the right to complain to the Scottish Public Services Ombudsman, although it is usual that the Council's procedure is followed first. You can write to the Ombudsman at – Scottish Public Services Ombudsman, 4 Melville Street, Edinburgh, EH3 7NS Tel: 0870 011 5378.

Key Contacts

For further information please contact the Service Manager in

Building Control and Planning Development – (01563) 576790
Environmental Health and Waste Management – (01563) 554022
Licensing – (01563) 554395
Trading Standards – (01563) 521502
Roads – (01563) 576310

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