

**HOUSING, HEALTH AND ECONOMIC DEVELOPMENT SERVICES**

**FOOD, HEALTH AND SAFETY SERVICES**

**COMPLIANCE AND ENFORCEMENT POLICY**



**DRAFT**  
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## **1. INTRODUCTION.**

1.1. This policy sets out Pendle Borough Council's approach to compliance and enforcement activities of legislation enforced by the Council's Food, Health and Safety service. This includes:

- Food Safety Act 1990.
- Food Safety and Hygiene (England) Regulations 2013.
- Health and Safety at Work etc. Act 1974.
- Environmental Protection Act 1990.
- Public Health (Control of Disease) Act 1984
- Licensing Act 2003.
- Local Government (Miscellaneous Provisions) Act 1976.
- Local Government (Miscellaneous Provisions) act 1982.
- Animal Boarding Establishments Act 1963.
- Dangerous Wild Animals Act 1976.
- Breeding of Dogs Act 1991.
- Zoo Licensing Act 1981.
- Pet Animals Act 1951.
- Riding Establishments Act 1964.
- Caravan Sites and Control of Development Act 1990
- Building Act 1984.
- Public Health 1936.
- Public Health act 1961.
- Prevention of Damage by Pests Act 1949.

1.2. In applying this policy, the Council is committed to good enforcement practice and shall have regard to the Legislation, Guidance and Codes detailed in Appendix I.

1.3. Copies of this policy are available at [www.pendle.gov.uk](http://www.pendle.gov.uk) or from Pendle Borough Council, Housing, Health and Economic Development Services.

1.4. Alternative format copies will be provide by arrangement with Pendle Borough Council.

## **2. OUR AIMS.**

2.1 This policy applies to the following regulatory functions:

- Food Hygiene and Food Safety
- Occupational Health, Safety and Welfare
- Public Health licensing
- Public Health nuisances
- Communicable diseases

2.2 In delivering these regulatory functions the Council's Food, Health and Safety service contribute to the following corporate strategic objectives:

- Working with partners and the community to sustain services of good value
- Helping to create and sustain jobs with strong economic and housing growth
- Ensuring a clean, healthier, safer and cohesive Pendle
- Maintaining a sustainable, resilient and efficient organisation

2.3 Pendle Borough Council works with those it regulates and seeks to promote compliance through advisory activities; intelligence led checks on compliance; and proportionate responses to regulatory breaches. In doing so, the Council is committed to dealing firmly with those that deliberately or persistently fail to comply whilst avoiding the imposition of unnecessary regulatory burdens.

2.4 In delivering the regulatory services, the Council produces an annual service plan plus intervention plans for Food Hygiene and Occupational Health and Safety. These are available at [www.pendle.gov.uk](http://www.pendle.gov.uk).

### **3. WHAT THIS POLICY IS FOR.**

3.1 This policy communicates Pendle Borough Council's policy in respect of its compliance and enforcement activities for its Food, Health and Safety services to those affected by these activities and officers of the Council. Authorised officers of the Council will abide by this policy in their regulatory activities.

### **4. WHEN DOES THIS POLICY APPLY?**

4.1 This policy applies to any regulatory activity falling within the remit of the Council's Food, Health and Safety service and shall include actions arising from pro-active inspections, compliance revisits, intelligence led or other planned interventions, complaints, workplace accident and work-related death notifications, sampling and any matters of evident concern identified during visits to regulated premises and activities.

### **5. OUR APPROACH TO COMPLIANCE AND ENFORCEMENT.**

5.1 In dealing with non-compliance the Council shall:

- Allocate resources according to risk taking into account the public health significance of the regulatory issue and the affected population.
- Explain non-compliance, any advice given, actions required or decisions taken with reasons for these.
- Provide an opportunity for dialogue in relation to non-compliance or enforcement.
- Ensure potential regulatory breaches are investigated by Environmental Health Officers or Technical Officers who shall operate within the Council's scheme of delegation.
- Ensure, where appropriate, officers shall consult with the Public Health Manager or Service Manager to decide on the most appropriate course of action in accordance with this policy.
- Recognise that it has a complimentary role with other regulatory agencies including the Food Standards Agency, the Health and Safety Executive, Lancashire County Council, Lancashire Police Service, and Lancashire Fire Service. The Council's approach will be one of offering full support to other regulatory agencies in terms of sharing intelligence and multi-agency partnership working.
- Ensure that where the Council has an interest in premises for which it also has enforcement responsibilities, its officers will carry out its enforcement policy and practice in exactly the same way that it does all other premises. Where formal action would normally be considered, ensure that the relevant Service Head is informed in writing of the circumstances of the contraventions and this is brought to the attention of the Service Manager and appropriate Director in accordance with the requirements of the FSA Framework Agreement.
- Ensure that regulatory activities and enforcement action are fair and objective and shall have regard to relevant corporate equality and diversity policies. No discrimination will be made on the grounds of ethnicity, faith, disability, gender or sexual orientation in the

application of this policy.

- Consider the need for interpreters and translated material where businesses or the public do not have English as first language.

5.2 In considering appropriate enforcement action, the Council shall:

- Deal firmly with those that deliberately or persistently fail to comply.
- Ensure that those regulated by the Council are able to request advice without directly triggering enforcement action, where they show a willingness to resolve the non-compliance.

5.3 Factors that will influence the Council's response include:

- A proportionate response based on factors such as business size and capacity.
- The impact of any Primary Authority Partnerships.
- How non-compliances were dealt with or rectified following advice or guidance.
- Where significant breaches may also fall within the remit of another enforcement body, the Council will ensure prompt liaison to clarify roles and the Council's response.

## **6. CONDUCT OF INVESTIGATIONS.**

6.1 Food hygiene and food safety compliance interventions and investigations shall be carried out in accordance with the Food Law Code of Practice.

6.2 Occupational Health and Safety compliance interventions shall be carried out in accordance with the National Local Authority Enforcement Code and associated HELA guidance on priority planning and targeting interventions. Accidents and incidents notified under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations will be investigated in accordance with HELA Incident Selection Criteria.

6.3 Subject to paragraph 6.4 and 6.5, all complaints of non-compliance will be investigated. The level of investigation will vary depending on the circumstances of the complaint and take into account the general criteria below:

- Actual and potential severity of the event
- Seriousness of the potential breach of legislation
- History of compliance of the duty holder
- Enforcement priorities, political factors, and where there is a high degree of public concern
- Practicality of achieving results
- Relevance of the event to a wider range of premises
- Legal factors including the availability of evidence
- Resource constraints within the Food & Health and Safety Service

6.4 The level of investigation deemed appropriate by the Officer will be greatest in the following circumstances:

- Complaints appearing to involve a serious breach of legislation
- Complaints involving young persons, children, or any other group deemed vulnerable
- Complaints which indicate a general management failure
- Complaints for which there is a high degree of public concern
- Complaints involving a new process, technique or item of plant
- Complaints relevant to any ongoing local or national survey or campaign addressing current

## National, Regional and Local priorities

6.5 Where a complainant has already entered into liaison or negotiations with a duty holder, investigations shall not be pursued unless there are significant public health reasons to do so.

6.6 Processes for investigating alleged breaches shall include:

- Legislation that controls how evidence is gathered and use (see Appendix II).
- Powers of investigation including powers of entry, examination, seizure, detention, evidence gathering, sampling etc. shall be as detailed in the relevant legislation.
- Powers to deal with obstruction of officers as detailed in the relevant legislation.
- Early communication with Primary Authorities.
- Interviews under caution (Police and Criminal Evidence Act 1984).
- Complying with any statutory time limits for investigations/commencement of proceedings.
- Review of proposed enforcement actions by the Public Health Manager, Service Manager and Council's Legal Services.

6.7 The Council shall ensure that alleged offenders and witnesses are informed of the progress of investigations.

6.8 Where a prosecution or simple caution is being considered, the alleged offender shall be offered the opportunity to attend an interview under caution carried out in accordance with Police and Criminal Evidence Act 1984.

## **7. DECISIONS ON ENFORCEMENT ACTION.**

7.1 The Council shall ensure that risk assessment precedes and informs all aspects of regulatory activity including enforcement and sanctions.

7.2 The range of actions that are available to the Council set out in legislation are:

- Compliance Advice and Support
- Voluntary Undertakings
- Statutory Notices
- Financial penalties
- Injunctive Actions/ Enforcement Orders etc.
- Simple Caution
- Prosecution
- Refusal/ Suspension/ Revocation of Licences
- Seizure and detention of articles and goods

For further information refer Appendix III.

7.3 In deciding on the course of enforcement action to be taken, regard will be given to the circumstances of the breach including:

- The public health significance of the breach - severity and scale of potential or actual harm, hazards and risks
- The general record of the offender
- The consequences of non-compliance
- The seriousness of the offence
- Public interest and concern

- The likely effectiveness of the various enforcement options
- The views of the any Primary Authority, Lead Authority or Home Authority where appropriate
- The practicality of achieving results
- Any current enforcement priorities
- Any shared enforcement role

7.4 In the public interest, the Council will normally prosecute, or recommend prosecution, where, following an investigation or other regulatory contact, one or more of the following circumstances apply:

- The gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the offender warrants it.
- There has been reckless disregard of legal requirements.
- There have been repeated breaches which give rise to significant risk, or persistent and significant poor compliance.
- A duty holder's level of compliance is found to be far below what is required by law and to be giving rise to significant risk.
- There has been a failure to comply with a hygiene improvement, hygiene prohibition, remedial action, improvement or prohibition notice; or there has been a repetition of a breach that was subject to a formal caution.
- False information has been supplied wilfully, or there has been intent to deceive, in relation to a matter which gives rise to significant risk.
- Inspectors have been intentionally obstructed in the lawful course of their duties.

7.5 Factors that will influence the Council's approach to sanctions and penalties shall include:

- Changing the behaviour of the offender.
- Eliminating any financial gain or benefit from non-compliance.
- Being responsive and considering what is appropriate for the particular offender and regulatory issue.
- Being proportionate to the nature of the offence and the harm caused.
- Restoring the harm caused by regulatory non-compliance, where appropriate.
- Deterring future non-compliance

7.6 The Council shall consider risk at the decision making stage and shall use appropriate decision making models (e.g. HSE Enforcement management Model).

7.7 The Council is committed to supporting the operation of the Primary Authority scheme both as an enforcement body and as a Primary Authority partner. The Council shall ensure that the relevant enforcement arrangements and liaison are followed where a Primary Authority partnership has been established.

7.8 Where an officer is of the opinion that legal proceedings (i.e. simple caution or prosecution) are appropriate, the case shall be initially reviewed by the Public Health Manager. The case review shall include an assessment of the 'evidential test' and 'public interest' test criteria in Appendix IV. Where the case review indicates a progression to legal proceedings, the prosecution determination report shall be considered by the Service Manager and or Director prior to commencing action

7.9 The Council shall provide a timely explanation in writing of any rights of representation or rights to appeal, and practical information on the process involved.

## **8. POLICY REVIEW.**

- 8.1 This policy shall be reviewed every two years or sooner should legislation or guidance indicate such a need.

## **9. COMMENTS AND COMPLAINTS.**

- 9.1 Comments or complaints about this policy should be submitted in writing to:

Corporate Director (Pendle Borough Council  
Town Hall  
Market Street  
Nelson  
BB9 7LG

- 9.2 Complaints regarding Council services should be submitted using the corporate procedure available at [www.pendle.gov.uk](http://www.pendle.gov.uk)

## APPENDIX I

### Legislation, Guidance and Codes that Influenced the Preparation of the Compliance and Enforcement Policy

#### A. Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006, Part 2, requires Pendle Borough Council to have regard to the Principles of Good Regulation when exercising a specified regulatory function<sup>1</sup>. For local authorities, the specified functions include those carried out by our environmental health, trading standards and licensing services.

We will exercise our regulatory activities in a way which is:

- (i) Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence,
- (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
- (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in similar ways to other local authorities,
- (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities.

#### B. Regulators Code (BRDO, 2013)

Pendle Borough Council has had regard to the Regulators Code in the preparation of this policy. In certain instances we may conclude that a provision in the Code is either not relevant or is outweighed by another provision. We will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

#### C. Enforcement Concordat (Cabinet Office, 1998)

Pendle Borough Council has adopted the Enforcement Concordat and the Principles of Good Enforcement: Standards; Openness; Helpfulness; Complaints; Proportionality and Consistency.

#### D. Human Rights Act 1998

Pendle Borough Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

#### E. Data Protection Act 1998

Where there is a need for Pendle Borough Council to share enforcement information with other agencies, we will follow the provisions of the Data Protection Act 1998.

#### F. The Code for Crown Prosecutors

When deciding whether to prosecute Pendle Borough Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow

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when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied, commonly referred to as the 'Evidential Test' and the 'Public Interest Test':

a. Evidential Test - is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, Pendle Borough Council will consider what evidence can be used in court and is reliable. We must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.

b. Public Interest Test - is it in the public interest for the case to be brought to court?

Pendle Borough Council will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The public interest factors that we will take into account are detailed under the enforcement options available to us in Appendix II.

## **G. Food Law Code of Practice**

Pendle Borough Council has responsibility for enforcement of food legislation and carries out its food enforcement activities with regard to the provisions of statutory guidance issued by the Food Standards Agency.

## **H. Standard for Health and Safety Enforcing Authorities**

Pendle Borough Council has responsibility for enforcement of health and safety legislation and carries out its health and safety enforcement activities with regard to the provisions of guidance issued to local authorities by the Health and Safety Executive including the National Local Authority Enforcement Code and the HSC Enforcement Policy Statement.

## **I. Regulatory Enforcement and Sanctions Act 2008 ('the RES Act')**

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. We will comply with the requirements of the Act when we are considering taking enforcement action against any business or organisation that has a registered Primary Authority partnership. The Act also provides for the publication of a list of enforcement priorities for local authorities. We will have regard to any list of enforcement priorities published by the Better Regulation Delivery Office.

## **APPENDIX II**

### **Conduct of Investigations**

All investigations will be carried out under the following legislation and in accordance with any associated guidance or codes of practice, in so far as they relate to Pendle Borough Council:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- the Human Rights Act 1998

These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.

Our authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

## APPENDIX III

### Enforcement Actions available to Pendle Borough Council

#### in respect of Criminal and Civil breaches

##### **A. Compliance Advice and Support**

Pendle Borough Council uses compliance advice and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter (sometimes called an 'informal caution') will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence.

Pendle Borough Council recognises that where a business has entered into a Primary Authority Partnership, the primary authority may provide compliance advice and support, and Pendle Borough Council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the primary authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

##### **B. Voluntary Undertakings**

Pendle Borough Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. Pendle Borough Council will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

##### **C. Statutory (Legal) Notices**

In respect of many breaches Pendle Borough Council has powers to issue statutory notices. These include: 'Stop Notices', 'Prohibition Notices', 'Emergency Prohibition Notices', and 'Improvement Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

##### **D. Financial penalties**

Pendle Borough Council has powers to issue fixed penalty notices in respect of some breaches. A fixed penalty notice is not a criminal fine, and does not appear on an individual's criminal record. If a fixed penalty is not paid, Pendle Borough Council may commence criminal proceedings or take other enforcement action in respect of the breach.

If a fixed penalty is paid in respect of a breach Pendle Borough Council will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.

Pendle Borough Council is only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their issue is at Pendle Borough Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a fixed penalty notice.

### **E. Injunctive Actions, Enforcement Orders etc.**

In some circumstances Pendle Borough Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

Pendle Borough Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, Pendle Borough Council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

### **F. Simple Caution**

Pendle Borough Council has the power to issue simple cautions (previously known as 'formal cautions') as an alternative to prosecution for some less serious offences, where a person admits an offence and consents to the simple caution. Where a simple caution is offered and declined, Pendle Borough Council is likely to consider prosecution.

A simple caution will appear on the offender's criminal record. It is likely to influence how Pendle Borough Council and others deal with any similar breaches in the future, and may be cited in court if the offender is subsequently prosecuted for a similar offence. If a simple caution is issued to an individual (rather than a corporation) it may have consequences if that individual seeks certain types of employment.

Simple cautions will be used in accordance with Home Office Circular 016/2008 and other relevant guidance.

### **G. Prosecution**

Pendle Borough Council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute, Pendle Borough Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

Prosecution will only be considered where Pendle Borough Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s) – refer evidential test criteria in Appendix IV.

Before deciding that prosecution is appropriate, Pendle Borough Council will consider all relevant circumstances carefully and will have regard to the public interest test criteria in Appendix IV.

A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted

from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

#### **H. Refusal/Suspension/Revocation of Licences**

Pendle Borough Council issues a number of licences and permits. Pendle Borough Council also has a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly run. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment.

When considering future licence applications, Pendle Borough Council may take previous breaches and enforcement action into account.

## APPENDIX IV

Name and Address	
Business Address	
Contravention	

### EVIDENTIAL TEST

	Y	N	N/A
Is there sufficient evidence to provide a realistic prospect of conviction for each offence?			
Was the offence investigated without any undue delay which could not be attributed to the actions of the defendant <div style="text-align: center;">OR</div> The complexity of the offence has meant there has been a long investigation			
<p style="text-align: center;"><b>Evidence</b></p> <ul style="list-style-type: none"> <li>• Was it legally obtained?</li> <li>• Is the evidence reliable?</li> <li>• Is any confession reliable or affected by the defendant's age, intelligence or level of understanding?</li> <li>• Is any explanation of the defendant likely to be found credible by a Court in light of the evidence as a whole?</li> <li>• If the identity of the defendant is likely to be questioned is the evidence strong enough?</li> <li>• Is a witnesses' background likely to weaken the prosecution case?</li> <li>• Are there concerns over the accuracy or credibility of a witness?</li> <li>• Does it contain hearsay evidence?</li> <li>• Was R.I.P.A. complied with?</li> <li>• Was P.A.C.E. complied with?</li> <li>• Was the Criminal Procedure and Investigation Act 1996 complied with?</li> </ul>			
<p style="text-align: center;"><b>Administration</b></p> <ul style="list-style-type: none"> <li>• Were any required statutory notices (a) sent or (b) sent within specified time limits?</li> <li>• Have any Government Bodies or other Agencies, who need to be notified or consulted with been so notified.</li> <li>• If so date when notified and response(s)</li> </ul>			

A prosecution will not be considered where any of the above evidential factors is sufficiently contra-indicatory to significantly reduce the possible success of the case.

## PUBLIC INTEREST TEST

	Considered?	N/A
<p><b>Factors in Favour of a Prosecution</b></p> <p>A prosecution is likely to be needed if:</p> <p>(a) Risk of serious injury/dangerous occurrence associated with the alleged offence or incident had serious or potentially serious consequences</p> <p>(b) Previous history of individual/company shows repeated breaches and has not responded to previous enforcement or advice.</p> <p>(c) Individual/company has only addressed issues on a piecemeal or reactive basis.</p> <p>(d) No signs that individual/company has taken or intends to take steps to prevent recurrence.</p> <p>(e) Penalty/publicity is likely to have some effect on other companies/individuals</p> <p>(f) the offence was committed against a person serving the public (for example, a police or prison officer, or a nurse);</p> <p>(g) the defendant was in a position of authority or trust;</p> <p>(h) there is evidence that the offence was premeditated;</p> <p>(i) the victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage or disturbance;</p> <p>(j) the offence was motivated by any form of discrimination against the victim's ethnic or national origin, sex, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics;</p> <p>(k) there is a marked difference between the actual or mental ages of the defendant and the victim, or if there is any element of corruption;</p> <p>(l) the defendant's previous convictions or cautions are relevant to the present offence;</p> <p>(m) the offence, although not serious in itself, is widespread in the area where it was committed.</p>		

	Considered?	N/A
<p style="text-align: center;"><b>Factors Against a Prosecution</b></p> <p>A Prosecution is less likely to be needed if:</p> <p>(a) Individual has positive attitude to safety and is genuinely trying to comply with legal requirements</p> <p>(b) the offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);</p> <p>(c) the loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;</p> <p>(d) Steps already taken by individual/company to prevent recurrence</p> <p>(e) Penalty/publicity will have limited value</p> <p>(f) there has been a long delay between the offence taking place and the date of the trial, unless:-</p> <ul style="list-style-type: none"> <li>• the offence is serious</li> <li>• the delay has been caused in part by the defendant</li> <li>• the offence has only recently come to light; or</li> <li>• the complexity of the offence has meant that there has been a long investigation</li> </ul> <p>(g) a prosecution is likely to have a bad effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence</p> <p>(h) the defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is a real possibility that it may be repeated</p> <p>(i) details may be made public that could harm sources of information, international relations or national security.</p>		

Deciding on the public interest is not simply a matter of adding up the number of factors on each side. Prosecutors must decide how important each factor is in the circumstances of each case and go on to make an overall assessment.

When considering whether or not to prosecute the views expressed by the victim/victims family should be taken into account.