



SOUTH LAKELAND AIR POLLUTION CONTROL AN ENFORCEMENT POLICY FOR INSTALLATIONS REGULATED UNDER THE ENVIRONMENTAL PERMITTING (ENGLAND & WALES) REGULATIONS 2010

1.0 Introduction

1.1 The aim of this enforcement policy is to secure efficient and effective compliance with the requirements of the Environmental Permitting (England & Wales) Regulations 2010 (the EP Regulations), whilst minimising the burden to the local authority and businesses and maintaining consistency of enforcement across the country and the region. This policy does not concern operational matters or the detail of the legislation. It does not stop the Council from exercising enforcement powers in particular circumstances. It does however enable a more consistent approach to enforcement.

1.2 Associated SLDC documents:

- * South Lakeland District Council – Enforcement Policy (General)
- * Procedure for the Permitting of Installations
- * Risk rating system for LAPPC inspection

1.3 What we will do

1.3.1 We will provide clear application forms and explanatory notes where appropriate.

1.3.2 We will issue draft environmental permits to operators wherever possible and will endeavour to make clear what the conditions entail and give operators an opportunity to clarify and comment on them.

1.3.3 We will issue clear environmental permits based on the Secretary of State's guidance and local circumstances within the specified timescales wherever possible.

- 1.3.4 We will aim to provide advice and information to businesses where appropriate and endeavour to ensure that all our correspondence on enforcement matters is clear and unambiguous.
- 1.3.5 We will advise businesses of a named officer responsible for dealing with their process.
- 1.3.6 We will expect full voluntary compliance but will not hesitate to use enforcement powers where necessary.
- 1.3.7 We aim to provide an efficient service, but in the event that a person or business is not satisfied with a service provided by the Council, there is a formal complaints procedure, details of which can be obtained from the officer dealing with the case or from the Council Offices.

2.0 Enforcement Policy

2.1 The following stages provide a framework in which the local authority will determine whether enforcement action is relevant, be it in respect of an application for initial environmental permit, an upgrade, or compliance with environmental permit conditions:

2.2 Stage 1 – Promotion

At this stage the local authority will seek to raise awareness about the need to comply with the EP Regulations and promote environmental good practice. The objective at this stage is to educate and achieve environmental awareness and co-operation from operators.

2.3 Stage 2 – Prevention

At this stage the local authority will try to ensure that business does not unnecessarily expose itself to the possibility of formal action through lack of information or understanding. Pre-application discussions therefore are encouraged as a useful preventative tool. The local authority will do what it can to warn businesses of imminent breaches of requirements and their implications. Enforcement action shall not come as a surprise to operators. The objective of this stage is to secure a positive relationship between enforcer and those being enforced.

2.4 Stage 3 – Prosecution and Formal Notices

This stage refers to the use, where appropriate, of formal action to achieve compliance, including enforcement, prohibition and revocation notices. Prosecution shall only be contemplated if the local authority is satisfied it has done all it reasonably can in Stages 1 and 2, to achieve efficient and effective compliance, or where:

- there is a risk of serious pollution of the environment or harm to health;
- there is a blatant disregard of responsibilities under Environmental Permitting legislation; or
- the offence is of such gravity that other forms of action are inappropriate.

3.0 Compliance with Conditions of Environmental Permit

- 3.1** The extent to which the local authority will draw a balance between self-regulation and monitoring will depend on a risk assessment. The attitude and general record of the operator, and the system in place to ensure compliance, will influence the local authorities' decision in each case.
- 3.2** In keeping with its objectives outlined in Stage 2, the local authority will do what it can to ensure compliance by informal means. There may be circumstances however, in which the local authority will move directly to formal notices or prosecution and these are described more fully below.
- 3.3** In the event of non-compliance with environmental permit conditions or a variation notice, the local authority will normally issue a warning letter which will indicate simply and clearly the nature of the contravention and the steps needed to rectify it. Where possible, any works which are required should be agreed along with a timescale in which those works shall be carried out.
- 3.4** Where informative action of this kind fails to raise an appropriate response or where work does not progress satisfactorily within an agreed timescale, the local authority may consider the enforcement notice procedures laid out in Section 36 of the EP Regulations. Where a specific environmental permit condition has been contravened however, an enforcement notice which is subject to appeal, offers no further advantage.
- 3.5** Where the local authority is satisfied that there is an imminent risk of serious pollution of the environment, the local authority will serve a suspension notice under Section 37 of the EP Regulations.

4.0 Prosecution to Ensure Prevention

- 4.1** In normal circumstances the local authority will regard prosecution as a mechanism to be used when all other mechanisms have failed. However, there will be occasions when it is more expedient to pursue a prosecution in the first instance. Likely circumstances are described in 2.4 above.
- 4.2** If the objectives of Stage 1 and 2 of the enforcement policy have been achieved, namely;
- the local authority has secured co-operation from the operator;

- there is a positive relationship between the enforcer and those being enforced;

the occasions where prosecution will be thought necessary without having first explored more informal action, will be few and far between.

4.3 In deciding whether to prosecute, the local authority will always consider:

- the gravity of the offence;
- the general record and approach of the offender;
- whether the evidence available provides a realistic prospect of conviction;
- whether the offence causes public alarm and it is desirable to produce a public effect which reassures the public and deters other offenders.

5.0 Conclusion

5.1 The publication of this enforcement policy is a commitment by the local authority to work with business in ensuring compliance with statutory responsibilities.

The enforcement policy should be seen as a framework in building a consistent and fair regulatory control of Part B and Part A2 processes in South Lakeland.