# Suffolk County Council Suffolk County Council logo. The logo is the Suffolk County coat of arms with the text Suffolk County Council, in blue.

# Enforcement Policy

## Trading Standards

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## 1 Introduction

* 1. This document applies to the enforcement activities carried out by the Trading Standards Service of Suffolk County Council. It contains appendices giving specific detail on overloaded goods vehicles/vehicles breaching weight restrictions, and on enforcement relating to the County Council’s statutory duties concerning the safety of sports grounds.
	2. Where appropriate, additional enforcement protocols or policy may be developed to support this policy, for example where there are national requirements regarding a particular enforcement process.
	3. This Policy has been developed in conjunction with a range of stakeholders, including business representatives and is subject to annual review and approval.
	4. The purpose of this Policy is to provide a framework to ensure that local authority enforcement is delivered in an equitable, practical and consistent manner. This is in line with the principles of good enforcement, as set out in the Legislative and Regulatory Reform Act 2006, and regard has been given to the associated [Regulators’ Code](https://www.gov.uk/government/publications/regulators-code) (the Code) in the preparation of this policy. In certain instances, it may be concluded that a provision in the Code is either not relevant or is outweighed by another provision. Any decision to depart from the Code will be properly reasoned, based on material evidence and documented.
	5. Compliance with this Policy will ensure that we will strive to be fair, impartial, independent, and objective. We are committed to ensuring that the decisions we take and the services we deliver take proper account of equality issues.
	6. Within the context of this Policy, ‘enforcement’ includes action carried out in the exercise of, or against the background of, statutory enforcement powers. This is not limited to formal enforcement action, such as prosecution or issue of notices, and so includes inspection to check compliance with legal or other requirements and the provision of advice to aid compliance.
	7. For the purposes of this document ‘formal action’ includes: Prosecution, Simple Caution, Injunctive Action, Enforcement Order, Issue of Notices, Monetary Penalties, Seizure, Suspension, Withdrawal, Recall, Forfeiture, Revocation/Suspension of a licence, registration or approval, Disqualification of weighing or measuring equipment, Works in Default, Criminal Behaviour Orders, or any other criminal or civil/injunctive proceedings or statutory sanctions, applied either separately or in any other combination.
	8. Where appropriate we will seek to recover our enforcement costs, including making formal applications for costs through the Courts.

## 2 Principles of Inspection & Enforcement

* 1. **Proportionality**
		1. We are committed to avoiding the imposition of unnecessary regulatory burdens and will endeavour to minimise the cost of compliance by ensuring that any action taken, or advice offered, is proportionate to the seriousness of the breach, as well as the risk to people, businesses, other organisations, animals, property, the community or the environment. In doing so we will choose approaches that are based on relevant factors including, for example, business size and capacity.
		2. We will usually give notice of our intention to carry out routine inspection visits, unless we are otherwise required to visit unannounced, it is a reactive inspection visit, or we have a specific or legal reason for not giving prior notice. For example, this would include where the identity of the person or premises is unknown, or where it would defeat the objectives of the inspection visit to give such notice.
		3. As far as the law allows, we will take account of the circumstances of the case and attitude of the people involved when considering action. We will take particular care to work with businesses and individuals so that, where practicable, they can meet their legal obligations without unnecessary expense, to support and enable economic growth.
		4. The most serious formal action, including prosecution, will be reserved for serious breaches of the law.
	2. **Accountability**
		1. We will actively work with businesses and individuals to advise and to assist with compliance and requests for help. Contact points and telephone numbers will be provided for business and public use.
		2. We will aim to carry out visits and inspections at a reasonable time and where appropriate to do so. In most cases our staff will show their identification (and authority if requested) at the outset of every visit and explain the reason for the visit. However, so that we can see things from the point of view of a customer or ordinary member of the public, we may carry out informal visits or arrange to buy goods or services and not introduce ourselves. Where we must use a young person to carry out work on our behalf, such as in attempting to purchase age-restricted products, we will always have regard to the latest guidance and Codes of Practice.
		3. Out-of-hours contact for services will be provided where there is a need for an immediate response/risk to public health, safety or damage to property, infrastructure, or the environment.
		4. The whole range of enforcement activities will be dealt with as promptly and efficiently as possible to minimise time delays.
		5. Where appropriate, feedback questionnaires will be used to gather and act upon information about the services we provide.
		6. Where possible we will include information to highlight new legal requirements, via our social media platforms and/or website, with reports or letters provided after an inspection or visit; and/or by providing or signposting advice and information to help businesses and individuals keep up to date.
		7. We will have regard to fairness and individuals’ human rights in all our enforcement work through conforming to the European Convention on Human Rights (as implemented by the Human Rights Act 1998).
	3. **Consistency**
		1. All officers are required to act in accordance with this enforcement policy and our published service standards.
		2. We will carry out our enforcement and advisory functions in an equitable, practical, and consistent manner. We will adopt and adhere to relevant policy and guidance and will ensure that our officers are suitably trained, qualified, and authorised to undertake their enforcement duties, and understand the principles of good regulation.
		3. Where appropriate, we will publish clear service standards providing information on:
1. How we communicate and how we can be contacted
2. Our approach to providing information, guidance, and advice
3. Our risk assessment methodology used to determine inspection activity, clearly setting out what can be expected from us at the time of visit
4. Any applicable fees and charges; and
5. How to comment or complain about the service provided and the routes to appeal.
	1. **Transparency**
		1. In most circumstances we will seek to ensure that people affected by formal action are informed of what is planned and allow for discussion and time to respond before the action is taken. We will also give them a named officer’s contact details. These arrangements must have regard to legal constraints and requirements.
		2. When a notice is served it will say what needs to be done, why, and by when, and that in the officer’s opinion a breach of the law has been committed and why the notice is necessary. We will also make a clear distinction between legal requirements and recommended works.
		3. As part of our commitment to equality we will communicate in a clear, accessible, concise, format using media appropriate to the target audience, in plain language. Where businesses or the public do not have English as a first language, we offer translations of correspondence on request.
		4. This Enforcement Policy is published via the Suffolk County Council website and we may also publish further guidance about specific/technical areas, such as the use of civil sanctions.
		5. The publicity generated by legal and other enforcement proceedings acts as a deterrent to others and reassures the general public that we take a serious view of illegal behaviour. We therefore routinely publish information on court proceedings and other enforcement actions such as undertakings, enforcement orders, and the administrative issue of penalties/fines; as part of this we include names and trading addresses, unless directed not to do so by the Courts.
		6. We may also publish the names and trading addresses of traders who act in ways that represent a significant risk to consumers or the interests of legitimate businesses, subject to the following conditions:
* There is no risk of prejudice to legal proceedings or other formal enforcement action, and
* The evidence of unfair or illegal trading is conclusive, and
* It is in the public interest to do so, taking into account the personal circumstances of the offender and community cohesion, and
* To do so does not breach Human Rights or Data Protection Law, or the Children and Young Persons Act 1933.

2.4.7 We obtain and process information in the course of our enforcement functions. Some of this information is personal data, and some of it is

confidential or sensitive. We will process information in accordance with the law (including the Data Protection Act 2018 and the Enterprise Act 2002) and with proper regard to our privacy notices.

* 1. **Targeted (Intelligence and Risk Led) Enforcement**
		1. Enforcement will be primarily targeted towards those situations that give rise to the most serious risks, and against deliberate/organised crime. Other determining factors will include local priorities, Government targets and priorities, new legislation, national campaigns, and public concerns.
		2. By having a coherent and risk-based intelligence system, effective strategies can be formed to enable and co-ordinate solutions to particular problems. This enables the identification of new, current, and emerging issues, allowing provision of strategic and tactical direction on how the issues can best be tackled. Subject to the provisions of Data Protection and Human Rights Law, we may also refer cases and/or share information and intelligence with other law enforcement agencies.
	2. **Supporting the local economy**
		1. We recognise that a key element of our activity will be to facilitate and encourage economic progress against a background of protection.
		2. Wherever possible, we will work in partnership with businesses and individuals, and with parish councils, voluntary and community organisations, to assist them with meeting their legal obligations without unnecessary expense.
	3. **Reducing enforcement burdens**
		1. If there is a shared enforcement role with other agencies, e.g. the Police, Environment Agency, or other local authorities, we will consider co-ordinating with these agencies to minimise unnecessary overlaps or time delays and to maximise our overall effectiveness. We will also liaise with the other regulators to ensure that any proceedings instituted are for the most appropriate offence.
		2. We will follow the principle of “collect once, use many times” and share information that we collect with other local authority regulatory services to minimise business impact.
		3. When conducting farm visits, we will have due regard to the [Farm Regulators’ Charter](https://www.gov.uk/government/publications/farm-visits-farm-regulators-charter), which makes sure visits are carried out consistently across regulators. The charter covers all inspection types and visits of agricultural and aquaculture activities carried out by Farm Regulators.

## Primary Authority Partnerships

* 1. Primary Authority is a statutory scheme established by the Regulatory Enforcement and Sanctions Act 2008. It allows an eligible business to form a legally recognised partnership with a single local authority in relation to the provision of tailored advice, guidance and assistance relating to regulatory compliance. The single local authority (known as the “Primary Authority’) is registered with the [Office for Product
	Safety & Standards](https://www.gov.uk/government/organisations/office-for-product-safety-and-standards) (OPSS), via the Primary Authority Register.
	2. The Primary Authority then acts as the single point of contact between its partner business and the local authorities that regulate it. The Primary Authority can issue assured advice upon which the business can rely and can also, where appropriate, devise inspection plans for businesses. The inspection plan can place specific requirements on other local authorities and can require feedback on their checks to be given to the Primary Authority.
	3. Where an enforcing local authority is considering enforcement action against a business that has a Primary Authority it is required to make a statutory notification to the Primary Authority. In most cases, this notification must be made before the action can be taken. However, in certain circumstances the notification can be retrospective. These currently include:
* abatement notices the Environmental Protection Act 1990
* emergency prohibition notices under specified food hygiene legislation
* prohibition notices under the Regulatory Reform (Fire Safety) Order 2005
* notices of emergency remedial action under the Housing Act 2004
* emergency prohibition orders under the Housing Act 2004
* enforcement action that is required urgently to avoid a significant risk of harm to human health, the environment, or the financial interests of consumers; and
* enforcement action where the ‘pre-notification’ requirements of the scheme would be wholly disproportionate.
	1. If another local authority proposes enforcement action which the Primary Authority deems to be inconsistent with the assured advice, the Primary Authority may seek to block the enforcement action. Where this is the case but is disputed, or there is a need for further considerations, the matter would be referred to the [Office for Product
	Safety & Standards](https://www.gov.uk/government/organisations/office-for-product-safety-and-standards) (OPSS) for their consideration/determination.

## 4 Enforcement Actions

* 1. Nothing in this policy shall be taken to compel us to take enforcement action. In certain instances, we may conclude that an enforcement response is not appropriate given the circumstances.
	2. In deciding what enforcement action to take, we will have regard to the following aims:
* to change the behaviour of the offender
* to eliminate financial gain or benefit from non-compliance
* to be responsive and consider what is the most appropriate sanction for the particular offender and the regulatory issue concerned
* to be proportionate to the nature of the offence and the harm/potential harm caused
* to repair the harm caused to victims, where appropriate to do so
* to deter future non-compliance.
	1. The Key approach in seeking compliance is to:
* Engage
* Explain
* Encourage
* Enforce
	1. The prime objective is to obtain compliance by consent – it is anticipated that, in the vast majority of cases, businesses will comply with the legal requirements further to the provision of advice.
	2. Any decision to undertake formal enforcement action will be taken in the context of operational priorities, this policy and the Council Constitution and scheme of delegations. Such decisions will include the use of intelligence in determining the nature of any response, as well as being subject to ongoing monitoring and review.
	3. Where a right of appeal against a formal action exists other than through the courts, advice on the appeal mechanism will be clearly set out in writing at the time the action is taken.
	4. ~~A~~ll investigations into alleged breaches of legislation will be conducted in compliance with statutory powers, time limits and all other relevant legislation (and relevant Codes of Practice), including the requirements of:
* Police and Criminal Evidence Act 1984 (PACE)
* Criminal Procedure and Investigations Act 1996 (CPIA)
* Regulation of Investigatory Powers Act 2000 (RIPA)
* Investigatory Powers Act 2016 (IPA)
* the Criminal Justice and Police Act 2001 (CJPA)
* Human Rights Act 1998 (HRA).
	1. As part of any criminal investigation process, persons suspected of having committed a criminal offence will, wherever possible,
* be formally interviewed in accordance with PACE
* be given the opportunity to demonstrate a statutory defence
* have the opportunity to give an explanation or make any additional comments about the alleged breach
* be offered translation/interpretation services (language and British Sign Language) where English is not their first language
	1. As part of our enforcement function we may exercise a wide variety of powers, including the power to enter premises and inspect goods, to require the production of documents or records and, when necessary, the power to seize and detain such material where they believe it may be required as evidence.
	2. We may also take with us such other persons as may be necessary as part of our enforcement function. This may include Police Officers where there is the possibility of an arrest, or a breach of the peace situation. In certain cases, we may exercise an entry warrant issued by a Justice of The Peace in order to gain access to premises and may use police assistance to effect entry.
	3. We may also use investigation equipment whilst undertaking ourduties, including handheld and Body-Worn Video (BWV) cameras. BWV devices are capable of recording both visual and audio information and can provide a number of benefits to enforcement agencies, including a deterrent to aggressive, verbal, and physical abuse towards officers, and in providing additional evidence to support investigations. BWV will usually be deployed on an overt basis for a specific purpose, and where it is necessary and proportionate to do so. Any decision to deploy BWV or other investigation equipment on a covert basis will be made in accordance with the Regulation of Investigatory Powers Act (RIPA), related legislation, Codes of Practice and associated Council Policy.
	4. **Immediate Formal Action**
		1. Whilst recognising that most people want to comply with legal requirements, we also recognise that some will operate outside the law (both intentionally and unintentionally). Where possible, a staged approach to enforcement will be adopted, with advice and informal action explored to achieve compliance in the first instance. However, we will consider taking immediate formal action for the most serious breaches, including any of the following circumstances:
* Where the infringement causes or is likely to cause actual or emotional damage, or substantial loss or prejudice to people, businesses, or other organisations
* Where there is a significant risk to public health, safety or wellbeing, or damage to property, infrastructure, or the environment.
* Fraud, aggressive or misleading practices/equipment, or practices seeking an unfair ‘competitive advantage’.
* Illegal practices targeted at vulnerable people, including young people and the elderly.
* For matters where there has been recklessness or negligence, or a deliberate or persistent failure to comply with advice, warnings or other enforcement action.
* Where food fails food safety requirements.
* Any act likely to affect animal health or welfare, disease prevention measures, or the integrity of the food chain.
* Obstruction or assault (including verbal assault) of an officer in the execution of their duties.
	1. **Advice, Guidance and Support**
		1. We are committed to using advice, guidance and support as a first response to the majority of breaches of legislation, subject to any need to take immediate formal action for the most serious breaches (see paragraph 4.12 above).
		2. Any initial requests for advice from individuals or businesses on non-compliance will not necessarily trigger enforcement action. In such cases we will seek to assist in rectifying such breaches as quickly and efficiently as possible, where there is a clear willingness to resolve the matter.
		3. Any correspondence will clearly differentiate between legal requirements and good practice, and indicate the regulations contravened and the measures which will enable compliance.
		4. Follow up checks will be carried out on a risk and intelligence-led basis and where a similar breach is identified in the future, previous advice will be taken into account in considering the most appropriate enforcement action to take on that occasion.
	2. Where more formal enforcement action has previously been taken, such as a simple caution or prosecution, we recognise that, in some cases, there may be a need for additional compliance advice and support, to prevent further breaches.
	3. **Verbal or written warning**
		1. Compliance advice can be provided in the form of a verbal or written warning. In doing so we will clearly explain what should be done to rectify the problem, and how to prevent re-occurrence. Warnings cannot be cited in court as a previous conviction but may be presented in evidence. Failure to comply with warnings or advice could result in more serious enforcement action being taken.
	4. **Statutory (Legal) Notices**
		1. Statutory Notices are used as appropriate in accordance with relevant legislation. 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.
		2. 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 for such notices will be provided to the recipient.
	5. **Monetary penalties**
		1. Fixed or variable monetary penaltiesmay be issued where there is a specific power or delegated authority to do so and under the following circumstances:

* To provide an effective and visible way to respond to less serious crimes without going to court
* As a response to particular issues or as part of a wider enforcement strategy.
	+ 1. Specific guidance for legislation, which includes the power to issue monetary penalties, may be produced to support this policy.
		2. Where the offender fails to discharge their liability resulting from any monetary penalty issued, alternative enforcement action will automatically be considered under this policy (including prosecution of the initial offence). Where prosecution is brought; an assessment will be made of other offences that may also have been committed in order that those charges may be considered at the same time.

Consideration will be given to the adoption of alternative remedies to the issue of a monetary penalty, such as those involving dedicated advice and training sessions, which aim to change the behaviour of the offender, whilst remaining proportionate to the nature of the offence and the harm/potential harm caused.

* 1. **Licences, registrations and approvals**

Local authorities have a role to play in ensuring that appropriate standards are met in relation to licences, registrations, and approvals. We may refuse to grant, seek to review, temporarily remove, suspend or revoke any licence, registration or approval if we are made aware that actions have been carried out which undermine scheme objectives and/or would be unlawful. This includes those issued by other agencies.

* 1. **Seizure and Destruction**
		1. Some legislation permits our Officers to seize items such as goods and documents that may be required as evidence. When we seize goods, we will give an appropriate receipt or other record of seizure to the person from whom they are taken. On some occasions we may also ask a person to voluntarily surrender and transfer ownership of illegal goods to us.
		2. Where we seize food for failing food safety requirements, or animal feed for non-compliance with feed law, an application will be made to the Court for a condemnation order, for the illegal product to be destroyed. We will provide details of where and when this application will be made to allow interested parties to attend the hearing.
		3. Where products are found to present a serious risk, we may seek to destroy or otherwise render them inoperable, where permitted by law.
		4. We may seek to recover costs of destruction, including through the Courts as may be necessary.
	2. **Detention**
		1. Where food is suspected of failing food safety requirements, or where animal feed does not comply with specified feed law, it may be detained to allow further investigation.
		2. When food or animal feed is detained, a notice of detention will be provided, detailing the detention arrangements, including the location where the product(s) will be detained.
		3. When products are detained at the border while product safety compliance checks are carried out, the importer will be informed of this and the anticipated timeframe for these checks to be completed. Where products do not comply with all relevant safety laws, we may refuse them entry to the market.
	3. **Forfeiture or Deprivation**
		1. Where a person has not agreed to surrender infringing goods, we may apply to the court for forfeiture or deprivation of the goods whether or not we start a prosecution or bring other proceedings.
		2. We may also seek to recover costs of these proceedings from the defendant(s).
		3. Where unsafe products are detained at the border but there is insufficient evidence of the importer’s identity or other circumstances which do not justify any other course of action, the goods may be considered to have been abandoned after 90 days. The goods may then be destroyed.
	4. **Injunctive Actions, Enforcement Orders etc**
		1. We will consider formal civil enforcement action in pursuance of breaches of law which have a detrimental impact on the collective interests of consumers or businesses.
		2. When considering formal civil enforcement action, an Officer will, where appropriate, first discuss the circumstances with those suspected of a breach and, through consultation, attempt to resolve any issues. Alternatively, we will look to redress detrimental practices via a range of enforcement actions. These include the following:
* undertakings to us or the court
* interim and other court orders
* contempt proceedings.

We may ask the Court to consider other remedies as part of any proceedings, including compensation for victims.

* 1. **Other Sanctions or Interventions**
		1. We will consider other sanctions or interventions where legally available and appropriate to do so, including criminal behaviour orders under the Anti-Social Behaviour, Crime and Policing Act 2014, injunctions under the Local Government Act 1972 or equivalent orders to disrupt and/or prevent activities that may contribute to crime or disorder. This may also include arranging for the removal of websites where it is clear they are being used for illegal purposes.
	2. **Taking animals into possession/disqualification orders**
		1. Under the Animal Welfare Act 2006, if a veterinary surgeon certifies that ‘protected animals’ are suffering or are likely to suffer if their circumstances do not change, we will consider taking them into our possession and applying for Orders for re-imbursement of expenses incurred and subsequent disposal. We may also look to other legislation where appropriate to ensure that similar standards of care and/or control of animals is properly maintained. In some circumstances we will also consider applying to the Court to deprive person(s) of the animals seized and/or disqualify them from keeping animals.
	3. **Simple Cautions**
		1. In certain cases, a simple caution may be offered as an alternative to a prosecution, for example for first time offending. The purpose of a simple caution is to deal quickly with less serious offences, to divert less serious offences away from the Courts, and to reduce the chances of repeat offences.
		2. Officers will comply with the provisions of relevant Home Office Circulars. The following conditions must be fulfilled before a caution is administered:
* The offender has made a clear and reliable admission
* There is a realistic prospect of conviction
* It is in the public interest to offer a simple caution; and
* The offender is 18 years old or older at the time that the caution is to be administered.
	+ 1. A simple caution may appear on the offender’s criminal record. It is likely to influence how we and other enforcement agencies 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 or wishes to travel or move to certain countries. Simple cautions will be issued with regard to Ministry of Justice and Crown Prosecution Service guidance.
	1. **Prosecution**
		1. We may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as statutory notices have failed to secure compliance. The Council recognises that the decision to prosecute is significant and could have far reaching consequences on the offender.
		2. Before a decision to prosecute is taken, the alleged offence(s) will be investigated, a report compiled by the Investigating Officer and the file reviewed by a Senior Manager for legal decision. A prosecution will only be considered if the sufficiency of the evidence and the public interest falls within the guidelines as laid down by the Attorney General and Crown Prosecution Service [Code for Crown Prosecutors](http://www.cps.gov.uk/publications/code_for_crown_prosecutors/).
		3. Any decision to prosecute will be taken:
* where it is expedient for the promotion or protection of the interests of the inhabitants of Suffolk to do so (Section 222 of the Local Government Act 1972), or
* where we have another express power to prosecute, and the use of that power is appropriate to the circumstances.

Before making a decision whether or not to prosecute, consideration will also be given to:

* How well the prosecution supports our aims and priorities
* The factors contained in paragraphs 4.2 and 4.12 of this policy
* Action taken by other enforcement agencies for the same facts
* The nature and extent of any harm or loss, including potential harm and loss, and any offer of redress made by the offender to victims
* The willingness of the alleged offender to prevent a recurrence of the infringement
* The likelihood of the alleged offender being able to establish a statutory defence
* The calibre and reliability of witnesses
* The probable public benefit of a prosecution and the importance of the case, e.g. the possibility of establishing legal precedent
* Cost effectiveness of a prosecution
* The scope for alternative routes for redress for ‘victims’ and their likelihood of success
* The impact of the intervention on small businesses in particular, to ensure action is proportionate.

A conviction can result in a criminal record and the court may impose a fine and, for particularly serious breaches, a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of assets. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors (see 4.28 below).

* 1. **Proceeds of Crime Actions**
		1. Where appropriate, we will seek to recover the benefit that the offender has obtained from their criminal conduct through financial investigation.
		2. Financial investigations will be undertaken in accordance with the Proceeds of Crime Act 2002. Such investigations may include applications to the Court requiring financial information to be provided (production orders) or in serious cases applications to freeze and/or confiscate criminal assets (restraint and confiscation orders). Where appropriate, consideration will also be given to seek compensation for victim losses as part of this process.
	2. **Directors**

On the conviction of a Director connected with the management of a company the prosecutor will, in appropriate cases, draw to the Court’s attention their powers to make a Disqualification Order under the Company Directors Disqualification Act 1986.

1. **Complaints, Compliments and Comments**
	1. If you are unhappy with the service you have received, or we have failed to live up to our promises, managers are always willing to discuss with you the cause of your dissatisfaction, and will try to find a solution.
	2. If you wish to make a complaint or send us a compliment or comment about our service, please use our online procedure by going to:

<https://www.suffolk.gov.uk/about/give-feedback-or-make-a-complaint/>

If you need other languages or formats, please call 03456 066 067 to ask for this information in another language, format (such as Braille), audio or large print.

If you are still not satisfied, and feel you have been caused injustice, our complaints process explains how the matter will be escalated, including how to complain to the Local Government Ombudsman.

* 1. For complaints/comments/compliments relating to **product safety checks on imported goods**, please contact: imports@suffolk.gov.uk

5.4 If you wish to appeal against any enforcement action taken or have any other comments about this policy, you should write to the Head of Trading Standards, Suffolk County Council, Landmark House, 4 Egerton Road, Ipswich IP1 5PF.

1. **Conflict of Interest in Enforcement Matters**
	1. Where a breach is detected in which the enforcing authority is itself the responsible operator, for example operating as a food business, the following protocol will be followed:
* Where a breach of law is sufficiently serious to warrant more than the provision of advice, information, assistance or a written warning, or where the response to remedy the breach is considered insufficient*,* an additional authorised officer from another local authority will be requested to assist in the decision making process as to the action required. Senior Managers of the Council will be informed of serious breaches without delay.
* The additional officer’s role is to assist and challenge the decision making process to ensure that appropriate, proportionate and consistent action is taken to remedy the breach, prevent re-occurrence and to minimise the risk of ‘conflict of interest’ for the enforcing authority. An auditable record of the additional officer’s involvement will also be kept.
1. **Where to get further information**
	1. Copies of this document and other information/advice are available by writing to the Trading Standards Service using the address in 5.4 above.
	2. We will make this policy available on tape, in Braille, large type, or in another language on request.

**APPENDIX 1: Breach of vehicle weight limits / weight restrictions**

**Overloaded goods vehicles: We have laid down specific criteria for sanctions in respect of overloaded vehicles having regard to the environmental and safety risks associated with those breaches.**

Vehicles overloaded by more than 10% of the maximum permissible axle and/or gross weight of that vehicle or one tonne whichever is less, will be progressed as prosecutions. Prohibition notices will be served on all goods vehicles found to be overweight by more than 5% of the maximum permissible axle and/or gross weight of that vehicle or one tonne whichever is less.

**Vehicles exceeding the weight limit on a weight restricted road:**

**Vehicles 32 tonnes and over**

Drivers of such vehicles who are reported as contravening any weight restriction on a weight restricted road will normally, on the first occasion they are seen, be given written advice.

On the second or subsequent occasion (within four years of the previous occasion) they will be recommended for prosecution.

**Vehicles under 32 tonnes**

For vehicles plated to carry less than 32 tonnes and contravening any weight restriction on the public road, drivers who are reported as contravening any weight restriction on a weight restricted road will normally, on the first occasion they are seen, be given written advice. On the second occasion they will be recommended for a written warning.

For any subsequent contravention then being reported within four years, they will be recommended for prosecution

**Vehicles exceeding the weight limit on a weight restricted bridge**:

Drivers of vehicles that contravene any weight restriction over a public bridge will normally be actioned as follows:

For bridges with a 3 tonne weight restriction

* Vehicles over 3 tonnes and up to 4 tonnes – Written warning
* Over 4 tonnes – prosecution

For bridges with a 7.5 tonne weight restriction

* Vehicles over 7.5 tonnes and up to 8.5 tonnes – Written warning
* Over 8.5 tonnes – prosecution

**APPENDIX 2: SPORTS GROUND ENFORCEMENT POLICY**

**Sports Grounds Enforcement Policy**

1. **Introduction**

This Enforcement Policy sets out arrangements that Suffolk County Council has in place for enforcement action in relation to its statutory duties concerning the safety of sports grounds which require a Safety Certificate.

This Policy should be read in conjunction with the general Suffolk Trading Standards Enforcement Policy, the principles of which all apply to this Policy.

1. **Scope**

The sports grounds primarily covered by these arrangements, for which Safety Certificates are issued by Suffolk County Council;

**Designated Sports Grounds;**

Ipswich Town Football Club

**Regulated Stands;**

Newmarket Rowley Mile Racecourse

Under the provisions of section 10 of the Safety of Sports Grounds Act 1975 the Council has the power to issue a prohibition notice to limit the capacity, or totally prohibit the admittance of spectators to any sports ground within the County of Suffolk.

1. **Legislation and Guidance**

The following relevant legislation applies to sports grounds safety enforcement and should be read in conjunction with this Policy;

**Safety of Sports Grounds Act 1975**

Section 10B provides that it shall be the duty of every local authority to enforce within their area the provisions of the Act and of Regulations made under it.

**Fire Safety and Places of Sport Act 1987**

Section 34 provides that it shall be the duty of every local authority to enforce within their area provisions regarding Regulated Stands.

1. **Choices of enforcement action**

There are several courses of action open to the council’s enforcement officers depending on the different circumstances that may be encountered or apply to the situation. The choices of enforcement action are:

* Advice, Guidance and Support
* Verbal or Written Warning
* Reduction in Capacity
* Prohibition Notice
* Simple Caution
* Prosecution
* **Advice, Guidance and Support**

This will be used under the same principles detailed in the general Suffolk Trading Standards Enforcement Policy.

* **Verbal or Written Warning**

This will be used under the same principles detailed in the general Suffolk Trading Standards Enforcement Policy.

* **Reduction in capacity**

Reducing the capacity of all, or part of, a sports ground is a formal action which would be appropriate in the following situations:

* if an incident suggests that the management of a sports ground is performing poorly; or
* if the Council’s inspecting personnel identify any deficiencies in the fabric, equipment, records or management systems, which the authority has not already taken into account when accepting or calculating the permitted capacity.

Any new capacity should be properly calculated having regard to the change in circumstances and the procedures to be followed will be the same as during the routine annual review of the safety certificate. Ground management should be invited to submit its proposed revised (P) or (S) factor, but the Council reserve the right to overrule this if appropriate.

When reducing a capacity, it is important that

* officers act reasonably and in accordance with due process, not least because the certificate holder has a right of appeal against any reduction in capacity; and
* a formal amendment to the safety certificate is issued.

Once the remedial measures or improvements have been implemented consideration should be given to restoring the original capacity.

* **Prohibition notice**

Unlike the other provisions of the 1975 and 1987 Acts, the power to issue a prohibition notice applies to all sports grounds, as defined in section 17 of the 1975 Act, including those that are neither designated nor contain a regulated stand.

Section 10 of the 1975 Act empowers the Council to issue a prohibition notice in respect of all or part of any sports ground if it considers that “the admission of spectators to a sports ground or any part of a sports ground involves or will involve a risk to them so serious, that, until steps have been taken to reduce it to a reasonable level, admission of spectators to the sports ground or that part of the sports ground ought to be prohibited or restricted”. A prohibition notice is therefore a measure of last resort and will only be used where an amendment of the safety certificate (where issued) is not considered an effective way of dealing with the risk(s)

When issuing a prohibition notice consideration will be given as to whether the risk to spectators is, or may be, imminent and if so the notice will take effect as soon as it is served. In all other cases it will come into force at the times specified in the notice.

A prohibition notice will specify:

* the nature of the risk to spectators; and
* the number of spectators that may be admitted to the sports ground, or any part of the sports ground, until appropriate steps have been taken to address those risks.

The notice may also include directions as to the steps which will have to be taken to reduce the risk to a reasonable level.

* **Simple Caution**

This will be used under the same principles detailed in the general Suffolk Trading Standards Enforcement Policy.

* **Prosecution**

This will be used under the same principles detailed in the general Suffolk Trading Standards Enforcement Policy.

1. **Appeals**

Appeals against a reduction in capacity imposed by way of an amendment to a safety certificate or against a prohibition notice are to a Magistrates Court. Where an appeal is made against an amendment to a safety certificate the amendment cannot take effect until the appeal is heard.

However, in the case of an appeal against a prohibition notice any reduction in capacity remains in place until the appeal is heard.

1. **Penalties**

It is an offence for any responsible person, not merely the certificate holder, to contravene the terms and conditions of a safety certificate or a prohibition notice.

These offences and associated penalties, along with the defences of absence of consent and due diligence, are listed in section 12 of the Safety of Sports Grounds Act 1975 and section 36 of the Fire Safety and Safety of Places of Sport Act 1987.