

PLANNING ENFORCEMENT POLICY AND PROCEDURES

SANDWELL PLANNING ENFORCEMENT POLICY AND PROCEDURES

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1 Background

- 1.1 This policy and procedures document sets out what individuals and organisations can expect from Sandwell Council in the undertaking of its planning enforcement functions.
- 1.2 The integrity of the Planning process as a whole depends on the Council's readiness to take effective enforcement action when it is appropriate. Fair and effective planning enforcement is therefore important to protect the quality of life for the people who live and work in Sandwell and the quality of the Borough's built and natural environment.
- 1.3 Sandwell Council acknowledges the Government's view that the rapid initiation of enforcement action is vital to prevent a breach of planning control from becoming well established and therefore more difficult to remedy. However, Local Planning Authorities have a general discretion in taking enforcement action when they regard it as expedient and in the public interest to do so. Action should also be commensurate with the breach of planning control it relates to. The adopted National Planning Policy Framework 2023 states:

Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local

enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.

1.4 In order to provide an appropriate service to the public, it is important for the Council to give its customers guidance through this document on how the enforcement system operates in practice. The benefit of this will be to:

- explain the overall standard of service customers can expect.
- outline how complaints can be made and how investigations are undertaken.
- define priorities so that resources can be put to best use.
- set timescales so that service delivery can be measured and reviewed.
- provide an indication of possible enforcement remedies.
- ensure compliance with Government legislation and guidance.
- maintain a consistent, fair and transparent approach to planning enforcement in Sandwell.
- provide an annual reporting mechanism to Members in relation to complaints received and enforcement action taken.

2. Government Guidance

The Council's Planning Enforcement function will be undertaken in accordance with current and emerging Government guidance and legislation which includes;

- National Planning Policy Framework 2023
- Town and Country Planning Act 1990 (as amended by the Planning and Compensation Act 1991 and the Planning and Compulsory Purchase Act 2004)
- Town and Country Planning (Control of Advertisements) (England) Regulations 2007
- Planning (Listed Buildings and Conservation Areas) Act 1990
- Enforcing Planning Control: Good Practice Guide for Local Planning Authorities.
- Police and Criminal Evidence Act 1984
- Human Rights Act 1998
- Regulation of Investigatory Powers Act 2000

3. Principles of Good Enforcement

In 2014 the Government produced a document ensuring effective enforcement www.gov.uk/guidance/ensuring-effective-enforcement Sandwell Council has signed up to this and is therefore committed to the following principles:

Standards – draw up and publish clear standards of service and performance the public can expect.

Openness – provide information and advice in plain language; be open about how we set about our work; and discuss general issues with anyone experiencing difficulties.

Helpfulness – provide a courteous and efficient service and encourage the public to seek advice/information from us.

Complaints About Service – provide well publicised, effective and timely complaints procedures that are easily accessible to the public.

Proportionality – ensure any action we require is proportionate to the breach.

Consistency – carry out our duties in a fair, equitable and consistent manner.

4. Overview of Planning Enforcement

- 4.1 Planning enforcement is a technically and legally complex component of the Planning system which means that action is not always as straightforward as it seems. Legislation is often qualified by High Court judgements and appeal decisions made by the Secretary of State for the Ministry of Housing, Communities and Local Government. The Council will operate within the provisions of this legislation and other Government policy and guidance, the main elements of which are outlined in Section 2.
- 4.2 In deciding whether it is expedient to take enforcement action, the Council will also give consideration to the objectives and policies in the Sandwell's adopted development plan where relevant.
- 4.3 Each case will be dealt with on its own merits taking into account the often unique circumstances, along with the level of harm created as well as any history of previous breaches. The Council's resources are not limitless. It is therefore necessary to target available resources to have maximum effect and not necessarily as a response to who is complaining or how vociferously. Action is also not taken simply because development or works have commenced without the necessary approval. Guidance on how cases will be prioritised is given within Section 7.
- 4.4 The assessment of harm does not include private interests, such as loss of value to property, competition, loss of view, trespass or breach of a covenant. In some situations works or developments are done in ignorance, rather than

intentionally, and the person responsible will first be given an opportunity to remedy the situation.

- 4.5 Investigations will be carried out as promptly and efficiently as possible. Section 8 of this document sets down Performance Standards the Council will aim for, the results of which will be published on at least an annual basis. Transparency of our decision-making is essential so that all involved in the enforcement process understand and have confidence in the basis on which the service is provided. The Council's Constitution sets out the appropriate level of decision making available to enable officers to progress cases without reference to Planning Committee
- 4.6 Enforcement Officers must have appropriate knowledge and skills to carry out their duties. Sandwell Council has a programme of Personal Development in place which regularly reviews skills and training requirements in order that officers maintain the necessary level of competence.
- 4.7 All Enforcement Officers are required to follow the Council's protocol for declaration of interests. If that interest is of a personal, financial or any other nature likely to be prejudicial then that officer will take no part in the investigation and will refer the matter and interest to his/her line manager.
- 4.8 When undertaking their duties, Enforcement Officers will have regard to the Council's Equal Opportunity Policy to ensure that investigations are carried out in a consistent and fair manner, free from discrimination on any grounds respecting all nine protected characteristics.

4.9 As part of the enforcement process, Human Rights is also an important consideration that will be taken into account and balanced with any action taken. The relevant elements of the Human Rights Act, 1998, are;

- i) Article 6 – Right to a fair trial
- ii) Article 8 – Right to respect for private and family life;
and
- iii) Article 1 of the First Protocol – Protection of property.

4.10 The Council **will not tolerate** any of its staff being threatened with or subjected to physical or verbal abuse in the course of carrying out their official duties and will take appropriate legal action where necessary.

5. Scope of Planning Enforcement

5.1 Sandwell Council deals with over 1200 applications every year for planning permission, advertisement consent, listed building and conservation area consent, prior approvals for telecommunications equipment and demolitions and to carry out work to protected trees. Over 90% of applications are approved, often with detailed conditions attached or a requirement for additional obligations following the signing of a “Section 106” and/or CIL agreements between the Council and the applicant.

5.2 Conditions attached to permissions frequently require various details to be approved **prior to commencement** of the development and failure to do this is a breach of planning control and can render any subsequent development as unauthorised. Depending upon the nature of any planning obligation, this also applies to any failure to carry out its terms. It is beneficial to all applicants if any failure relating to non-compliance is addressed as soon as possible. However; the Council activity encourages applicant’s and agents to engage with the planning department in reducing the number of pre-commencement conditions in line with guidance contained within the adopted National Planning Policy Framework.

5.3 In assessing the need for enforcement action, the Government advises Councils to bear in mind the fact that it is **not** a criminal offence to carry out development without first obtaining planning permission required for it. However, this does not apply to the following works which **do** carry a criminal liability:

- (i) unauthorised works to a Listed Building.
- (ii) unauthorised advertisements.

- (iii) unauthorised demolition of an unlisted building in a Conservation Area.
- (iv) unauthorised works to “protected” trees.
- (v) unauthorised works to trees in Conservation Areas.

5.9 Although development unfortunately occurs without the necessary permission, sometimes in all innocence, this is still a breach of planning control. In circumstances where the breach is considered not to cause harm, a retrospective application to put the matter right can be requested. The Council expects such an application to be submitted within **4 weeks** of this request.

5.10 It should be noted that individuals may be able to make minor changes and extensions to their home under “permitted development rights” or for some businesses to change their use without needing to apply for planning permission. These rights are granted by the Government under the provisions of the Town and Country Planning (General Permitted Development) Order (2015) (As Amended), and in such instances planning enforcement action **cannot** be taken.

5.11 The Planning Enforcement Team does **not** investigate the following:

- (i) neighbour disputes.
- (ii) land boundary or ownership disputes.
- (iii) use of or development on highways, pavements or grass verges.
- (iv) private tree disputes
- (v) dangerous structures.
- (vi) fly tipping.

Such matters are covered by other legislation and is provided on Sandwell's [web site](#). We can advise people where they can seek resolution but where the matter is a Council responsibility, we can pass concerns on to the relevant department.

- 5.12 There are time limits as to when enforcement action can be taken. Action has to be instigated within **4 years** in relation to the erection of buildings or the change of use of a building for use as a single dwellinghouse. In the case of any other breach of planning control, including breach of condition, action must be taken within **10 years**. There is, however, no time limit for the enforcement of breaches in relation to Listed Building legislation.

6. Making an Enforcement Complaint

- 6.1 To assist the Council and help avoid misunderstanding, all complaints about possible breaches of planning control should be made in writing to the Planning Department or by email via the Council's website, the details of which are listed in Section 12. Complaints will not be dealt with by telephone.
- 6.2 The Council will require as much information as possible in order to carry out its investigations and also to help keep complainants informed of what action it is taking. The Council requires a formal Planning Enforcement form to be filled out that includes the following information;
- (i) your name, address and telephone number.
 - (ii) details of the complaint itself including when the problems started.
 - (iii) the location of the source of the complaint.
 - (iv) the name and address of the alleged contravenor, if known.
 - (v) an explanation of the difficulties that the problem is causing.

The above information is treated as strictly confidential. The alleged contravenor is not told who has made a complaint, although they can make assumptions.

- 6.3 The Council will not deal with anonymous complaints. Complainants that are concerned about possibly revealing their identity, or having difficulties explaining the problems affecting them, may wish to discuss the matter with their local Councillor. Details of who your Ward Councillors are can be obtained from the Council's [web site](#).

7 Prioritising Complaints

- 7.1 Sandwell Council receives around 500 enforcement complaints each year (approximately half are made into formal cases to be investigated further) which all need to be progressed as quickly and efficiently as possible. However, investigations can often be lengthy and complex especially if formal action is required. Given this workload, coupled with limited resources, it is therefore necessary to try and prioritise cases.
- 7.2 Prioritisation of action will be taken on the basis of the following list. This list is for guidance and is not exhaustive:
- (i) Immediate Action
Serious alleged breaches including threat to health and/or safety of the public or irreversible damage to the built or natural environment such as works to a Listed Building, loss of a protected tree or breaches of Hazardous Substances consent.
 - (ii) High Priority
 - A breach which is significantly detrimental to amenity through noise, smell, congestion, visual intrusion etc.
 - A breach which conflicts with planning policy and is unlikely to be granted planning permission.
 - Contravention of conditions attached to planning consents where there would be demonstrable harm.
 - Non-compliance with Planning Obligation agreements where the terms of the agreement still serve a useful planning purpose.

(iii) Medium Priority

- Unauthorised works that may affect the setting of a Listed Building or the character of a Conservation Area.
- Unauthorised advertisements in Conservation Areas and Borough Gateway sites or where there are highway safety concerns.
- A breach causing problems which may be resolved through modification or imposition of conditions on a subsequent planning permission.

(iv) Low Priority

- Other unauthorised breaches of a minor nature which do not cause immediate or long term harm including small domestic structures such as sheds or fences.
- Other breaches of planning conditions where there is no immediate harm.
- All other unauthorised advertisements.

7.3 The timing of enforcement action will also depend on:

Time limit for enforcement action to be taken.

- (i) Previous case history.
- (ii) The availability of any witnesses and their willingness to co-operate.
- (iii) Blatant disregard of the law involved in the breach or if it was a genuine misunderstanding.
- (iv) Willingness of the contravenor to put right the breach.
- (v) Likelihood of the offence being repeated.
- (vi) The overall probable public benefit of formal action.
- (vii) Time limits set by the courts and court availability.

8. Performance Indicators

- 8.1 Unlike with the handling of planning applications, there are currently no national performance indicators for dealing with enforcement cases. However, having considered some of the standards set by other Councils, together with an assessment of how Sandwell has been performing over recent years, delivery standards to the key stages of the enforcement process have been set in this policy. They may, however, need to be re-viewed in the light of experience, workload and available staff resources:
- 8.2 Acknowledging all complaints within **10 working days** of receipt.
- 8.3 Making the first site visit to investigate a **High Priority** complaint within **5 working days** of receipt and **15 working days** with all other **Medium and Lower Priority** cases, unless we can identify whether a breach of planning has occurred from the submitted evidence.
- 8.4 Within **12 weeks** of receipt, 80% of enforcement complaints will conclude what action needs to be taken to resolve the breach.
- 8.5 Notifying complainants of progress every **4 weeks**. Unfortunately for complex cases, there may be no progress to report.
- 8.6 Customers are always welcome at any point in this process to contact the Investigating Officer by telephone for an update. However, any change in the original complaint will be treated as a new case and the time scales for investigation will restart.

- 8.7 Notifying all parties related to a complaint of the Council's decision (whether or not to enforce) within **10 working days** of making the decision. This will also include providing a reason for the Council's decision.

9. Dealing with Complaints

- 9.1 As enforcement can be a lengthy and legally complex process, it is not possible to give an average time for dealing with a complaint. The time taken for a satisfactory resolution can vary considerably from one complaint to another. However, the basic process that is followed remains the same in each case.
- 9.2 When a complaint is received it will be registered, an electronic file created and then it is allocated to an officer to be investigated. All enforcement complaints will be acknowledged within 10 working days of receipt and the complainant will be given the name and contact details of the Investigating Officer.
- 9.3 The Investigating Officer will firstly have to establish the facts surrounding the complaint. This will initially mean carrying out a number of desk-based checks having regard, for example, to appropriate legislation, site history, any relevant correspondence and ownership/title of the property. Where appropriate, the officer will also liaise with other Council departments such as Licensing, Housing, Environmental Health and external agencies such as the Police and Environment Agency.
- 9.4 The site of the complaint will be visited within 15 working days or sooner depending on the nature of the complaint. **In the most serious breach cases, officers will endeavour to visit the site as soon as reasonably possible and no later than 5 working days.** Site visits will usually be unannounced and photographs are usually taken. Officers also have **Powers of Entry** in order to gain

information, though in the case of a dwellinghouse a notice period of 24 hours is required before entry can be gained.

- 9.5 If the complaint involves the use of a property for instance, then officers may have to monitor it for a few weeks to make their assessment. We may also ask for your help to collect evidence in such circumstances. An opportunity to share relevant information can be shared with the team via the enforcement enquiry form and/or witness log sheets.
- 9.6 The owner and/or occupier may be interviewed to obtain further information about the alleged breach. Occasionally, in serious cases it may be necessary to conduct an interview under caution in accordance with the provisions of the Police and Criminal Evidence Act 1984.
- 9.7 Following the conclusion of investigations, it may be decided not to take any further action because the breach is minor or because there is no breach of planning control. In these circumstances the case will be passed to a senior professional member of staff (who has not been involved directly in the investigation) for review and closure. All persons who have been involved in the complaint will be notified in writing of the decision, and the reason for it, within 10 working days of the closure decision being made. Any further or new allegations will be treated as new complaints and further investigations will be carried out.
- 9.8 However, if a breach of planning control has been found, the Council will, whenever possible, talk to the person responsible in an effort to resolve the matter within a reasonable and appropriate timescale. The Investigating Officer will explain, and then confirm in writing, what the person has done wrong and specify the steps needed for

them to put it right. This clearly will vary between breaches but may include inviting a retrospective planning application. In these cases, such applications would be subject to the Council's normal publicity and consultation procedures with adjoining occupiers. The Council will also consult the complainant so that the complainant has the opportunity to comment on the application. When your local Councillor has made the complaint on your behalf we will inform them that an application has been submitted.

10. Enforcement Action

10.1 The Council will look to progress formal enforcement action if the negotiated approach fails or is not appropriate. Officers have delegated powers to instigate a range of actions which will be undertaken in consultation with the Council's Legal Services department.

10.2 The first step is usually to establish the facts surrounding the case such as ownership of the premises or land, other people who may have an interest and the alleged breach itself. This is achieved through the serving of a statutory notice (a requisition for information). Where obtaining information and opening dialogue with the owner could be useful to the process, the Council could also serve a Planning Contravention Notice. Failure to return notices by the set date and/or giving false information are **criminal offences** and in such circumstances the Council will consider taking further legal action.

10.3 The Council then has a range of enforcement options at its disposal depending on the individual circumstances of the case and the degree of harm being created. Once a decision to take enforcement action has been made all parties will be notified of the decision within 10 working days.

10.4 A summary of the main possible actions are as follows but the scope of individual enforcement powers are covered in more detail in Appendix A:

(i) Enforcement Notice

This is the most common form of action taken. The notice will specify what the breach of planning control is and the steps needed to put matters right. It also

specifies a time before it comes into effect during which time an appeal can be made.

(ii) Stop Notice

In exceptional circumstances where a breach continues to cause serious harm to either amenity, public safety or the environment, the Council may in addition to an enforcement notice consider serving a Stop Notice.

(iii) Temporary Stop Notice

This notice can be served without an accompanying Enforcement Notice and can halt activity for a maximum period of 28 days where there is serious harm that needs to be stopped immediately. Often in these circumstances an Enforcement Notice would be served immediately at the expiration of the 28 days.

(iv) Breach of Condition Notice

This can be used when certain conditions placed on a planning permission have not been complied with, however in some circumstances it is still more expedient to serve an Enforcement Notice.

(v) Section 215 Notice

This notice can be used when the condition of land or a building is adversely affecting the amenity of an area.

(vi) Prosecution

This action can be taken for unauthorised works to protected trees or listed buildings or where adverts are displayed without consent. In addition this action can be used when the actions set out within an Enforcement or s215 Notice have not been complied with.

- 10.5 An appeal can be made against an enforcement notice which is handled by the Planning Inspectorate. If an appeal is lodged the notice is held in abeyance, usually for many months, until the appeal is determined. If the appeal is unsuccessful or no appeal is made, the notice takes effect. Failure to comply with the requirements of the notice within the specified period is a criminal offence.
- 10.5 The Council will use its discretion in deciding whether to prosecute. Prosecution will normally only be pursued where it is considered expedient and when it is judged that the actual harm is significant or irreparable. When such action is taken, timescales will be longer as the process is lead by the judicial system and securing hearing dates with the Courts.

11. Comments and Review

- 11.1 Sandwell Council will strive to provide the highest possible quality of service delivered in a fair and consistent manner. Customer suggestions are therefore welcome as to how we can make improvements to the planning enforcement process. Alternatively, problems may arise from time to time and any difficulties concerning the enforcement service should be brought in the first instance to the attention of the Development Planning Manager, based at Council House, Freeth Street, Oldbury.
- 11.2 If you are still dissatisfied with the way your problem has been addressed, you can make further formal representations to the Council's [Customer Services](#) Department or the [Local Government Ombudsman](#).
- 11.3 In order to assist in the improvement of service delivery, a review of the following elements will be undertaken and reported to the Council's Planning Committee on at least an annual basis;
- (i) number of enforcement cases received.
 - (ii) number resulting in the issue of a formal notice.
 - (iii) type of notice issued.
 - (iv) number of appeals made to notices and outcome.
 - (v) number of prosecutions initiated.
 - (vi) achievement of performance standards.
 - (vii) benchmarking the above with neighbouring authorities where information is available.
- 11.4 Such a review will enable this policy to be refined as necessary and procedures updated in light of changing workload demands, staffing levels and legislative requirements. Government guidance stresses that all Local

Planning Authorities should carry out a review of the effectiveness of their procedural arrangements for planning enforcement and introduce revised arrangements where necessary.

12. Contact Details

You can contact the Planning Enforcement Team in four ways:

E-mail; planning_enforcement@sandwell.gov.uk

Telephone; 0121 569 4054

In writing;

Planning Enforcement Team
Regeneration & Economy,
Sandwell Council House,
PO Box 2374,
Freeth Street,
Oldbury,
B69 3DE.

In person;

Regeneration & Economy,
Sandwell Council House,
PO Box 2374,
Freeth Street,
Oldbury,
B69 3DE.

Appendix A – Powers available to the Local Planning Authority.

This Appendix provides further information of the main powers available to investigate complaints and deal with breaches of planning control. In each individual case the Council must assess which action or combination of actions is best suited to dealing with the particular breach of planning control in order to achieve a satisfactory and cost effective remedy. Any enforcement action should always be commensurate with the breach of control to which it relates.

- a) **Planning Contravention Notice (PCN)** – in most cases this will be the first step in resolving a breach of planning control. It is the main method for gathering information, possibly including a formal meeting, regarding suspected breaches of planning control. The intention of a PCN is also to send a clear warning that further formal action is being considered once the facts of the case have been established.
- b) **Section 330 of the Town and Country Planning Act 1990** – this power is also used to obtain information but usually in cases where the Council has sufficient details about the activities being carried out but requires further information concerning ownership. It involves serving a notice on occupiers and/or persons with other interests in the premises or land.

For both these cases it is an offence to fail to comply with the requirements of the notice within the period set for its return or to make false or misleading statements in reply. Conviction currently carries a maximum fine not exceeding £1,000.

- c) A **Section 16 of the Town and Country Planning Act 1990** notice may be issued in its place where there is little detail about the breach or who has committed the offence. The maximum fine for this is significantly increased and is often used as the main tool for investigators.
- d) **Enforcement Notice** – this is the most common form of notice used to deal with a breach of planning control. It is served when

the Council is satisfied that there has been a breach of planning control and that it is expedient to take action. An Enforcement Notice will specify the breach, the steps that must be taken to remedy the breach, and a specified time period for compliance. The recipient(s) of such a notice have a right of appeal to the Secretary of State. An appeal suspends the effect of the notice until it is determined. If an appeal is lodged all complainants and neighbours will be advised of the appeal and how to make representations to the Planning Inspectorate. Failure to comply with a notice that has taken effect is a criminal offence which on conviction in the Magistrates Court can lead to a maximum fine of £20,000.

- e) **Breach of Condition Notice (BCN)** – used as an alternative to an Enforcement Notice but only in circumstances where there has been a failure to comply with certain conditions placed on planning permissions. (It does not apply to breaches of control relating to listed buildings, advertisements or protected trees.) Again, the BCN would specify the breach and the steps required to secure compliance. However, a minimum period of 28 days has to be given for compliance though there is no right of appeal. Failure to comply with the notice is an offence with a maximum fine currently not exceeding £1,000 on conviction.
- f) **Stop Notice** – used following the serving of an Enforcement Notice when the effects of continued unauthorised activity are seriously detrimental to amenity, public safety or causing irreversible harm to the environment and immediate action is justified. This notice can be used to ensure that the activity does not continue when an appeal is lodged against the Enforcement Notice. There are possible compensation liabilities if the Enforcement Notice is quashed. Failure to comply with a Stop Notice is an offence.
- g) **Temporary Stop Notice** –be served without an accompanying Enforcement Notice. However, they can only seek a cessation to activity for a period of 28 days and so will only be applied where the breach needs to be dealt with immediately and the Council needs time to consider whether an enforcement notice needs to be issued.

- h) **Injunction** – in exceptional cases where there is a necessary and serious need to restrain an actual breach of planning control, the Council can apply to the County Court or High Court for an injunction. An injunction can be sought whether or not other enforcement action(s) have been taken.
- i) **Default Powers** – the Council may enter land and carry out the required works to secure compliance when an Enforcement Notice is in effect but has not been complied with. There is no requirement to give notice to either the owner or occupier of the land and anyone who willfully obstructs the exercise of these powers is guilty of a criminal offence. The costs of the works are then charged to the landowner.
- j) **Section 215 Notice** – under this section of the Town and Country Planning Act 1990, the Council has the power to issue a notice on the owner or occupier of land if it appears that the visual amenity of the area is adversely affected by the condition it is being kept in. Such a notice may deal with buildings as well as land and would specify the steps required to remedy the existing condition and within what time scale. The recipient of a 215 Notice can appeal against it in the Magistrate’s Court. Failure to comply with the notice is an offence with a maximum fine currently not exceeding £1,000 on conviction. The Council may also use default powers in such situations.
- k) **Listed Building Control** – under the Planning (Listed Buildings and Conservation Areas) Act 1990, it is an offence to demolish a listed building, or carry out works/alterations which affect its character, without the Council’s prior consent. It is also an offence to demolish unlisted buildings in Conservation Areas (with a cubic content in excess of 115cubic metres – measured externally) without a prior consent. A Listed Building Enforcement Notice may be issued or prosecution action instigated depending on the circumstances of the case.
- l) **Tree Preservation Orders** – it is a criminal offence to cut down, uproot or willfully destroy a tree protected by a Tree Preservation Order or in a Conservation Area. Consent from the Council also has to be obtained for any remedial works to a protected tree

such as lopping or pruning. If any of these are carried out, the Council can consider either prosecution action or the serving of a replanting enforcement notice.

- m) **Advertisements** – it is an offence for any person to display an advertisement in contravention of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Council will consider whether or not to prosecute in either the interests of amenity or public safety. In situations where an advertisement is displayed with deemed consent, the Council can still require its removal by issuing a **Discontinuance Notice**. Such a notice, against which there is a right of appeal, can only be issued to remedy a substantial injury to local amenity or if there is a danger to members of the public.

- n) **Contravention of Hazardous Substances Consent** – it is a criminal offence under the Planning (Hazardous Substances) Act 1990 to exceed controlled quantities of hazardous substances or to fail to comply with a condition attached to a consent. Prosecution is through the Magistrates Court.

