

Legal Enforcement Powers of the Council

Legislation :

- The [Local Government Act 1972 \(LGA 1972\)](#) gives local authorities power to prosecute criminal offences investigated by their own departments. [Local Government Act 1972, s 222](#)
- These departments include:
 - trading standards
 - health and safety
 - environmental health/food safety and hygiene
 - education
 - housing and council tax benefit
 - breaches of Anti-Social Behaviour legislation.

S.222 of the Local Government Act 1972

- provides that a local authority can prosecute or defend criminal proceedings where it considers it 'expedient for the promotion or protection of the interests of the inhabitants of their area'.
- It is for the local authority to determine what is in the interests of its residents and not the courts.

Enforcement powers

- Which enforcement powers are available to local authority officers when investigating potential breaches depends on which legislation may have been breached :-

Criminal Prosecutions

- Where inspectors are investigating a workplace accident, the powers of investigation are contained within the Health and Safety at Work etc Act 1974.
- Where inspectors are investigating a food hygiene issue, the powers contained in the Food Hygiene (England) Regulations 2013, SI 2013/2996
- The powers available to Trading Standards teams to investigate breaches of consumer protection legislation are in the main found in a generic set of powers contained within the Consumer Rights Act 2015, Schedule 5 and other associated legislation .

Enforcement notices / Criminal prosecutions / financial penalties

- Pollution control – Air Quality directive 2008
- Environmental enforcement –(littering/ dog fouling/ dog control/fly tipping) – Environmental Protection Act 1990 and Anti –Social Behaviour Crime and Policing Act 2014
- Domestic Environmental Health – statutory nuisances – verminous premises etc – Environmental Protection Act 1990, Prevention of Damage by Pests Act 1949

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Financial penalties/ criminal prosecutions

- Parking - The Local Authorities' Traffic Orders (Procedure) (England and Wales) Regulations 1996 (Traffic regulation orders) – parking tickets – S.75 Traffic Management Act 2004.
- Highways- (obstructions etc) – Highways Act 1980
- Licensing (Alcohol/ Entertainment/ Gambling / Animal welfare/tattooing etc) Licensing Act 2003/ Local Authority Byelaws
- Taxi Licensing (inspections of vehicles / granting licences/ appeals) Town and Police Clauses Act 1847/ Local Government Miscellaneous Provisions Act 1976.

Criminal Prosecutions

- Enforcement in relation to Wildlife and Countryside-(disturbance to special habitats/ endangered species) – Wildlife and Countryside Act 1981/ Conservation of Habitats and Species Regulations 2010
- Enforcement in relation to coastal areas (permissions for activities on beaches/ bathing water controls) – Marine and Coastal Access Act 2009
- Enforcement of local authority byelaws relating to Seashore/pleasuregrounds and nature reserves – Various Byelaws kept by the Legal department – very low penalty

Financial penalties or magistrates court prosecution / enforcement notices

- Enforcement of legislation regarding watercourses- Land Drainage Act 1991
- Enforcement of legislation regarding maintenance and excavation of seashore- Coast Protection Act 1949-
- Planning Enforcement – Town and Country Planning Act 1990
- Building Control – Building Act 1984 –
- Housing Standards (defective premises / landlord licensing/ Hmo's)
Housing Act 2004 –
- Education – ensuring regular attendance – Education Act 1996 –

Anti- Social Behaviour Crime and Policing Act 2014

- -The parts of the [Anti-social Behaviour, Crime and Policing Act 2014](#) that deal primarily with anti-social behaviour are:
- Part 1: civil injunctions.
- Part 2: criminal behaviour orders.
- Part 3: dispersal powers.
- Part 4: community protection.
- Part 5: recovering possession of houses on anti-social behaviour grounds.
- Part 6: local involvement and accountability.

Government guidance for frontline professionals _ (open online)

- https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/679712/2017-12-13_ASB_Revised_Statutory_Guidance_V2.1_Final.pdf

- Anti social behaviour remedies can be used across the board by all departments only have to demonstrate that the legal tests have been satisfied-
- We currently use the legislation in order to stop ticket touting/ enabled us to make Public Spaces Protection Orders / deal with Noisy neighbours and is the most useful tool available .

- Debt recovery enforcement- involves pursuing debtors in the County and Magistrates court – in order to recover Sundry debts and Council Tax debts respectively
- Empty Homes strategy– just been published – call in was last week
- Also- placing statutory charges on property where works in default have been carried out enables the Council to obtain an order for sale if not paid , and then assists in getting empty properties back into use- good for revenues too, not just impact on communities .

- Local Authorities , as you have seen have numerous tools of enforcement that we regularly utilise in order to ensure that we are complying with various duties and also ensuring that our communities are safe and habitable and a pleasant place for our residents to live.
- The legal department take at least 15 prosecutions every other week in relation to school attendance and littering , to the magistrates court- I personally have current food hygiene and building control and planning and health and safety prosecutions about to be commenced.
- I have conduct of at least one taxi appeal a month in the magistrates court and corporately , there a numerous enforcement notices and community protection notices issued by officers in various departments .