

Environmental Protection Policy

Housing and Environmental Enforcement

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(Includes, Noise, Smoke, Odour, Accumulation of Waste)
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1.0 INTRODUCTION

- 1.1 One of West Lindsey District Council's stated aims is to work to increase the quality of life of the district and its residents.

The Council are committed to protecting the environment, and the health of its residents, from the effects of pollution. This policy outlines how we managed our legal duties, for air quality, environmental permitting, public health drainage, accumulations of waste on land, pests, and contaminated land. It also details, how we investigate complaints of statutory nuisances (for example, noise, bonfire smoke, odour and so on) by following the same general procedures and principles.

2.0 AIMS AND OBJECTIVES

- 2.1 The overall aims of the Policy are to:

- Control and reduce pollution of the environment to acceptable levels to protect public health and to avoid unreasonable disturbance to those living and/or working in the District;
- Survey the District to control problems arising from vermin and other public health pests.

- 2.2 The objective of this document is to detail the decision framework which the Council will apply in deciding what, if any, of its enforcement powers to exercise in enforcing the provisions of the Acts.

- 2.3 The Council will have regard to the Human Rights Act, Article 8 and the Regulation of Investigatory Powers Act 2010 (as amended) (RIPA), to ensure that any monitoring or surveillance work, in the investigation of complaints, should not compromise an individual's right to "privacy, a family life and correspondence". In any situation where it is thought that "directed" or "intrusive" surveillance is required to investigate a complaint, then authorisation will be applied for, from one of West Lindsey District Council's authorised Officers.

3.0 STATUTORY NUISANCE (NOISE, SMOKE, ODOUR, ACCUMULATION OF WASTE ETC.)

- 3.1 Nuisance, in terms of the Environmental Protection Act 1990, can be defined as:

'An unreasonable and significant emission of noise that causes significant and unreasonable interference with the use and enjoyment of your premises'

For a noise to be considered a statutory noise nuisance as defined by the Environmental Protection Act 1990, it has to materially interfere with the

average person's use of, or enjoyment of, a premises or be prejudicial to health. It is much more than just being able to hear a noise, or something that is annoying or irritating.

- 3.2 In relation to the investigation and control of statutory nuisances, the Council will seek to achieve this aim partly by enforcement of its powers under the provisions of Part III of the Environmental Protection Act 1990 ("the Act").
- 3.3 The Environmental Protection Act 1990 (as amended by the Noise and Statutory Nuisance Act 1993 and the Noise Act 1996 and the Clean Neighbourhoods and Environment Act 2005) gives us the power to investigate complaints of a nuisance, and to take action if we are satisfied that there is a statutory nuisance.
- 3.4 Other legislation used in relation to noise, are Codes of Practice under the procedure in section 71 of the Control of Pollution Act 1974, these provide guidance on minimising noise from ice-cream chimes, model aircraft, and audible intruder alarms.
- 3.5 If the complaint refers to issues of anti-social behaviour, i.e., shouting, general abuse, violence, threats to individuals or property, damage to property, then, as these matters cannot be effectively addressed using the powers of the nuisance law, the complaint will be referred to the Council's Anti-Social Behaviour Team. The Council are unable to deal with general living noise or cases where there is poor insulation and the behaviour is reasonable.
- 3.6 Where there are complaints that contain both statutory nuisance and other regulatory issues (i.e. Anti – Social Behaviour) the Council will use the relevant powers available to deal with the specific complaint. This may mean that multiple powers and multiple officers are used across single cases in order to ensure that the overall complaint is resolved. For example, if an ASB case includes a noise complaint, the Council will investigate the noise and the ASB as separate cases in line with its statutory obligations. Where the complaints involve different agencies, it will be made clear to the complainant and any other parties involved, which agency is responsible for which aspects.

Where possible the Council will ensure that there is a lead officer for the overall case to ensure that there is a coordinated response to the customer. Information in relation to the case or cases will be shared across the relevant agencies in order to ensure that each party is aware of the current position.

- 3.7 Any complaints of noise from premises belonging to a Registered Social Landlord will be referred to them in order to determine the most appropriate course of action. In most cases the Registered Social Landlord will seek to resolve the matter using its own powers. However, the Council, where appropriate will commence an investigation if this is necessary. If any complaints are received for premises that fall within any of the Council's other legislative or regulatory schemes they may be referred into these to be addressee.

- 3.8 A complaint to the Council about a nuisance problem can be made by completing the online form, by phone, email, or letter. Complaints are acknowledged within 24 hours and we aim to commence work on a complaint within four working days. All complaints will be recorded and a log will be maintained of actions taken and decisions made. Information will be retained in accordance with the Council's documents and records retention policy.
- 3.9 We aim to provide an efficient and fair service - our investigation procedure can typically be set out in a series of set stages, as outlined below, although each case is different and may require a tailored approach:-
- Stage 1 Letter sent out to both parties, advising of complaint and seeking further information. Often this approach resolves this issue, but if complaints continue should the problem continue, to Stage 2. Monitoring sheets are sent as required.
- Stage 2 If monitoring sheets are returned or a nuisance witnessed and this demonstrates possible evidence of nuisance, further letters are sent out advising formal investigation which will include monitoring to establish nuisance.
- Stage 3 If a nuisance is witnessed, formal action can be taken by through service of an Abatement Notice.
- 3.10 In the initial stages of a case we will seek to protect the identity of a complainant or witness from being revealed to the subject of the complaint. However, depending on the nature of the complaint, this may not be practicable as the source of it may be obvious, or the subject may reasonably assume where it has come from. If a case becomes subject to formal enforcement action, the identity of complainants may need to be disclosed.
- 3.11 Before action can be taken, an Officer has to establish that the nuisance complained of constitutes a statutory nuisance. This means that they have to prove that the nuisance is causing an unreasonable interference with someone's use or comfort of their property. Establishing 'nuisance' can depend upon the frequency and duration of the offending noise within the character of the area.
- 3.12 Monitoring will be carried out using all reasonable resources as defined in the Act, this will usually involve 3 visits in an attempt to witness nuisance. Monitoring visits will be at times identified as being a problem, i.e., planned, ad-hoc, or in certain circumstances. Where a problem is sporadic in nature, we will endeavour to provide a "ring when happening service" based on the resources we have available.
- 3.13 The Council does not operate a 24/7 call out service, as such, complaints which happen outside office hours are most likely to be followed up the next working day and subject to officer availability.

- 3.14 If, an Authorised Officer is satisfied that a statutory nuisance as defined in Section 79 of the Act, either exists or is likely to exist then they shall serve an Abatement Notice, using the powers of Section 80 of the Act, on the person by whose act, default or sufferance the nuisance is caused or permitted.
- 3.15 The Council can also deal with complaints relating to statutory nuisance by;
- Utilising Section 16 of the Local Government (Miscellaneous Provisions) Act 1976
 - Determine that no further action is necessary
 - Establishing if a business has a “Best Practicable Means” defence
 - Utilising alternative legislation such as; The Control of Pollution Act 1974, Section 60; Community Protection Notice under the Anti-Social Behaviour, Crime and Policing Act 2014 or The Noise and Statutory Nuisance Act 1993 for example.
- 3.16 The issuing of a Community Protection Warning (CPW) at the start of a case, providing the threshold has been reached can be very useful in preventing further instances of nuisance, thus alleviating suffering for neighbours. To follow the statutory nuisance procedure can be long and drawn out, if the threshold for a CPN is reached it can defer behaviour. If a nuisance persists and following a thorough investigation that a statutory nuisance exists, primary legislation should be used and an Abatement Notice issued.

4.0 Smoke Control

- 4.1 Smoke Control Areas was created under the Clean Air Act 1993 and gave local authorities powers to control emissions of dark smoke, grit, dust and fumes from industrial premises and furnaces and to declare "Smoke Control Areas" in which emissions of smoke from domestic properties are banned.
- 4.2 The emission of dark smoke from bonfires burning at industrial or trade premises is prohibited under The Clean Air Act 1993, appropriate action will be taken as outline in the Corporate Enforcement Policy
- 4.3 Cable and/or insulation burning with a view to recovering the metal core(s) is dealt with section 33 of the Clean Air Act 1993 in these cases appropriate action will be taken as outlined in the Corporate Enforcement Policy.
- 4.4 A ‘commercial bonfire’ is a term we use to describe a bonfire taking place on the site of a commercial premises or the burning of trade waste. Under sections 33 and 34 of The Environmental Protection Act 1990 all businesses have a duty of care to ensure that their waste is disposed of correctly and must be collected by registered waste carriers. It is also an offence to store or dispose of waste (including burning) trade waste without an Environmental Permit or registered exemption or in a manner likely to cause pollution of the environment or harm to human health. Complaints of burning trade and industrial waste will be referred to the Environment Agency.

5.0 AIR QUALITY

- 5.1 The Government, through the Environment Act 1995 (Part IV) has placed a duty on local authorities to periodically review and assess the air quality within their areas in line with the objectives contained in the National Air Quality Strategy. The law also gives new powers for action, enabling local authorities to declare Air Quality Management Areas to control emissions to so that air quality objectives can be complied with, within the time table set out in the Strategy.
- 5.2 West Lindsey District Council has carried out reviews and assessments of air quality, including Stage 1 and Stage 2 reports which concluded that it was not necessary to declare any Air Quality Management Areas.
- 5.3 The Updating, and Screening Assessment was completed in October 2003 which provided an update on air quality issues within West Lindsey District Council's area. To-date the Updating and Screening Assessment has concluded that no detailed assessment is required within the District.
- 5.4 A continuous monitoring station has been installed at a background site at Gainsborough Cemetery programmed to monitor emissions from the power stations in the Trent Valley. This is currently monitoring real-time concentrations of Nitrogen Dioxide (NO₂) and Sulphur Dioxide (SO₂).
- 5.5 NO₂ diffusion tube sites were sited at locations to provide the following:
- a triplicate co-location study with a continuous analyser to provide a local bias adjustment factor for diffusion tubes
 - baseline data at 3 proposed large-scale developments likely to impact on air quality
 - confirmation of compliance with the NO₂ annual mean objective at the busy Junction
- 5.6 There are currently no designated Air Quality Management Areas within the District and therefore an Air Quality Action Plan is not required. The air quality across West Lindsey is considered to be good, and as such there are no specific measures related to the control and mitigation of sources of local air pollution currently in place.
- 5.7 West Lindsey will continue to monitor within the NO₂ diffusion tube network and assess the results along with those from the automatic monitoring station at Gainsborough.
- 5.8 The adopted Central Lincolnshire Local Plan contains objectives and policies designed to minimise the impact upon local air quality from new developments.
- 5.9 Bureau Veritas has been commissioned by West Lindsey District Council to undertake Annual Progress Reports which are submitted to DEFRA annually.

6.0 ENVIRONMENTAL PERMITTING

- 6.1 The Authority will seek out, by all reasonable means, businesses operating Prescribed Processes without the required Environment Permit under Regulation 12 and Schedule 5 of the Environmental Permitting (England and Wales) Regulations 2016. Further information may be requested prior to the determination of the application by the Authority serving a notice.
- 6.2 Where a company is suspected of operating, whether knowingly or not, a Process which requires Permitting, the Authority will make that company aware of the fact, request relevant information by formal notice and, dependent on the information received, write to the company and invite them to make an application, within 14 days or such other longer time as is agreed.
- 6.3 The company will be given information and advice as to the legal requirements, technical guidance, the potential effects of emissions on the environment and the need to adopt BAT.
- 6.4 The Authority will only determine Duly Made applications that satisfy the formal requirements, and which are supported by sufficient additional information as may be requested. The decision must be made within 10 working days. No application for an Environmental Permit will be considered without the payment in advance of the appropriate fee. Any application received without the appropriate fee (set annually by DEFRA) will be deemed as not being duly made and the applicant will be advised accordingly
- 6.5 All applicants approaching, or approached by, the Authority will be given advice and guidance on making an application, together with the opportunity to discuss a draft application prior to submission. In the case of an existing process each application will be followed by a formal site inspection to view the whole process.
- 6.6 The Authority will determine all applications within the determination period laid down by the Secretary of State. The determination for 'New' processes is 4 months. If either party requires an extension to the determination period, this can be done by agreement in writing.
- 6.7 The Authority will issue Environmental Permits with conditions that are clear, concise and enforceable. All Environmental Permits will be initially issued in draft form and the operators will be given 21 days to query the suitability or meaning of the conditions. The Authority will respond to operators' concerns on draft conditions within 14 days, and will make every effort to resolve those concerns, including by means of consultation with DEFRA, LAU and other relevant bodies.
- 6.8 The conditions will be drafted taking full account of the Secretary of State's Process Guidance Notes (PG), BREF, Sector Guidance Notes (SG) most aptly fitting the process and the way it is operated. Where a process needs to be permitted by virtue of the definitions given under the Regulations, but no appropriate guidance note exists, discussions will be held with the operator as

to the most appropriate note(s) to use with, where necessary, advice from the LAU. Environmental Permits will be accompanied by clear guidance on the operator's right of appeal to the Secretary of State. Environmental Permits conditions will make operators aware of what actions they are required to carry out, either with immediate effect or at some future date. Conditions may either come immediately into force or may require the operator to undertake or commence specific actions at some time in the future.

- 6.9 Where a company is operating a Permitted Process and, in doing so, is causing justifiable complaints from neighbours, the operator will be required to upgrade to the full BAT standard within a shorter timescale than that prescribed within the appropriate Process Guidance Note.
- 6.10 The Authority's inspector will carry out a risk assessment to determine how many routine site visits are required for each particular process and will make regular routine site visits to inspect processes and discuss any matters arising with the operator. Visits will usually be made following prior appointment with the operator, or unannounced inspections as deemed necessary.
- 6.11 The Authority will respond to complaints arising from neighbours of the site, or other concerned parties, relating to the operation of a process. All complaints concerning emissions to the air from a permitted process will be investigated using all reasonable resources to confirm whether there is a genuine cause for complaint and that the source of the emission is, or is likely to be arising from the process site.
- 6.12 Where the Authority is of the opinion, by virtue of a site visit, inspection or complaint, that an unauthorised emission may be arising from a process the operator will be required to investigate, locate and remedy the cause, where appropriate. The Authority will, normally, initially contact the operator verbally, on site or by telephone, of its opinion and require immediate action to be taken to remedy the problem.
- 6.13 The Authority will then consider whether or not there has been any breach of the Environmental Permit conditions, whether the problem has arisen from an unforeseen accident or cause, and whether any variations or additions to the Environmental Permit conditions are required.
- 6.14 If necessary, in light of a real or perceived serious risk to the environment, the Authority's inspector will enter premises at any time and may exercise his powers under the Act. If serious harm to the environment is perceived by the Authority's inspector, the Authority's inspector will enter the site and, if necessary, take appropriate steps to stop all or part of the process pending investigation.
- 6.15 The Authority will request payment in respect of the annual Subsistence Fee by no later than 1st June each year.
- 6.16 The Authority will not consider issuing a variation notice under Regulation 20 in respect of a substantial change to the process unless the appropriate fee has

been paid. Where an operator notifies the Authority of a change to the process, which is considered to be a substantial change, the Authority will notify the operator accordingly and request the requisite fee and advertisement of the proposed change.

- 6.17 The Authority will exercise its powers under Regulation 36 by serving formal Enforcement Notices for serious or continued breach of Environmental Permit conditions or other legal requirements. Enforcement Notices will normally be accompanied by an explanatory letter stating why such action has been taken and will be comprised of a legal notice and detailed schedule. Enforcement Notices will, in accordance with the Regulations, specify what, in the opinion of the Authority constitutes a breach, what is required to rectify the situation and the timescale within which it should be achieved.
- 6.18 The Authority will exercise its powers under Regulation 37 by serving a Suspension Notice on part or all of a process, where the inspector is satisfied that there is an actual or imminent risk of serious pollution of the environment. The use of a Suspension Notice is considered by the Authority to be an emergency measure to prevent serious pollution occurring, or continuing and to promote immediate remedial action by the operator. It need not relate to a breach of permit conditions. A Suspension Notice will take immediate effect and stop the operation of part, or all of the process, until such time as the Authority is satisfied that the risk has been abated. Such notices will normally be served, by hand, on the most senior representative of the operator on site at the time and a copy will be served on the Company Secretary or Director by post.
- 6.19 The Authority's inspector will take such steps as are deemed necessary to ensure immediate effect of the notice by visiting the site and, if necessary, exercising powers under Schedule 3 Para. 2, of the Environmental Protection Act 1990. The operator will be made fully aware, both in the notice and verbally, of the reasons for the notice being served and the steps required to remedy the situation. The operator should note that failure to comply with a Suspension Notice may result in prosecution.
- 6.20 The Authority will exercise its powers under Regulation 22 by serving a notice revoking the Environmental Permit and rendering the continued operation of the process unlawful. Where an operator, after being served with a reminder, fails to pay the annual subsistence fee, the Authority may issue a Revocation Notice to which there is no right of appeal.
- 6.21 The Authority may exercise its powers to prosecute offenders under Regulation 38 where there is a contravention of the legal requirements of the Environmental Permitting (England and Wales) Regulations 2016. The Authority will advise operators on the procedures for making an appeal under Regulation 31 and Schedule 6 of the Environmental Permitting (England and Wales) Regulations 2016. Where an operator is considering an appeal, the Authority would wish to enter into meaningful discussions to endeavour to resolve the matter to mutual satisfaction with, where necessary, advice from the LAU. When the operator wishes to proceed with the appeal the Authority

will give advice on the correct procedure to be adopted. In order to minimise costs, the Authority will normally agree to the appeal being considered by the Secretary of State on the basis of written submissions. However, where an appeal relates to matters of public concern, the Authority may request a public inquiry.

- 6.22 The Authority will use its powers under Part III of the Act in relation to Statutory Noise Nuisances arising from a process but not related to emissions of prescribed substances. The provisions of Part I of the Act do not relate to noise nuisance which, whilst arising from the operation of the process, does not constitute an emission of a prescribed substance. Excessive noise can constitute a Statutory Nuisance and render the operator liable to enforcement action by way of an Abatement Notice. Initially a duly authorised officer of the Authority will make the operator aware of the problem and informally request steps to be taken to remedy the problem by the adoption of Best Practicable Means.
- 6.23 Abatement Notices will be served if informal requests fail to secure an appropriate response, which will specify the action to be taken and the timescale within which it is to be achieved. Failure to comply with the notice will render the operator liable to prosecution under Section 80 of the Act.

7.0 DRAINAGE

- 7.1 The Council's role is to ensure that the people who are legally responsible for remedying a defective drainage system take the appropriate action within a reasonable time period which in turn ensures the protection of public health.
- 7.2 The Statutory Undertakers took over ownership of private sewers and lateral drains that extend beyond individual property boundaries in 2011. Where there are small areas of private sewers that remain, these are generally dealt with by the Water Undertaker. Problems associated with defective public sewers are addressed by the Water Companies who are given legal responsibility as "statutory undertakers", and in effect act as owners of the public systems
- 7.3 Owners and occupiers have responsibility for those pipes within their property boundary which take waste water away from their home. In rural areas where there is no public sewer connection, small individual waste systems are used which are designed to either contain the effluent and require emptying or treat the effluent before discharging into the surrounding land or drainage ditches.
- 7.4 A Cesspit or Cesspool is an example of a contained system that requires periodic emptying. Septic Tanks and Package Treatment Plants are systems that break down the effluent so that it can be discharged into the surrounding land or to a watercourse, provided it meets the quality criteria set by the Environment Agency. In order to prevent pollution from small sewage

discharges, the Environmental Permitting (England and Wales) (Amendment) Regulations 2010, requires some small sewage discharges to be permitted.

7.5 It is the responsibility of the owner or occupier of premises served by these systems to ensure that they work correctly. If the septic tank or cesspool serves several properties, then there is likely to be a shared responsibility.

7.6 Local Authorities are given powers to address public health problems arising from blocked or otherwise defective private drains and private sewers. These powers extend to problems arising from cesspools and septic tanks.

The principal powers that local authorities have to address drainage problems are:

- The power to require the unblocking of private drains or sewers.
- The Public Health Act 1961 Section 17(3).
- The Local Government (Miscellaneous Provisions) Act (LG (MP)) 1976 Section 35.
- The power to require the repair of private drains or sewers
- The Public Health Act 1961 Section 17
- The Building Act (BA) 1984 Section 59

7.7 If there is a problem that requires work to be carried out we will explain people's responsibilities and try to agree a way forward to ensure that the drainage system is restored. If works are required and we cannot get informal agreement from the people who are responsible then we can use the law. A notice will define the nature of the works required and a time period within which the works will be completed.

7.8 If the work is still not carried out then we can seek a legal prosecution or carry out the works in default and claim the costs back, including the extra costs of our involvement.

8.0 CONTAMINATED LAND

8.1 Contaminated Land is defined in section 78A(2) of the Environmental Protection Act 1990 as: 'Land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that - (a) significant harm is being caused or there is a significant possibility of such harm being caused; or (b) pollution of controlled waters is being, or is likely to be, caused.'

8.2 The Council will provide advice and information via the Council's Contaminated Land Inspection Strategy.

8.3 The Council will provide advice and information either verbally or in writing to any person enquiring about contaminated land within the District.

- 8.4 The Council will carry out inspection of land and identification of land that may be contaminated as detailed in the Contaminated Land Inspection Strategy.
- 8.5 This Strategy should be reviewed five years following its formal adoption by the Council in line with current government guidance.
- 8.6 The Environmental Protection team also works closely with other regulatory bodies to ensure that historically contaminated land is cleaned up in such a way that it is safe, suitable for its end use, and does not present a risk to health or the environment as a whole.
- 8.7 In addition, the team works closely with the Planning department in ensuring that new development on potentially contaminated land does not give rise to any significant risks to the future occupiers and users of that site.

9.0 PREVENTION OF DAMAGE BY PESTS ACT 1949

- 9.1 The objective of this document is to detail the decision framework which the Council will apply in deciding what, if any, of its enforcement powers to exercise in enforcing the provisions of the Act. The Council will seek to achieve this aim partly by enforcement of its powers under the provisions of the Prevention of Damage by Pests Act 1949 (“the Act”), in relation to rats and mice.
- 9.2 The Council will seek to carry out its powers and duties under the Act efficiently and effectively, and in a way that is open, clear and helpful to members of the public and to business.
- 9.3 The Authority will normally require the occupier of land (other than agricultural land) to notify the Authority in writing of instances where it is known that substantial numbers of rats and mice are living on or resorting to the land.

Occupiers of land (other than agricultural land) are required under Section 3(1) of the Act to notify the local authority, in writing, if it comes to their attention that there is a substantial infestation of rats or mice on that land. The form of the written notice should be in accordance with the provisions of the Public Health Act 1936. A person is not, however, required to give notice to the local authority where notice has to be given to the appropriate Minister under Part II of the Act (Infestation of Food). Failure to notify the Authority, where required, is an offence under Section 3(4) of the Act for which the Authority may prosecute.
- 9.4 Where the Authority is satisfied following inspection of the land, following a complaint, surveying the District or notification received under Section 3(1) of the Act, that steps are required to destroy either rats or mice, or for keeping the land free from rats or mice, the occupier and/or owner will be informed accordingly.
- 9.5 The person or business will normally be given information and advice, orally or in writing, as to their legal duties and of the remedial action or steps that are required. The Authority may also serve written notice under Section 4(1) of the Act on the occupier and/or owner formally requiring that the necessary action

be taken. The form of any such written notice will be compliant with the provisions of the Public Health Act 1936. Failure to comply with a notice served under Section 4(1) of the Act is an offence under Section 5(2) of the Act.

- 9.6 The Authority will take all reasonable steps to identify the person responsible for the land prior to serving a notice under Section 4(1). Where it is not clear who is responsible for the land, the Authority will serve Requisition for Information Notice(s), using the powers of Section 16 of the Local Government (Miscellaneous Provisions) Act 1976, upon those persons who may have an interest in land on which an infestation arises, before serving a notice under Section 4(1) of the Act.
- 9.7 Before serving a notice under Section 4(1) of the Act, the Authority will normally visit the person responsible for the infestation to discuss the evidence upon which the enforcement action is to be based, the reasons for taking the action, the nature of any works that may be necessary and the time period considered reasonable to abate the nuisance. These discussions may provide a valuable guide to effective enforcement.
- 9.8 The notice will be clearly and concisely worded, may specify works required to remedy the infestation and will specify a time period within which the work has to be undertaken. The notice will have attached, written details of the procedure for an appeal against the notice under the provisions of Section 4(5) of the Act.
- 9.10 If a Notice has not been complied with and an appeal has not been lodged within a period of 21 days after the service of the notice, then the Authority will consider the appropriate action as outlined in the Corporate Enforcement Policy.

10.0 Private Water Supplies

- 10.1 The purpose of this document is to state the Council's policy on the Private Water Supplies Regulations 2016 (as amended) ("the regulations"). This document is relevant to Enforcement Officers, consumers and companies who source their water from a Private Water Supply (PWS) or Private Distribution
- Water Industry Act 1991 (as amended)
 - Private Water Supplies Regulations 2016 (as amended)
 - Health and Safety at Work Act 1974
 - Workplace (Health, Safety and Welfare) Regulations 1992
 - Management of Health and Safety Regulations 1999
- 10.2 The Private Water Supplies Regulations 2016 (as amended) were introduced to implement Council Directive 98/83/EC on the quality of water intended for human consumption. They came into effect in January 2010 and are enforced by the Environmental Protection team. The approach of the regulations is risk assessment based. They place new enforcement provisions, administrative burdens and duties on the Council to carry out risk assessments and monitor

private mains water distribution networks. They allow the council to recover their reasonable expenses that it incurs when fulfilling functions and discharging these duties. The Drinking Water Inspectorate (DWI) has produced a guidance document to assist with the implementation of these Regulations.

10.3 A Private Water Supply is either,

- A private well, spring, borehole or surface water abstraction the water from which is intended for human consumption,
- A 'Private Distribution System' that takes drinking water from the water undertaker (e.g. Anglian Water/Severn Trent) and further distributes it to others for human consumption via, for example, a network of pipes. In other words the water is distributed by a third party. An example of this in West Lindsey includes some caravan parks and private estates.

10.4 The regulations apply to all private supplies of water intended for human consumption, which is defined as,

- all water intended for drinking cooking, food preparation or other domestic purpose (i.e. hygiene practises);
- All water used in any food-production undertaking where the product is intended for human consumption.

10.5 The Council will ensure that all supplies are: -

- Risk assessed in line with the regulations within 5 years of the regulations being introduced and every 5 years subsequently.
- Sampled as indicated by the risk assessments and/or legislative requirements to ensure that the water meets the criteria for wholesomeness in the regulations

10.6 If the supply fails, the Council will implement its responsibilities depending on whether there is a potential danger to human health or the water is unwholesome. These include informing the consumers, investigating the cause and/or serving notices. If a private supply is a potential danger to human health the Council will serve a notice on the relevant person to either prohibit or restrict the use of that supply. Such notices will be supported by appropriate advice. They may be amended by a further notice at any time.

10.7 The Council will revoke the notice as soon as the danger to human health no longer exists. The Council will also be certain that service of the notice will not create a greater danger to human health than not serving the notice. The Council's approach will be graduated and risk-based as outlined in the Corporate Enforcement Policy.

10.8 If a situation arises where a private supply becomes unusable or unavailable and properties are left without a domestic supply, the Council will work with the appropriate water authorities and/or third parties to maintain a supply of drinking water that complies with the regulations. This may include the service of appropriate notices to restore the supply. The Council will seek advice from

Public Health England on the guidance to be given to consumers when a supply fails. This advice will take into account the wider risks posed by restricting use of the supply and agree the criteria for withdrawing the advice.

It is important to note, however, that West Lindsey District Council has no legal duty to provide such a service and as such cannot guarantee that this will always be available.

- 10.9 West Lindsey must monitor the supply of single dwellings supply which are owner occupied on request; however, the owner will be required to meet the cost of this service. Such monitoring visits will require a risk assessment to be carried out to establish the necessary chemical and microbiological testing criteria, and testing for client requested parameters will not be possible in isolation. All sampling will be carried out in accordance with the minimum requirement contained in the Private Water Supply Regulations.
- 10.10 In the event of a failure in respect of single dwellings, the owners of the premises will be informed of the health risks present and what measures should be taken to improve the supply. No enforcement action will be taken in these cases, as it is deemed that the occupier owns the risk.
- 10.11 All known private water supplies that serve Single Private Dwellings will be contacted periodically to maintain accurate records of supply type, numbers served and to identify any changes in use.
- 10.12 The Council will recover reasonable expenses that it incurs when fulfilling functions and discharging its duties under the regulations in accordance with the yearly fees and charges.

11.0 The Sunday Trading Act 1994

- 11.1 The Sunday Trading Act 1994 governs the sale of goods from retail premises, and loading and deliveries on Sundays. This Act restricts certain large shops from opening for sale to a maximum of 6 hours between 10am and 6pm and must clearly display these times inside and outside the shop. A large shop is a retail shop with an internal sales area of at least 280 square metres
- 11.2 This Authority will enforce Sunday trading law and will investigate complaints about businesses that breach that law. Where necessary the appropriate enforcement action will be taken as outlined in the Corporate Enforcement Policy.

12.0 Internal Consultations - Planning

- 12.1 Environmental Protection are consulted by the Planning Department on all planning applications within West Lindsey and will endeavour to respond within 10 working days.

- 12.2 The Environmental Protection Team will consider a number of environmental issues including noise and vibration, before making a recommendation to the Planning Department. Typically this recommendation is that the application be approved; be approved subject to appropriate conditions; or be refused.
- 12.3 The recommendations made by Environmental Protection are not binding on the Planning Authority who will consider all relevant issues concerning a planning application.
- 12.4 The Environmental Protection team will also provide advice to applicants and their consultants prior to the submission of a planning application and/or the preparation of a noise assessment.

13.0 Complaints and Appeal

13.1 Any person who is not satisfied with any aspect of the service they have received or who want to appeal against any decisions that affect them can make a complaint by either

- Emailing the Customer Experience Team
- Calling our Customer Service Team.
- Visiting the Council Offices
- By letter

14.0 Review

14.1 This Policy will be reviewed from time to time as required and amended in line with legislation or regulation changes. Procedures may change to reflect new information and guidance received, whenever it is made available.