

Datganiad Gorfodi / Enforcement Statement

<p>1. Cyflwyniad</p> <p>Mae'r datganiad hwn yn ymwneud â gwaith gorfodi a wneir gan y meysydd canlynol o fewn y Gwasanaethau Rheoleiddio a Thai:</p> <ol style="list-style-type: none">1. Gwarchod y Cyhoedd (e.e. Iechyd yr Amgylchedd, Safonau Masnach, Trwyddedu),2. Diogelwch Cymunedol (e.e. Ymddygiad Gwrthgymdeithasol)3. Tai (e.e. Gorchmynion Rheoli Anheddau Gwag, Gorchmynion Prynu Gorfodol)4. Rheoli Datblygu Cynllunio a Rheoli Adeiladu <p>2. Pwrpas</p> <p>Mae gorfodi priodol yn angenrheidiol er mwyn:</p> <ul style="list-style-type: none">• Cydymffurfio â deddfwriaethau a orfodir gan y gwasanaeth• Ataliaeth, atal niwed a rheoli risg• Gwella diogelwch unigolion, y cyhoedd, cwsmeriaid, yr amgylchedd, busnesau a masnachwyr fel ei gilydd• Gwneud iawn ac atgyweirio pan fo'n bosibl <p>Mae'r gwasanaeth yn cydnabod pwysigrwydd cynnal ac ymgymryd â dull cyson a theg i orfodi, a bydd yn defnyddio pwerau cyfreithiol yn gyson ac yn deg, beth bynnag fo'r amgylchiadau.</p> <p>Ni fydd oed, rhyw, anabledd, iaith, ethnigrwydd, crefydd, barn wleidyddol na chyfeiriadedd rhywiol yr unigolion dan sylw, y dioddefwr neu'r tyst yn dylanwadu ar unrhyw benderfyniad.</p> <p>2. Cyfrifoldebau</p> <p>Bydd swyddogion yn gorfod rhoi sylw i'r datganiad hwn wrth ystyried y camau</p>	<p>1. Introduction</p> <p>This statement covers enforcement work undertaken by the following areas within Regulatory & Housing Services:</p> <ol style="list-style-type: none">1. Public Protection (e.g. Environmental Health, Trading Standards, Licensing)2. Community Safety (e.g. Anti-Social Behaviour)3. Housing (e.g. Empty Dwelling Management Orders, Compulsory Purchase Orders)4. Planning Development management and Building Control. <p>2. Purpose</p> <p>Appropriate enforcement is necessary to ensure:</p> <ul style="list-style-type: none">• compliance with legislation enforced by the service• deterrence, prevention of harm and control of risk• Improvement in protection for individuals, the general public, consumers, the environment, businesses and traders alike• reparation and redress where possible. <p>The service recognises the importance of achieving and maintaining a consistent, balanced and fair approach to enforcement, and will apply legal powers consistently and fairly, whatever the circumstances.</p> <p>Decisions will not be influenced by the age, gender, disability, language, ethnicity, religion, political beliefs or sexual orientation of the subject, victims or witnesses.</p> <p>2. Responsibilities</p> <p>Officers will have regard to this statement when considering the most appropriate</p>
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<p>gorfodi mwyaf priodol i'w cymryd pan fo angen.</p> <p>3. Dull Cydymffurfio a Gorfodi</p> <p>Mae'r polisi hwn yn seiliedig ar yr egwyddorion canlynol:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Cysondeb: sicrhau bod materion tebyg yn cael eu trin mewn modd tebyg <input type="checkbox"/> Tegwch: sicrhau dull teg a chyfartal <input type="checkbox"/> Cymesuredd: sicrhau bod camau gweithredu yn mynd i'r afael â risg wirioneddol neu risg bosibl i iechyd, diogelwch, yr amgylchedd neu ag anfantaes economaidd i'r cyhoedd, cwsmer neu fusnes <input type="checkbox"/> Tryloywder: sicrhau bod unigolion, sefydliadau a busnesau sy'n gorfod cydymffurfio â deddfwriaethau yn deall y camau gorfodi, a bod gwahaniaeth clir rhwng gofynion cyfreithiol a chyngor neu arweiniad o ran yr hyn sy'n ddymunol ond nid yn hanfodol <input type="checkbox"/> Gwrthrychedd: sicrhau nad yw rhyw, tarddiad ethnig, crefydd, barn wleidyddol na thueddiadau rhywiol unrhyw droseddwr, dioddefwr na thyst yn dylanwadu ar unrhyw benderfyniad. Defnyddir dulliau sensitif a rhoddir ystyriaeth briodol i bobl ddiameddiffyn. <p>Bydd y dull gorfodi hefyd yn rhoi sylw priodol i'r egwyddorion gorfodi da a nodir yn y Cod Rheoleiddwyr (Ebrill 2014), fel y'i diwygiwyd, sydd ar gael yn https://www.gov.uk/government/publications/regulators-code, yn benodol:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Dylai rheoleiddwyr ymgymryd â'u gweithgareddau mewn modd sy'n cefnogi'r rheiny y maent yn eu rheoleiddio i gydymffurfio a datblygu; <input type="checkbox"/> Dylai rheoleiddwyr ymgysylltu â'r rheiny y maent yn eu rheoleiddio mewn modd syml a gwrando ar eu safbwyntiau; <input type="checkbox"/> Dylai rheoleiddwyr seilio eu gweithgareddau rheoleiddio ar risg; <input type="checkbox"/> Dylai rheoleiddwyr rannu gwybodaeth am gydymffurfio a risg; <input type="checkbox"/> Dylai rheoleiddwyr sicrhau bod gwybodaeth, canllawiau a chyngor clir ar gael i helpu'r rheiny y maent yn eu 	<p>enforcement action to take in the circumstances of any case.</p> <p>3. Approach to compliance and enforcement</p> <p>This policy is based on following principles:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Consistency: to ensure that similar issues are dealt with in a similar way. <input type="checkbox"/> Fairness: to ensure a fair and even handed approach. <input type="checkbox"/> Proportionality: to ensure that action taken relates to any actual or potential risk to health, safety, the environment, or economic disadvantage to the public, consumers or businesses. <input type="checkbox"/> Transparency: to ensure that enforcement action taken is easily understood by individuals, organisations and businesses having to comply with legislation, and that clear distinctions are made between legal requirements and advice or guidance about what is desirable but not compulsory. <input type="checkbox"/> Objectivity: to ensure that decisions are not influenced by the gender, ethnic origin, religious or political beliefs or sexual preferences of any offender, victim or witnesses. Sensitive and appropriate consideration will be given to vulnerable people. <p>The approach to enforcement will also have appropriate regard to the principles of good enforcement established in the Regulators Code (April 2014), as amended, available at https://www.gov.uk/government/publications/regulators-code, in particular:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Regulators should carry out their activities in a way that supports those they regulate to comply and grow; <input type="checkbox"/> Regulators should provide straightforward ways to engage with those they regulate and hear their views; <input type="checkbox"/> Regulators should base their regulatory activities on risk; <input type="checkbox"/> Regulators should share information about compliance and risk; <input type="checkbox"/> Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply
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<p>rheoleiddio i ymgymryd â'u cyfrifoldebau a chydymffurfio; <input type="checkbox"/> Dylai rheoleiddwyr sicrhau bod y dull a ddefnyddir ganddynt i reoleiddio yn dryloyw.</p> <p>Bydd yn rhaid i swyddogion gydymffurfio â'r ddeddfwriaeth a'r canllawiau perthnasol sy'n ymwneud ag Awdurdod Sylfaenol, ceir rhagor o wybodaeth yn https://www.gov.uk/guidance/local-regulation-primary-authority.</p> <p>5. Ffactorau i'w hystyried wrth benderfynu ar y camau gorfodi mwyaf priodol</p> <p>Ar y cyfan, po fwyaf difrifol yw mater y mwyaf tebygol yw achos llys. Bydd y gwasanaeth hefyd yn defnyddio Rhybuddion Cosb Benodedig pan fo'n briodol, neu yn lle erlyniad. Nod y camau gorfodi amrywiol yw:</p> <ul style="list-style-type: none"> • Newid ymddygiad y troseddwr i sicrhau ei fod yn cydymffurfio yn y dyfodol • Dileu unrhyw elw ariannol neu fudd yn sgil peidio â chydymffurfio • Ymateb yn briodol i droseddwr penodol neu fater rheoleiddio • Bod yn briodol i natur y drosedd a'r niwed a achoswyd • Pan fo'n bosibl, gwneud iawn am unrhyw niwed a achoswyd neu wella diogelwch yn sgil methu cydymffurfio • Atal y drosedd/diffyg cydymffurfio rhag digwydd eto <p>Isod fe gewch enghreifftiau o'r camau gorfodi sydd ar gael a'r ffactorau i'w hystyried wrth benderfynu ar ba gam i'w gymryd. Bydd penderfyniadau yn ystyried y Cod ar gyfer Erlynwyr y Goron (https://www.cps.gov.uk/publications/code-for-crown-prosecutors/) a chanllawiau perthnasol eraill. Bydd y cam gorfodi a ddewisir yn dibynnu ar ffeithiau, graddfa ac amgylchiadau pob achos. Mae Atodiad 1 o'r polisi hwn yn amlinellu'n benodol y meini prawf ar gyfer defnyddio holl</p>	<p><input type="checkbox"/> Regulators should ensure that their approach to their regulatory activities is transparent.</p> <p>Officers will comply with the relevant legislation and guidance relating to Primary Authority, further details being available at https://www.gov.uk/guidance/local-regulation-primary-authority.</p> <p>5. Factors to be considered when deciding which type of enforcement action is most appropriate.</p> <p>In general the more serious the matter, the more likely it is that court proceedings may follow. The service will also use Fixed Penalty Notices where appropriate, or as an alternative to prosecution. Choices of enforcement actions aim to:</p> <ul style="list-style-type: none"> • Change the behaviour of any offender to secure future compliance • Eliminate any financial gain or benefit from non-compliance • Be responsive and appropriate for the particular offender and regulatory issues • Be proportionate to the nature of the offence and the harm caused • Where possible, make reparations for any harm caused or make safe any situation caused by non-compliance; and • Deter future non-compliance <p>Examples of the types of enforcement action available and the factors to have regard to when deciding on which to choose are outlined below. Decisions will take account of the Code for Crown Prosecutors (https://www.cps.gov.uk/publications/code-for-crown-prosecutors/) and other relevant guidance. What action is decided in each particular case will vary depending on individual fact, degree and circumstance. Annex 1 of this policy specifically outlines the criteria for the use of all food safety enforcement options available to authorised officers.</p>
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<p>opsiynau diogelwch bwyd sydd ar gael i swyddogion awdurdodedig.</p> <p>5.1 Camau Gorfodi Anffurfiol</p> <p>Mae'r dewis hwn yn cynnwys cynnig cyngor, cyflwyno rhybuddion ar lafar, mynnu bod unigolyn yn cymryd camau gweithredu ac anfon llythyrau anffurfiol. Er nad yw anwybodaeth o drosedd yn amddiffyniad, wrth benderfynu ar ba gam gorfodi sy'n briodol dylid rhoi sylw i'r canlynol:</p> <ul style="list-style-type: none"> • Y cyngor blaenorol a roddwyd neu'r addysg/deunyddiau cyngor sydd ar gael a gwybodaeth y troseddwr am y drosedd y mae wedi ei chyflawni • Amgylchiadau pan nad yw canlyniadau uniongyrchol yn sgil methu cydymffurfio yn cyflwyno risg sylweddol i iechyd y cyhoedd neu'r amgylchedd • Mân weithgareddau neu wallau nad ydynt yn ddigon difrifol i gymryd camau gorfodi ffurfiol • Hanes o gydymffurfio yn y gorffennol, a/neu barodrwydd i gydymffurfio'n gyflym, gan ddangos y byddai camau gorfodi anffurfiol yn arwain at gydymffurfedd yn y tymor hir <p>5.2 Camau Gorfodi Ffurfiol</p> <p>Er enghraifft, mewn sefyllfaoedd mwy difrifol pan fo camau gorfodi anffurfiol wedi bod yn aneffeithiol neu wedi gorfod cael eu hailadrodd, efallai y bydd yn rhaid cymryd camau gorfodi ffurfiol. Gall hyn gynnwys:</p> <ul style="list-style-type: none"> • Cyflwyno rhybudd cyfreithiol • Diddymu neu adolygu trwydded • Defnyddio pwerau atafaelu • Cytundebau gwirfoddol • Cau eiddo/atal gweithgareddau yn wirfoddol 	<p>5.1 Informal Action</p> <p>This option includes for example the offering of advice, the issuing of verbal warnings and requests for action, and the use of informal letters. Although ignorance of an offence is not a defence, in deciding whether informal action is appropriate, regard may be had for example to the:</p> <ul style="list-style-type: none"> • Level of previous advice given or educational/ advice material available and the expected knowledge of offence being committed by the offender • Circumstances where the immediate consequences of non-compliance with the contravention will not pose a significant risk to public health or the environment • Acts or omissions, which are minor and not serious enough to warrant formal action • Past history of compliance, and/or willingness to comply quickly, demonstrating that it can be reasonably expected that informal action will result in long term compliance. <p>5.2 Formal action</p> <p>For example in more serious situations, where informal action has been ineffective, or there has been a repeated need for informal action, it may be appropriate to take formal action. This may include for example:</p> <ul style="list-style-type: none"> • The service of a legal Notice • Revoking or reviewing a licence • The use of seizure powers • Voluntary agreements • Voluntary premises/ activity closures.
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<p>5.3 Rhybuddion Cosb Benodedig</p> <p>Mae gan nifer o droseddau ddarpariaethau Rhybuddion Cosb Benodedig fel dewis amgen i erlyn. Defnyddir darpariaethau o'r fath yn briodol yn dibynnu ar yr amgylchiadau. Os na thelir Rhybuddion Cosb Benodedig bydd y troseddwr yn cael ei erlyn.</p> <p>5.4 Rhybuddion syml a datrysiadau eraill y tu allan i'r llys</p> <p>Mae defnyddio rhybuddion syml a datrysiadau eraill y tu allan i'r llys yn ddewisiadau amgen i erlyn ac yn cael eu hystyried fel y bo'n briodol, wedi rhoi sylw i'r Cod ar gyfer Erlynwyr y Goron. Yn benodol, wrth ystyried a yw rhybudd syml yn briodol dylid cael digon o dystiolaeth i brofi'r drosedd honedig, bod yr unigolyn yn syrthio ar ei fai, a chred y byddai cyflwyno rhybudd o'r fath er budd y cyhoedd.</p> <p>5.5 Erlyn</p> <p>Wrth ystyried a yw erlyn yn briodol, dylid rhoi sylw i'r canlynol:</p> <ul style="list-style-type: none">• Difrifoldeb y drosedd• Lefel y niwed a achoswyd neu sy'n debygol o gael ei achosi i berson arall• Hanes blaenorol y troseddwr• Unrhyw amddiffyniad statudol sydd ar gael• Camau gweithredu a gymerwyd i osgoi ailadrodd y drosedd• Unrhyw eglurhad a ddarparwyd ac, os yw'r gyfraith yn caniatáu, amgylchiadau ac agwedd y troseddwr• Atafaelu nwyddau dan Ddeddf Enillion Troseddau 2002 <p>Bydd camau erlyn yn cael eu cymryd pan fo digon o dystiolaeth i awgrymu y byddai collfarn yn bosibilrwydd gwirioneddol ac, ar ôl ystyried y Cod ar gyfer Erlynwyr y Goron, bod erlyn er budd y cyhoedd.</p>	<p>5.3 Fixed Penalty Notices</p> <p>Many offences have Fixed Penalty Notice provisions in place as an alternative to prosecution for that offence. Such provisions will be used appropriate to circumstances. Where Fixed Penalty Notices are unpaid, prosecution will normally result.</p> <p>5.4 Simple Cautions and other out of court disposals</p> <p>The use of Simple Cautions and other out of court disposals offers alternatives to prosecution and will be considered as appropriate, having regard to the Code for Crown Prosecutors. In particular, when considering if a Simple Caution may be appropriate in the circumstances, there must be sufficient evidence to prove the alleged offence, an admission of guilt, and a belief that the public interest would be best served by such a Caution.</p> <p>5.5 Prosecutions</p> <p>In considering whether a prosecution is appropriate, regard will be had to:</p> <ul style="list-style-type: none">• The seriousness of the offence• The level of harm being caused or likely to be caused to a person / persons• The previous history of the offender• Any statutory defence available• Action taken to avoid recurrence• Any explanation offered, and if the law allows, the circumstances and attitude of the offender• Confiscation of goods under the Proceeds of Crime Act 2002. <p>Prosecutions will only be commenced where there is sufficient evidence for a realistic prospect of conviction and, having regard to the Code for Crown Prosecutors, and that a prosecution is in the public interest.</p>
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<p>5.6 Atal Rhent neu Orchmynion Ad-dalu Rhent</p> <p>Gyda chaniatâd yr Awdurdod Trwyddedu (Rhentu Doeth Cymru), gellir gwneud cais i'r Tribiwnlys Eiddo Preswyl ar gyfer gorchmynion o'r fath ar gyfer troseddau perthnasol i Ddeddf Tai (Cymru) 2014.</p> <p>Gorchmynion Llys Deddf Menter 2002 Mae'r Cyngor yn gallu gwneud cais am Orchymyn Llys yn erbyn busnesau nad ydynt yn cydymffurfio â'u rhwymedigaethau cyfreithiol tuag at gwsmeriaid. Cyn gwneud cais am orchymyn o'r fath, fel rheol byddai'r Cyngor yn cysylltu â'r busnes gyda'r bwriad o ymrwymo i gytundeb terfynol i atal unrhyw weithgarwch masnachu anghyfreithiol. Os nad yw hyn yn llwyddiannus, fe ellir gwneud cais am Orchymyn Llys.</p> <p>6. Cwynion Mae'r Cyngor wedi ymrwymo i ddarparu gwasanaethau teg a chyfartal o safon uchel ac mae ganddo system gwynion gorfforaethol i'w defnyddio pan dderbynnir cwyn. Gellir cyflwyno cwynion ar-lein yn http://www.conwy.gov.uk/cy/Council/Contact-Us/Compliments-and-Complaints.aspx. Bydd y Cyngor yn ymchwilio i bob cwyn yn unol â'r Polisi Cwynion Corfforaethol.</p> <p>7. Gwyliadwriaeth Defnyddir cyfarpar recordio amlwg a chudd (dyfeisiau recordio sain, teledu cylch cyfyng, camerâu manau cyhoeddus a chamerâu a wisgir ar ddillad) yn unol â'r ddeddfwriaeth a'r polisi perthnasol.</p> <p>8. Adolygu Adolygir y polisi hwn yn rheolaidd ac fe wneir newidiadau yn ôl yr angen.</p>	<p>5.6 Rent Stopping or Rent Repayment Orders</p> <p>With the consent of the Licensing Authority (Rent Smart Wales), application to a Residential Property Tribunal may be made for such Orders in relation to relevant offences under the Housing (Wales) Act 2014.</p> <p>5.7 Enterprise Act 2002 Court Orders The council is able to apply for a Court Order against businesses which do not comply with their legal obligations towards consumers. Before applying for any such Order, the council would normally engage with the business with a view to entering into a binding agreement to stop any illegal trading activity. Where this is not successful, a Court Order may be applied for.</p> <p>6. Complaints The council is committed to providing high-quality services in a fair and equal way and has a corporate complaints system which may be used in the event of complaint. Any complaints may be made online at http://www.conwy.gov.uk/en/Council/Contact-Us/Compliments-and-Complaints.aspx and will be investigated in accordance with the Corporate Complaints Policy.</p> <p>7. Surveillance The use of overt and covert recording equipment (audio, closed circuit, public space and body worn cameras) may be used in accordance with relevant legislation and policy.</p> <p>8. Review This policy will kept review and changes made as appropriate.</p>
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