



**ONCHAN
DISTRICT
COMMISSIONERS**

**REGULATIONS,
ORDERS, AND
BYELAWS
ENFORCEMENT
POLICY**

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History or Most Recent		Policy Change – Must be completed
Version:	Date:	Change:
Version 1	2025	New Policy

ACKNOWLEDGEMENT

Onchan District Commissioners would like to acknowledge the guidance of the Department of Environment, Food and Agriculture in developing the Regulations, Orders and Byelaws Enforcement Policy and Procedure.

1. INTRODUCTION

- 1.1 The Authority is responsible for enforcing a wide range of statutory and non-statutory rules, many of which carry a criminal sanction for non-compliance.
- 1.2 The Authority works with the community to protect and enhance the essentials of life and to minimise the impact of harmful activities on the people who live, work and visit the District.

2. OBJECTIVES

- 2.1 Enforcement should be seen as one of the tools the Authority has to aid in protecting and enhancing the District's environment ~~for~~ and safeguarding the wellbeing of residents, businesses, and visitors.
- 2.2 This policy sets out the general principles that the Authority intends to follow in relation to the regulation of statutory and non-statutory functions:

Proportionality

- Enforcement actions should match the seriousness of the breach.
- Minor infractions may warrant advice or warnings, while serious violations may lead to prosecution, enforcement notices or penalties.

Consistency

- Similar circumstances should lead to similar outcomes.

Rules should be applied fairly and consistently, avoiding discrimination or bias.

Transparency

- Enforcement policies, procedures, and decisions should be clear and accessible.
- The Authority should comply with its responsibilities in relation to the General Data Protection Regulation (GDPR) 2018 (as applied in the Isle of Man).

Targeting

- Resources will be prioritised towards matters with the greatest risk of harm or impact on the community.

Accountability

- The Authority should be answerable for decisions and actions taken.
- The Authority should provide a mechanism for review, complaints, and public scrutiny in accordance with statutory requirements.

Helpfulness

- Enforcement should support compliance, not just punish non-compliance.
- Officers should aim to provide guidance and education to secure voluntary compliance before escalating matters.

3. ENFORCEMENT PRINCIPLES

- 3.1 The Authority recognises that the best way to achieve compliance with the law in the first place is to ensure, by guidance and advice, that those carrying out regulated activities understand the nature and extent of their responsibilities and comply voluntarily.
- 3.2 However, there are times when conformity with the law needs to be sought by formal enforcement action. Formal enforcement action is about securing compliance with regulatory requirements. To this end, there is a spectrum of regulatory tools available, including advisory visits, written warnings, enforcement notices, formal cautions, fixed penalties, and prosecutions before the courts.
- 3.3 The effective use of enforcement powers contained in Regulations, Orders, and Byelaws is important to secure compliance with the rules and, where necessary, to ensure that those who have not complied are held to account.
- 3.4 The Authority will balance the need to maintain a balance between enforcement and other advisory activities when allocating resources.

4. ENFORCEMENT OPTIONS

- 4.1 Although investigation of the circumstances or matters discovered either on inspection or following a complaint is vital, such an investigation may not necessarily lead to criminal proceedings. The Authority will first consider informal or proportionate measures.
- 4.2 The Authority may seek a resolution of matters, taking the most appropriate action, such as:

Education and Advice

- Sometimes, minor breaches are identified that pose no significant risk to public safety or the environment. In such cases, officers will provide advice, issue guidance, or suggest remedial action.

This may include issuing an advisory letter reminding the person of their obligations. Such advice will be given without prejudice to further enforcement.

Warning Letters

- Where serious or repeated offences occur, or previous advice has not been acted upon, the Authority may issue a warning letter detailing the

offences together with a warning that if the person does not comply with the law, formal enforcement action may follow.

Enforcement Notices

- In certain circumstances requiring an immediate remedy or cessation of high risk activity, it may be necessary to serve legal notices to ensure an immediate remedy is put in place or to stop a particular high risk activity.

Caution

- Where serious breaches occur, and the offender accepts responsibility and takes prompt remedial action, the Authority may issue a caution instead of prosecution if this is considered in the public interest.

5. PROSECUTION

5.1 A prosecution may be commenced where the suspect denies liability or where the matter is too serious for a caution.

5.2 Prosecutions will only commence when:

- The Authority is satisfied that there is a realistic prospect of conviction on the available evidence. If the case does not pass this evidential test, it will not go ahead, no matter how important or serious the allegation may be.
- The Board of Onchan District Commissioners has considered the reasoning to commence a prosecution, and a formal Board resolution has been recorded to support the progression of the matter to court.
- Legal Services have been consulted to confirm compliance with evidential and public interest tests.

5.3 Any decision to commence a prosecution will be considered by the Board of Onchan District Commissioners and recorded as a resolution.

5.4 Public Interest Factors

The Authority will also consider other factors in deciding whether or not to prosecute. These factors include:

- The impact, or potential impact, of the offence on people or the environment.
- Whether the offence was committed deliberately.
- The previous enforcement record of the offender.
- The attitude of the offender, including behaviour towards officers, and whether corrective measures to remedy the offence or prevent reoccurrence have been put in place.

- Whether The offence arose from exceptional circumstances where reasonable precautions were taken,

Whether the incident was unforeseeable, and prompt mitigation and notification occurred.

6. PROCEDURE

- 6.1 Service users are advised to contact the relevant officers within the Authority's Surveyors Department.

Contact can be made via the following methods:

- Report a Problem Portal – <https://www.onchan.org.im/report-a-problem>
- Telephone – 01624 675564 (option 1)

7. COMPLAINTS ABOUT SERVICE:

- 7.1 In all cases, the Authority will try to resolve complaints in a professional, fair and equitable manner by reaching a mutual agreement. Where this fails, the Authority will provide a clear, well publicised, accessible, effective, and timely complaints procedure.

- 7.2 The Authority's Complaints Procedure can be viewed at <https://www.onchan.org.im/your-commissioners/how-to-complain-to-the-commissioners>