

# FALMOUTH HARBOUR COMMISSIONERS



## ENFORCEMENT POLICY

### POLICY

**FALMOUTH HARBOUR COMMISSIONERS** are a statutory Harbour Authority and have powers to make byelaws. Contravention of Byelaws may result in prosecution through the Magistrates Court.

The Commissioners may consider prosecution from time to time using other legislation such as the Merchant Shipping Act, the International Regulations for Prevention of Collision at Sea and the Pilotage Act should it be considered in the public interest to do so.

In making decisions about enforcement action, the Commissioners will act in wider public interest with a primary aim of securing a safe and pollution free environment.

### ENFORCEMENT ACTION

Enforcement action can take the form of;

- (a) A warning.
- (b) Suspension or revocation of a licence issued in accordance with the Bye-laws.
- (c) A formal caution.
- (d) Prosecution.
- (e) A combination of any of the above.

## **ENFORCEMENT FACTORS**

In considering the appropriate enforcement action, the Commissioners will take into account the following;

- (a) The risk of harm to the public and others.
- (b) What is in the public interest.
- (c) The seriousness of the complaint.
- (d) The explanation of the offender.
- (e) Whether the matter is a recurrence.
- (f) Whether there have been other contraventions of Bye-laws or Legislation.
- (g) The willingness of the alleged offender to prevent a recurrence of the incident.
- (h) The availability of witnesses.
- (i) The reliability of witnesses.
- (j) The sufficiency of evidence.

## **PROSECUTION**

Prosecution will be considered in the following circumstances;

- (a) Where the alleged offence is a flagrant breach of bye-laws or legislation such that public safety or well being is put at risk.
- (b) Where the alleged offence involves failure to comply with a warning.
- (c) Where there is a history of similar offences.
- (d) Where the alleged offence involves risk of damage to the environment.
- (e) There are other public interest factors mitigating in favour of prosecution.

