

Committee Name and Date of Committee Meeting

Delegated Officer Decision – 16 September 2022

Report Title

General Enforcement Policy Review 2022

Is this a Key Decision and has it been included on the Forward Plan?

No

Assistant Director Approving Submission of the Report

Sam Barstow, Assistant Director, Community Safety and Streetscene

Report Author(s)

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Ward(s) Affected

All

Report Summary

The Council has had an adopted General Enforcement Policy in place in a range of formats for a number of years. The policy is required to be reviewed at regular intervals with the latest review due in 2022/23.

The Council is required by statutory guidance to have in place mechanisms to engage those they regulate, residents, businesses, and others to offer views and contribute to the development of their policies. A public consultation on a revised policy was launched on 20th February 2023 for 28 days.

Recommendations

1. That the revised General Enforcement Policy which has taken account of internal and external stakeholder views is adopted and published.

List of Appendices Included

Appendix 1 General Enforcement Policy – revised March 2023

Appendix 2 Equalities Screening Assessment

Appendix 3 Carbon and Climate Change Assessment

Appendix 4 Analysis of Consultation Responses

Background Papers

- Legislative and Regulatory Reform Act 2006
- Legislative and Regulatory Reform (Regulatory Functions) Order 2007
- Department for Business Innovation and Skills: Better Regulation Delivery Office, *Regulator's Code* (April 2014)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

Name of Committee – [Click here to enter a date.](#)

Council Approval Required

No

Exempt from the Press and Public

No

General Enforcement Policy Review 2022

1. Background

- 1.1 The Council is required by the *Legislative and Regulatory Reform Act 2006* to have regard to the *Regulators' Code* when developing policies and operational procedures that guide its regulatory activities. This applies to the Council's General Enforcement Policy and any revisions it wishes to make to that Policy.
- 1.2 The Department for Business Innovation and Skills: Better Regulation Delivery Office's, *Regulator's Code* of April 2014 is a statutory guidance document that Councils must have regarded when developing policies and operational procedures that guide some of their regulatory activities. This applies to the Council's current General Enforcement Policy in relation to its regulatory and enforcement functions.
- 1.3 The General Enforcement Policy is underpinned by the statutory principles of good regulation, but also ensures the priority of protecting the public.
- 1.4 The Policy sets out the principles of transparency, consistency and proportionality to which the Council will adhere to in its discharge of enforcement and regulatory functions.
- 1.5 The current General Enforcement Policy has been reviewed engaging both internal and external stakeholders. This was done by a peer to peer service review by affected Service Managers and Legal Services, and via a public consultation open for 28 days from 20th February 2023 on the Council's website.

2. Key Issues

- 2.1 The Council's General Enforcement Policy details the way in which the Council will exercise its regulatory obligations in a way that is:
 - Proportionate
 - Accountable
 - Consistent
 - Transparent
 - Targeted
- 2.2 It is important for the Council to ensure that its General Enforcement Policy is regularly reviewed, in light of recent developments, ensuring that regulatory activities are transparent and accurate.
- 2.3 The principles underpinning the policy remains unchanged. However, some elements of legislation, such as the *Data Protection Act 2018*, have amended and updated elements of the frameworks referred to in the policy. This is reflected in the updated version. Some repeated statements or

paragraphs have been removed, and where appropriate signposting to service specific policies and procedures has been highlighted. In previous versions, information on service specific standards and policies confused the overarching policy.

3. Options considered and recommended proposal

- 3.1 The Council is obliged by statute to have a General Enforcement Policy in place.
- 3.2 The recommendation is to adopt the revised policy which has taken account of internal and external stakeholder views.

4. Consultation

- 4.1 Internal stakeholders including affected services bound by the Policy and Legal Services have been a part of the internal review. In particular, services were asked to look at advancements around Social Media, CCTV and other bespoke service legislative changes in recommending any changes to the policy.
- 4.2 External stakeholders were invited to share their views via a public consultation published on the Council's website for 28 days from 20th February 2023. The consultation saw 23 responses, which is obviously a small sample size in relation to being representative of the whole of the Borough's stakeholders. The data from this process can be found in Appendix 4. External stakeholders were also asked to provide feedback on the effectiveness of the services ability to deliver against the commitments made in the policy. This is suggested as best practice within the *Regulators Code*. No suggestions were made by any respondents for further amendments to the revised draft policy.
- 4.3 In summary, the above methodology led to the following material changes to the policy:
 - Deletion of some repetitive material or paragraphs from the 2019 version.
 - Reference to service specific policies and procedures, with the General Enforcement Policy an over-arching policy which underlines the overall objectives and sets the scene in terms of how enforcement decisions and investigative steps should be taken.

5. Timetable and Accountability for Implementing this Decision

- 5.1 The newly revised policy is adopted as of the point the required authorisations are obtained for this decision.
- 5.2 As required in guidance, the General Enforcement Policy should be reviewed regularly and the next suggested review should be complete by

March 2027 (e.g. less than 4 years from this decision and associated review).

5.2 The responsibility for the implementation of this decision and further review will be the Service Manager's within the Regulation and Enforcement services.

6. Financial and Procurement Advice and Implications (to be written by the relevant Head of Finance and the Head of Procurement on behalf of s151 Officer)

6.1 The General Enforcement Policy will be delivered within the approved revenue budgets for the Services.

7. Legal Advice and Implications (to be written by Legal Officer on behalf of Assistant Director Legal Services)

7.1 The Council is required by the Legislative and Regulatory Reform Act 2006 to have regard to the principles set out within section 21(2) of the Act and also the *Regulators' Code* when developing policies and operational procedures that guide its regulatory activities. This applies to the Council's General Enforcement Policy and any revisions its wishes to make to that policy.

7.2 *The Legislative and Regulatory Reform (Regulatory Functions) Order 2007* details the regulatory and enforcement functions of the Council that are subject to the *Regulator's Code* and consequently the General Enforcement Policy. This covers a significant number of functions including for example Environmental Health, Trading Standards, Highways, Housing, Licensing, Parking and Transport; however, it should be noted that the provisions do not extend to Planning and Social Services.

7.3 Both the Act and the *Regulators' Code* details standards of function delivery that must be adhered to, establishing the following as legal obligations for the delivery of the Council's regulatory and enforcement functions subject to the Regulators' Code:

- Proportionate
- Accountable
- Consistent
- Transparent
- Targeted

7.4 The Government will monitor those subject to the *Regulators' Code* and their published policies and standards, and will challenge regulators where there is evidence that policies and standards are not in line with the code or are not followed.

8. Human Resources Advice and Implications

- 8.1 There are no human resources implications arising from this report.
- 8.2 Council teams and staff who are subject to the General Enforcement Policy will however contribute to this consultation.

9. Implications for Children and Young People and Vulnerable Adults

- 9.1 There are no implications for Children and Young People and Vulnerable Adults.

10. Equalities and Human Rights Advice and Implications

- 10.1 There are no equalities or human rights implications
- 10.1 A screening assessment has been carried out in Appendix 2.

11. Implications for CO2 Emissions and Climate Change

- 11.1 An assessment has been carried out in Appendix 3. There are implications in relation to vehicle use emissions to conduct regulatory and enforcement visits however the impact is assessed as minimal.

12. Implications for Partners

- 12.1. Partners have been included in the Consultation process, however their own policies and procedures are unaffected.

13. Risks and Mitigation

- 13.1 Failure to have due regard to the provisions of the *Regulators' Code*, presents a risk of decisions or actions being successfully challenged, and evidence gathered during a criminal investigation being ruled inadmissible by the Court.
- 13.2 Failures to comply with the *Regulator's Code* can result in reputational damage to the Council through not complying with its legal obligations

14. Accountable Officers

Lewis Coates, Service Manager Regulation and Enforcement
Craig Cornwall, Community Protection Manager

Approvals obtained on behalf of Statutory Officers: -

	Named Officer	Date
Chief Executive	Sharon Kemp	Click here to enter a date.
Strategic Director of Finance & Customer Services	Named officer	Click here to enter a date.

(S.151 Officer)		
Head of Legal Services (Monitoring Officer)	Named officer	Click here to enter a date.

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