

Rotherham Metropolitan Borough Council

General Enforcement Policy

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1. Introduction

This General Enforcement Policy outlines Rotherham Metropolitan Borough Council's approach to regulatory compliance and enforcement. It is designed to ensure transparency, consistency, and proportionality in all enforcement activities, in accordance with the Regulators' Code (Better Regulation Delivery Office, April 2014).

While specific service-level enforcement policies exist (see Appendix C), this document sets out the overarching principles that guide enforcement decisions across the Council. The primary aim is to protect the public, support legitimate businesses, and safeguard the environment through fair and effective regulation.

The Council is committed to:

- Delivering enforcement based on risk assessment and local priorities.
- Supporting economic growth by avoiding unnecessary regulatory burdens.
- Ensuring officers are equipped with the knowledge and skills to apply enforcement principles effectively.

This policy will be published online, and service-specific enforcement standards will be available upon request in electronic or paper format.

2. Purpose of the Policy

The purpose of this policy is to:

- Establish a clear framework for enforcement decisions.
- Promote public protection and legal compliance.
- Ensure that enforcement actions are proportionate, consistent, and transparent.

All officers must adhere to this policy when making enforcement decisions. Any departure from the policy must be exceptional, justified, and approved by the relevant Director. In emergency situations, the Chief Executive may suspend parts of the policy to protect public health or ensure effective service delivery.

The Council will maintain procedures to ensure officers follow published service standards, as required by the Regulators' Code.

3. Application of the Policy

This policy applies to enforcement and regulatory functions carried out by the Community Safety and Streetscene Department within the Regeneration and Environment Directorate, including Environmental Health and Licensing functions.

The Council is committed to delivering enforcement services that are efficient, courteous, and professional. These services are guided by the principles of the Regulators' Code and are delivered across a range of areas, including:

- Environmental Protection
- Public Health
- Food Safety and Hygiene
- Health and Safety
- Animal Health
- Waste Management
- Trading Standards
- Licensing
- Parking Enforcement
- Dog Control
- Environmental Crime
- Safety at Sports Grounds
- Private Sector Housing
- Highways
- Green Spaces
- Street Cleansing

This policy also applies to the Council in its capacity as a landlord, where enforcement relates to tenancy conditions. Where the Council delivers functions relating to its role as a social housing landlord, enforcement and regulatory activity will also have regard to the Regulator of Social Housing's Consumer Standards, including the Home Standard, Tenancy Standard, Neighbourhood and Community Standard and the Transparency, Influence & Accountability Standard. The Council will ensure that decisions, investigations and advice align with the expectations set out in the Regulator's accompanying Code of Practice, particularly in relation to fairness in tenancy management, complaint handling and respect for residents' voices.

The policy does not apply to enforcement functions delivered by Planning and Building Control Services, or Landlord Legislation described under S107 of the Renters Rights Act 2025, as these statutory powers are not included in the Schedule, Part 3 of the Legislative and Regulatory Reform (Regulatory Functions) Order 2007.

The Council aims to standardise enforcement through effective procedures and clear policies. The primary goal is to achieve compliance through education and support, while reserving the right to take enforcement action when necessary—even after initial compliance is achieved.

Where offences fall outside the scope of this policy, officers will refer the matter to the appropriate agency and ensure thorough investigation and feedback to the complainant.

All investigations will be carried out under the following legislation:

- the Police and Criminal Evidence Act 1984
- the Criminal Procedure and Investigations Act 1996
- the Regulation of Investigatory Powers Act 2000
- the Criminal Justice and Police Act 2001
- Criminal Justice Act 2003
- the Human Rights Act 1998
- The Equality Act 2010

These Acts and associated guidance control how evidence is collected. It is used to give a range of protections to residents and potential defendants. The Council's authorised officers will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance, procedures or Codes of Practice.

4. Approach to Non-Compliance

The Council recognises that most individuals and businesses aim to comply with the law. However, firm action will be taken against those who deliberately or persistently fail to meet legal requirements, especially where public safety is at risk.

Where appropriate, individuals and businesses may seek advice on non-compliance without triggering enforcement action—provided they demonstrate a genuine willingness to resolve the issue. Exceptions apply where the matter is serious enough to warrant immediate enforcement, in line with Section 5.4 of the Regulators' Code.

All complaints and notifications of non-compliance will be reviewed. Investigations will be prioritised based on risk and available resources. Where prior advice has been given, follow-up visits may be conducted to assess compliance before further action is considered.

Council officers will carry out enforcement duties fairly and consistently, with arrangements in place to promote uniformity across cases and collaboration with other agencies.

Where the Council secures the conviction of an individual or business through Court proceedings or where the Council has made an enforcement decision relating to licensed premises, vehicles, drivers and/or operators it may publish details of the offence, perpetrators and convictions in both electronic and paper publications. The purpose of this is to act as a deterrent and also to make the public aware that the Council is taking effective enforcement action where it is necessary and appropriate to do so.

5. Advice and Guidance

The Council promotes a proactive approach to compliance, recognising that prevention is better than cure. Officers will work with businesses and residents to provide clear, accessible advice that supports legal compliance.

Key principles:

- Information will be provided in plain language and confirmed in writing where necessary.
- Legal requirements will be clearly distinguished from best practice recommendations.
- Advice will be reliable and tailored to support compliance.
- Collaboration with other regulators will ensure consistency, especially where multiple agencies are involved.

The Council's Scheme of Delegation, detailing investigation responsibilities, is available upon request. The Service Director (and nominated officers) authorise officers to take regulatory and enforcement action under the Council's Scheme of Delegation. Authorised officers will be appropriately trained and will have due regard to this Policy and documented procedures when exercising powers. In exceptional circumstances and where it is in the public interest, the Council may depart from this Policy. Any departure will be properly reasoned, based on material evidence, documented, and approved by an appropriate manager.

6. Enforcement Decisions

Enforcement decisions will be guided by a range of factors, including but not limited to:

- Risk to public safety
- Severity of the breach
- Compliance history
- Obstruction by the offender
- Statutory guidance and codes of practice
- Legal advice
- Council and Government priorities
- Individual circumstances
- Primary Authority agreements

In addition to the Regulators' Code, the Council will have regard to the Macrory principles:

- (a) change offender behaviour;
- (b) remove any financial gain from non-compliance;
- (c) be responsive to the offender and issue;
- (d) be proportionate to the offence and harm;
- (e) restore harm where appropriate; and
- (f) deter future non-compliance

7. Enforcement and Regulatory Services - Service Standards

Each service area maintains robust service standards that define expectations for stakeholders, including the public. Officers will:

- Be courteous and polite
- Identify themselves by name and provide contact details (except Civil Enforcement Officers, who are identified by officer number)
- Understand how businesses operate and tailor advice accordingly
- Communicate clearly about expectations, timescales, and progress
- Provide written records of visits and interactions

The Council encourages businesses and individuals to seek advice without fear of automatic enforcement. Information and guidance are available upon request in electronic or paper format.

8. Review of the Policy

This policy will be reviewed periodically to ensure it remains relevant and effective. Reviews will be triggered by:

- Legislative changes
- Feedback from stakeholders
- Identified areas for improvement
- Statutory requirements

Before implementing changes that may significantly impact businesses, the Council will consult with affected parties and business representatives, in accordance with Section 2.1 of the Regulators' Code.

9. Comments and Complaints

Feedback is essential to improving Council services. The Council welcomes all comments—positive or critical—and uses them to enhance service delivery.

Complaints about enforcement conduct or service standards will be handled through the Council's formal complaints procedure. Information about this process is available at Council offices and upon request in electronic or paper format.

Individuals may contact the officer handling their case or request to speak with a line manager to discuss concerns or decisions. The Council is committed to openness and transparency in all enforcement matters.

10. Partnership Working

The Council works with the Police, Fire & Rescue, Crown Prosecution Service, Health and Safety Executive, Food Standards Agency, Environment Agency, housing providers and other council services to deliver joint operations, share intelligence and coordinate interventions that reduce anti-social behaviour and crime, safeguard vulnerable residents, and improve housing and neighbourhood conditions across the borough.

Appendix A: Legislation, Guidance and Codes Used In The Preparation of the Enforcement Policy

The Council will exercise its regulatory activities in a way which is:

- Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence.
- Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures.
- Consistent – our advice to those regulated will be robust, reliable and similarly advice provided by others will be respected. Where circumstances are similar, a consistent, if possible, approach/action to other local authorities will be followed.
- Transparent – those regulated will be advised appropriately so as to understand what is expected of them and what they can anticipate in return.
- Targeted – resources will be focused on higher risk enterprises and activities, reflecting local need and national priorities.

Regulators' Code

The Council has had regard to the Regulators' Code in the preparation of this policy. In certain instances, it may be concluded that a provision in the Code is either not relevant or is outweighed by another provision. The Council will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

Human Rights Act 1998

The Council is a public authority for the purposes of the Human Rights Act 1998. The principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms will be applied. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

Data Protection Act 2018

Where there is a need for the Council to share enforcement information with other agencies, the provisions of the Data Protection Act 2018 will be followed.

The Code for Crown Prosecutors

When deciding whether to prosecute, the Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

The Code for Crown Prosecutors is a public document that sets out the general principles to follow when decisions are made in respect of prosecuting cases. The Code sets out two tests that must be satisfied commonly referred to as the 'Evidential Test' and the 'Public Interest Test':

The Equality Act 2010

The Equality Act 2010 provides the statutory framework for protecting individuals from unlawful discrimination, harassment, and victimisation in the exercise of public functions. As such, it is essential that all enforcement decision-making, actions and outcomes are compliant with the Act.

Evidential Test - is there enough evidence against the defendant?

When deciding whether there is enough evidence to prosecute, the Council will consider what evidence can be used in court and is reliable. There must be enough evidence to provide a 'realistic prospect of conviction' against each alleged offender.

Public Interest Test - is it in the public interest for the case to be brought to court?

The Council will balance factors for and against prosecution carefully and fairly, considering each case on its merits.

Regulatory Enforcement and Sanctions Act 2008 ('the RES Act')

The Regulatory Enforcement and Sanctions Act 2008, as amended, established the Primary Authority scheme. The requirements of the Act will be complied with when enforcement action against any business or organisation that has a primary authority is being considered and will have regard to guidance issued by the Secretary of State in relation to Primary Authority.



Appendix B: Enforcement Actions available to the Council in Respect of Criminal and Civil breaches

No formal action

There may be cases where legislation allows discretion (i.e. Not a statutory requirement to act), as to when contraventions of the law may not warrant any action. This could be where the costs outweigh the benefits. For example, where an offender is elderly and frail and formal action would seriously damage their health. Also, if it is considered that the breach is minor or trivial and causes no harm or risk to health or the environment, under the public interest test.

Compliance Advice, Guidance and Support

The Council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action. A warning letter will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence.

The Council recognises that where a business has entered into a partnership with a primary authority, the primary authority will provide compliance advice and support, and the Council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the primary authority.

Where more formal enforcement action, such as a simple caution or prosecution, is taken, the Council recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

Voluntary Undertakings

The Council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. The Council will take any failure to honour voluntary undertakings very seriously, and enforcement action is likely to result.

Statutory (Legal) Notices

In respect of many breaches of legal requirements the Council has powers to issue statutory notices. These include: 'Abatement Notices', 'Prohibition Notices',

'Emergency Prohibition Notices', and 'Improvement Notices'. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/ or, where appropriate, the carrying out of work in default.

A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified, and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.

Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

Financial penalties

The Council has powers to issue fixed penalty notices, penalty charge notices and civil monetary penalties in respect of some breaches of legislation. A fixed penalty notice, penalty charge notice or civil monetary penalty is not a conviction criminal fine, and does not appear on an individual's criminal record. If a fixed penalty, penalty charge notice or civil monetary penalty is not paid, the Council may, however, commence criminal proceedings or take civil enforcement action to recover the value of the the penalty charge or civil monetary penalty subject to the provisions of the relevant legislation. The Council may also take other enforcement action such as works in default and then take action to recover the costs of such work.

If a fixed penalty, penalty charge notice or civil monetary penalty is paid in respect of a breach, the Council will not take any further enforcement action in respect of that specific breach. Payment of the penalty does not provide immunity from prosecution in respect of similar continuing or recurrent breaches.

The Council is only able to issue fixed penalty notices, penalty charge notices and civil monetary penalties where it has specific powers to do so. If fixed penalty notices are available, their issue is at the Council's discretion. In some circumstances, in particular where breaches are serious or recurrent, it may be that instigating a prosecution is more appropriate than the issue of a fixed penalty notice.

The Council will exercise its civil penalty powers in accordance with the Housing and Planning Act 2016 and also in accordance with the strengthened enforcement provisions introduced through the Renters Rights Act 2025, which

expands the range of offences eligible for civil penalties and increases maximum penalty thresholds. Civil penalties may be used as an alternative to prosecution where appropriate and proportionate, and the Council will consider aggravating and mitigating factors in determining penalty levels, in line with statutory guidance.

In instances where an offence has been established and a Civil Monetary penalty is deemed appropriate, the Council may, at its discretion, offer a remedial training programme as a means of full or partial resolution. Where such an offer is extended and accepted, it may serve as a mitigating factor, resulting in a reduction of civil penalties or the mitigation of criminal proceedings. Conversely, should the offer be declined or the training not be completed, the Council will pursue the original offence to its full extent through the relevant civil or criminal jurisdictions.

If the Council deems fit it may confirm, vary or quash a monetary penalty.

Terms of payment (fixed penalty notices, penalty charge notices and civil monetary penalties)

i. Payment information

The terms of payment for any fixed penalty notice, penalty charge notice or monetary penalty will be set out in the documents we issue.

ii. Instalments under £2,000

The Council does not accept instalment payments for financial penalties under £2,000 or in relation to fixed penalty notices.

iii. Payment plans for £2,000 or more

Where a penalty charge notice or other civil monetary penalty is £2,000 or more, the Council may, at its discretion, consider a payment plan ("Payment Plan"). Payment plans are not available in relation to fixed penalty notices.

iv. How to request a Payment Plan

Any request must be made in writing. It must:

- explain why the penalty cannot be paid in full by the due date; and
- include evidence of how the proposed instalments will be funded (for example, recent bank statements, income/expense details and any relevant liabilities).

v. Decision and conditions

If satisfied that the proposed Payment Plan will result in full settlement within a reasonable period, the Council may accept it at its discretion. Any accepted plan will set out:

- the instalment amounts and schedule;
- the final date by which the penalty must be paid in full; and
- the consequences of missed or late payments (including immediate cancellation of the plan and the full balance becoming due).

vi. Effect on enforcement and rights of appeal

Agreeing a Payment Plan does not affect any statutory rights of representation or appeal (where applicable), nor does it prevent the Council from taking recovery action if the plan terms are not met.

vii. Default

If an instalment is missed or otherwise breaches the plan, the plan may be withdrawn, and the outstanding balance will become immediately due. The Council may then commence or continue recovery action without further notice.

Injunctive Actions, Enforcement Orders etc.

In some circumstances the Council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

The Council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, the Council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

The Council may seek Banning Orders where relevant convictions exist and it is appropriate and proportionate to do so.

The Council will, where appropriate seek to use Public Space Protection Orders (PSPOs), to specify an area where activities taking place that are considered

detrimental to the local community are prohibited for example the provision of the dogs and dog control. The PSPO will follow the governance process and will be subject to a consultation, ensuring the process and outcome are legally compliant.

The local authority will consider the use of a closure order to close premises associated with persistent disorder or serious anti-social behaviour. This includes, excessive noise, illicit tobacco/alcohol, or where any anti-social residents are intimidating and threatening people. The decision to close premises will not be taken lightly and will be done so in consultation with South Yorkshire Police and other partner agencies/services.

In some circumstances where offenders are repeatedly convicted of similar environmental health /trading standards offences, where considered appropriate, a Criminal Behaviour Order will be considered and application submitted to the Court to stop the activity.

Prosecution

When deciding whether to prosecute, the Council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

Prosecution proceedings will only be considered where the Council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

Before deciding that instigating a prosecution is appropriate, the Council will consider all relevant circumstances carefully and will have due regard to the following public interest criteria:

- Seriousness of the offence committed
- The level of culpability of the suspect
- The circumstances of, and the harm caused to the victim?
- Was the suspect under the age of 18 at the time of the offence?
- What is the impact on the community?
- Is prosecution a proportionate response?
- Do sources of information require protecting?

A successful prosecution will result in a conviction and criminal record. The court may impose a fine and in respect of particularly serious offences a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach.

Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

Refusal/Suspension/Revocation of Licences

The Council issues a number of licences and permits. The Council also has a role to play in ensuring that appropriate standards are met in relation to licences issued by other agencies. Most licences include conditions which require the licence holder to take steps to ensure that, for example, a business is properly operated and public safety is assured. Breach of these conditions may lead to a review of the licence which may result in its revocation or amendment.

When considering future licence applications, the Council may take previous breaches and enforcement action into account and also other matters which, on the balance of probability, may influence the assessment of a person to be a fit and proper person.

Prohibitions

The Council has a range of powers that allow for the prohibition of activities, structures, or use of facilities such as sports grounds.

The Council has a role to ensure the safety of the public and will exercise prohibition powers only where it is essential to protect health, and there is sufficient evidence available to demonstrate that a risk to health exists.

Proceeds of Crime

Upon conviction of a crime, the Council may consider making an application under the Proceeds of Crime Act 2002 for the purpose of denying those convicted of offences the use of their assets, recover the proceeds of crime and disrupt and deter criminality.

Appendix C - Reference to Service (function) specific policies and further reading

While this document acts as an over-arching policy for the Council, reference must also be given to service function specific policies, including but not limited to:

- Anti-Social Behaviour Policy
- Banning Order Policy
- Food Safety Enforcement Policy
- Food Standards Agency Code of Practice
- Food Hygiene Rating Scheme Brand Standard
- Health & Safety Executive Enforcement Policy Statement
- Overt CCTV Policy
- Policy for the Use of Civil Penalty and Rent Repayment Orders under the Housing Act 2004
- Rotherham Council RIPA Policy
- Safer Rotherham Partnership Information Sharing Protocol