

**Committee Name and Date of Committee Meeting**

Cabinet – 07 August 2023

**Report Title**

General Enforcement Policy

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

Yes

**Strategic Director Approving Submission of the Report**

Paul Woodcock, Strategic Director of Regeneration and Environment

**Report Author(s)**

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**Ward(s) Affected**

Borough-Wide

**Report Summary**

This report provides an overview of the refresh of the Council's General Enforcement Policy.

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 20<sup>th</sup> February 2023 for 28 days. The refreshed Policy is attached as Appendix 1 with changes highlighted in red text.

**Recommendations**

1. That Cabinet approve the revised General Enforcement Policy, which will be published in accordance with the Regulators Code (statutory guidance published by the Department for Business Innovation and Skills), a requirement of The Legislative and Regulatory Reform Act 2006.

**List of Appendices Included**

|            |   |
|------------|---|
| Appendix 1 | General Enforcement Policy – revised March 2023 |
| Appendix 2 | Current Enforcement Policy                      |
| Appendix 3 | Analysis of Consultation Responses              |
| Appendix 4 | Carbon and Climate Change Assessment            |
| Appendix 5 | Equalities Screening Assessment                 |

**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)
- Approved Officers Decision Report, 26<sup>th</sup> May 2023:  
[Decision - \(R&E\) General Enforcement Policy - Rotherham Council](#)

**Consideration by any other Council Committee, Scrutiny or Advisory Panel**

Cabinet – 01 August 2018

Cabinet

**Council Approval Required**

No

**Exempt from the Press and Public**

No

## General Enforcement Policy 2023

## General Enforcement Policy

### 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. The Regulators Code is statutory guidance published by the Department for Business Innovation and Skills.
- 1.2 The General Enforcement Policy is underpinned by the statutory principles of good regulation, with its primary purpose being to protect the public.
- 1.3 The Policy sets out the principles of transparency, consistency, and proportionality to which the Council will adhere in its discharge of enforcement and regulatory functions.
- 1.4 The current General Enforcement Policy has been reviewed, engaging both internal and external stakeholders. This was done by a peer-to-peer service review with affected Service Managers and Legal Services, and via a public consultation open for 28 days from 20<sup>th</sup> February 2023 on the Council's website.

### 2. Key Issues

- 2.1 The Council's General Enforcement Policy details how 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 ongoing developments, ensuring that regulatory activities are transparent and accurate.
- 2.3 The principles underpinning the Policy remain 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 have been highlighted. In previous versions, information on service specific standards and policies confused the overarching policy.
- 2.4 It is also important to consider how the Council's services, impacted by the Policy, are able to perform against the Policy's main values. In this regard, the

Council's main recent advancements have been around the utilisation of CCTV, both on an overt and concealed basis. Examples of these include street level cameras used for monitoring Anti-Social Behaviour hotspots and hidden cameras used for fly-tipping hotspots. By complying with Surveillance legislative frameworks, services are able to minimise privacy impacts on residents, as well as ensure they are protected from the impacts of such issues. Officers undertake refresher training around this topic regularly, with the latest training delivered in June 2023.

- 2.5 More broadly, Enforcement services at the Council are performing well with increasing demand for services. For example, the Regulation and Enforcement Services (Environmental Health and Community Protection) have seen higher demand in 2022/23 in comparison to each financial year going back to 2019/20. This obviously includes the Covid impacted years within this timescale. Over 9,500 investigation or complaints were handled in 2022/23 compared with 8164 in 2021/22.
- 2.6 This has resulted in the highest number of formal enforcement notices being issued in 2022/23 (since 2019/20), with 922 notices served compared with 761 in 2021/22. This is consistent with an increase of informal enforcement actions such as warning letters, with over 6,500 warnings issued in 2022/23, significantly higher (12% more) than previous year.
- 2.7 Looking forward in 2023/24, Enforcement and Regulatory Services will continue to explore all legislative tools available in statute to resolve complaints, regulate effectively and protect the public. This will include further consultation on the renewal or variation of the current Public Spaces Protection Orders (PSPOs), which impact on the Town Centre due to associated Anti-Social Behaviour, and the whole Borough with regards to Dog Fouling.

### **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 that Cabinet approve the refreshed Policy for publication.

### **4. Consultation on proposal**

- 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, including members of the public, were invited to share their views via a public consultation published on the Council's website for 28 days from 20<sup>th</sup> February 2023. The included some Social Media prompts and links to the survey.

- 4.3 Services sent communication about the consultation directly to stakeholders where practical. The Selective Licensing database was used to send a link to the online process which reached the Landlords and Managing Agents linked to the near 2,500 licensed properties.
- 4.4 Discussions at internal and external partnership meetings to ensure participation and awareness of the consultation with key stakeholders such as the Police, internal departments and third sector and voluntary organisations such as REMA, Clifton Learning Partnership and RotherFed were aware of the process to provide feedback took place.
- 4.5 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 3. External stakeholders were also asked to provide feedback on the effectiveness of 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. It is however noted that in some areas respondents disagreed with areas such as the proportionate application of the policy or the targeting of resources according to need. These have been raised with the relevant service managers to consider any implications and in addition, services will consider how to improve engagement with service users to continuously inform the approach.
- 4.6 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.
  - Review of developments in surveillance frameworks including the use of CCTV and social media.

## **5. Timetable and Accountability for Implementing this Decision**

- 5.1 The responsibility for the implementation of this decision and further review will be the Service Manager, Regulation and Enforcement services and the Head of Community Safety and Regulatory Services.

## **6. Financial and Procurement Advice and Implications**

- 6.1 The General Enforcement Policy will be delivered within the approved revenue budgets for the affected Services.
- 6.2 There are no direct procurement implications arising from the recommendations detailed in this report.

## **7. Legal Advice and Implications**

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. Implications for Children and Young People and Vulnerable Adults**

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

## **9. Equalities and Human Rights Advice and Implications**

9.1 There are no equalities or human rights implications. A screening assessment has been carried out in Appendix 3.

## **10. Implications for CO2 Emissions and Climate Change**

10.1 An assessment has been carried out in Appendix 4. There are implications in relation to vehicle use emissions to conduct regulatory and enforcement visits however the impact is assessed as minimal.

## **11. Implications for Partners**

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

## 12. Risks and Mitigation

- 12.1 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.
- 12.2 Failures to comply with the Regulators' Code can result in reputational damage to the Council through not complying with its legal obligations

## 13. Accountable Officers

Emma Ellis, Head of Community Safety and Regulatory Services  
Lewis Coates, Service Manager Regulation and Enforcement  
Craig Cornwall, Community Protection Manager

Approvals obtained on behalf of Statutory Officers: -

|   | <b>Named Officer</b> | <b>Date</b> |
|---|----------------------|-------------|
| Chief Executive   | Sharon Kemp          | 24/07/23    |
| Strategic Director of Finance & Customer Services (S.151 Officer) | Judith Badger        | 20/07/23    |
| Assistant Director, Legal Services (Monitoring Officer)           | Phil Horsfield       | 20/07/23    |

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