

Agenda Item IMD3

INDIVIDUAL EXECUTIVE MEMBER DECISION

REFERENCE IMD: IMD 2023/03

TITLE	Environment and Safety Department Enforcement Policy
DECISION TO BE MADE BY	Executive Member for Environment, Sport and Leisure - Ian Shenton
DATE, MEETING ROOM and TIME	23 February 2023 David Hicks 1 at 11am
WARD	None Specific;
DIRECTOR / KEY OFFICER	Director, Place and Growth - Steve Moore

PURPOSE OF REPORT (Inc Strategic Outcomes)

To authorise officers to implement an Enforcement Policy for the Environment and Safety Department in compliance with the Regulator's Code under Section 22 of the Legislative and Regulatory Reform Act 2006 ("the 2006 Act").

RECOMMENDATION

That the Executive Member for Environment, Sport and Leisure authorises the Director of Place & Growth, and officers delegated in turn by them, to implement the Environment and Safety Department Enforcement Policy ("the Policy"), contained as enclosure 1 to this report, including service specific enforcement policies appended to it, and to publish the Policy on the Council's website.

SUMMARY OF REPORT

The Policy aims to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. It is intended to ensure that any person exercising a regulatory function to which the Policy applies must have regard to the principles that regulatory activities should be carried out in a way which is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is necessary.

Specific enforcement policies are included as appendices in relation to:

- Financial penalties for environmental offences and housing offences
- Advertising boards on the highway
- Interference with public rights of way

Background

The Environment and Safety Department within the Place & Growth Directorate delivers a mix of statutory and local priority services across the disciplines of Environmental Health, Environmental Protection, Waste Management, Private Sector Housing, Licensing, Anti-Social Behaviour, Countryside Services, Drainage and Tree Protection and Public Rights of Way. This Policy relates to the duties and powers vested in the Council in relation to those service areas, with the exception of Tree Protection which is governed by the Local Planning Enforcement Plan.

The overall service purpose is to improve public health, the environment, community standards and business prosperity through the investigation of complaints, carrying out inspections, giving advice, licensing and enforcement of offences, breaches of regulations or failure to meet required standards.

Business Case (including Analysis of Issues)

As required by section 21 of the 2006 Act the Policy is based on the following Principles:

- Transparency
- Accountability
- Proportionality
- Consistency
- Targeted only at those cases where action is needed

The Policy commits the Council to good enforcement policies and procedures based on those principles.

Financial penalties for environmental offences are already delegated to officers, so no change to the Constitution is required and Appendix 1 of the Policy updates the amounts of the penalties and the statutory powers.

The legislative bases for financial penalties for housing offences are provided by

- Smoke Alarm and Carbon Monoxide Regulations 2015 (as amended in 2022) (Appendix 2)
- Energy Efficiency Regulations 2015 (Appendix 3)
- Electrical Safety Standards in the Private Rented Sector Regulations 2020 (Appendix 4)
- Housing Act 2004 as amended by the Housing and Planning Act 2016 (Appendix 5)
- Tenant Fees Act 2019 (Appendix 6)

These will require an amendment to the Constitution, which is in hand, to delegate to officers the powers under the following statutes: Energy Acts 2011 and 2013; Housing and Planning Act 2016 and the Tenant Fees Act 2019.

The Policy on advertising causing an obstruction on the highway (Appendix 7) will enable officers to insist on the removal or re-location of advertising boards where the owner is not willing to comply voluntarily.

The policy on interference with public rights of way (Appendix 8) sets out the approach the Council will take depending on the circumstances of the case.

The policy on enforcement against high hedges (Appendix 9) states that the Council will follow the policy and procedural guidelines set down by Government and the Council has no separate policy in this regard.

FINANCIAL IMPLICATIONS OF THE RECOMMENDATION

The Council faces unprecedented financial pressures as a result of; the longer term impact of the COVID-19 crisis, Brexit, the war in Ukraine and the general economic climate of rising prices and the increasing cost of debt. It is therefore imperative that Council resources are optimised and are focused on the vulnerable and on its highest priorities.

	How much will it Cost/ (Save)	Is there sufficient funding – if not quantify the Shortfall	Revenue or Capital?
Current Financial Year (Year 1)	(£9,200) budgeted income from environmental offences	Yes	Revenue
Next Financial Year (Year 2)	Total (£21,200) (£9,200) existing plus an additional (£12,000) budgeted income from housing offences financial penalties	Yes	Revenue
Following Financial Year (Year 3)	(£21,200)	Yes	Revenue

Other financial information relevant to the Recommendation/Decision
<p>The existing budget of £9,200 is forecast to be achieved in 2022/23 and in future years, while the additional income from housing offences from 2023/24 onwards will require in the region of four offences resulting in a penalty to achieve this income and potentially less depending on the seriousness of the offence and the related financial penalty.</p> <p>There are no additional associated costs, as actions will be carried out within existing staffing levels. Risks are seen as minimal but exist in relation to sufficient offences taking place to generate the budgeted level of income. Income from financial penalties may contribute to service budgets, subject to the legislative power.</p>

Cross-Council Implications
There is no negative impact on other Council services from this decision.

Public Sector Equality Duty
Due regard will be taken to the Public Sector Equality Duty in carrying out enforcement functions.

SUMMARY OF CONSULTATION RESPONSES	
Director – Resources and Assets	None received
Monitoring Officer	None received
Leader of the Council	None received

Reasons for considering the report in Part 2
N/A

List of Background Papers
Regulators' Code 2014

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