

Executive Report

Ward(s) affected: All wards

Report of Strategic Director – Place

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Corporate Regulatory Enforcement Policy

Executive Summary

This report details the review on the Corporate Enforcement Policy that was implemented in 2018. It is good practice for Local Authorities to review and update their Enforcement Policy periodically.

The main proposed change to the policy is reflected in Section 6, which introduces a graduated enforcement approach to Public Space Protection Orders.

The draft policy went out to public consultation in April 2022 for 3 weeks, the findings of which are presented in Appendix 3 of this report for the Executive's consideration. The policy has been revised to reflect the feedback received.

Recommendation to Executive

The Executive is asked to agree the adoption of the revised policy.

Reason(s) for Recommendation:

The policy provides a clear framework for the way the Council undertakes its regulatory functions and is in line with The Legislative and Regulatory Reform Act 2006 which advocates that enforcement should be carried out in a transparent, accountable, proportionate and consistent manner that is targeted only where action is needed.

Is the report (or part of it) exempt from publication?

No

1. Purpose of Report

- 1.1 This report sets out the review of the Corporate Enforcement Policy that was approved by the Executive on 2 January 2018 and proposes a revised Policy for consideration.
- 1.2. The Policy will provide the basis for a consistent approach to the full range of regulatory functions that the Council carries out.

2. Strategic Priorities

- 2.1. The Enforcement Policy supports the following strategic priorities:
 - a. **Homes and Jobs** – support our business community and create employment opportunities through regeneration.
 - b. **Environment** – engage with residents and businesses to encourage them to act in more environmentally sustainable ways through their waste, travel and energy choices whilst making every effort to protect and enhance our biodiversity and natural environment.
 - c. **Community** – empowering communities and supporting people in need.

3. Background

- 3.1. The Legislative and Regulatory Reform Act 2006 (“the Act”) imposes a duty on anyone exercising a specified regulatory function to have regard to the principles of good regulation. The principles provide that regulation should be carried out in a way that is transparent, accountable, proportionate and consistent and should be targeted only at cases in which action is needed.
- 3.2. Under Section 23 of the Act, the Minister issued a Regulators’ Code in 2014, which gives guidance on exercising regulatory functions. As a regulatory body, the Council is under a duty to have regard to the Code in exercising regulatory powers, setting standards or giving general advice.
- 3.3. If adopted, the Enforcement Policy will apply to all our regulatory functions, excluding civil parking enforcement, which has a standalone policy that was last reviewed by Guildford Joint Committee in September 2018.
- 3.4. Representatives from different regulatory functions and all Heads of Service across the Council have been given the opportunity to provide feedback on the revised policy and this has been incorporated into the final draft.

4. Key Amendment to Policy

- 4.1. Section 6 of the revised policy specifically introduces enforcement of Public Space Protection Orders (PSPOs). A reviewed PSPO came into force in Guildford's town centre in April 2022. The revised enforcement policy introduces a mechanism for dealing with persistent offenders of anti-social behaviour in the town centre by escalating enforcement action but also considering support for individuals to steer them away from the criminal justice system.

5. Consultations

- 5.1. The proposed enforcement strategy relating to the Town Centre PSPO was discussed and agreed with partners including Surrey Police, Experience Guildford, Sheltered Housing providers and voluntary groups as part of the PSPO consultation process. Lead and ward Councillors were kept informed regarding the implementation of the PSPO.
- 5.2. The Head of Environment and Regulatory Services authorised the draft Corporate Enforcement Policy, outlined in Appendix 1, to go out to consultation under her delegated powers in Part 3, paragraph 7 on page 3/58 of Guildford Borough Council's [Constitution](#).
- 5.3. The draft policy went out to public consultation for 3 weeks on 19 April 2022 to get the views of our customers and businesses on its implications and to ensure that it is fair and proportionate. A press release was issued alerting businesses and residents to the consultation, the link of which was published on the Council's website. The licensed trade was also informed via the Licensing Newsletter. A total of 5 consultation responses were received, which are detailed in Appendix 3.
- 5.4. The diversity of regulatory powers makes it difficult to encapsulate detailed processes in this policy. Often there are detailed processes that need to be followed, dependent on the particular law and statutory guidance. For this reason, whilst the policy sets out principles that will be followed, more detail may be contained in service specific policies and procedures.

6. Key Risks

- 6.1. This policy does not present a fundamental change in how we carry out our Regulatory Functions and so it does not represent any new risks to the Council. Officers will continue to be appointed to carry out regulatory functions in line with their training and/or competency in line with the Council's constitution.

7. Financial Implications

- 7.1. A short consultation has been conducted in response to this revised policy, but these costs will be absorbed by the Environment and Regulatory Service and Communications Team. There are no additional financial implications arising from consulting on or implementing the policy.

8. Legal Implications

- 8.1. The Act requires the Council to have regard to the regulatory principles and the Regulators' Code when exercising our regulatory functions. Whilst it is not a legal requirement to have an Enforcement policy, the adoption of a Corporate Enforcement Policy, which incorporates the principles of the Regulators' Code and sets out how we will apply them, will help to ensure compliance with our legal duty.
- 8.2. Although the proposed policy is based on the principles of the Regulators' code, an Equalities Impact Assessment has been carried out, which is outlined in Annex 1 of the Enforcement Policy.

9. Human Resource Implications

- 9.1. The proposed policy will not have any additional human resource implications.

10. Equality and Diversity Implications

- 10.1. Public authorities are required to have due regard to the aims of the Public Sector Equality Duty (Equality Act 2010) when making decisions and setting policies. An Equalities Impact Assessment has been carried out and is outlined in Appendix 3.
- 10.2. The Council will always seek to behave in a reasonable and proportionate manner to all individuals and businesses with whom they interact. In following the Crown Prosecution's criteria for prosecution decisions, all enforcement decisions will also be taken in light of the public interest test.
- 10.3. **Disability** – Where necessary and appropriate, the Council will endeavour to ensure that any person with physical, mental health and/or learning disabilities have access to a responsible person to assist and support their needs and understanding. The Council will explore support services that may be available to support potentially vulnerable people through safeguarding referrals to MASH (Multi-Agency Support Hub) and/or CHaRMM (Community Harm Reduction Management Meeting) before escalating issues to prosecution. The Council is undertaking a review of its website to improve the accessibility of information.
- 10.4. **Race** - Where English is not a person's first language, there are a number of ways that we can seek to communicate with them informally:
 - Seek assistance from colleague who speaks the relevant language;
 - Use mobile phone translation Apps; and / or
 - Use [Interpreting & Translation Services | LanguageLine UK](#).

Should an investigation require a formal interview, the Officer will ask the person being interviewed whether they need the assistance of an independent, registered interpreter to ensure that the person fully understands the implications of the process and to enable them to fully exercise their rights. The cost of this service will be paid for by the Council but may be added to the Council's costs schedule should the matter being investigated go to court.

10.5. **Age** - Our policy is not to serve Fixed Penalty Notices to children under the age of 18 years. Where there are persistent issues with a child breaking the law, other avenues will be explored prior to formal enforcement action, including:

- Safeguarding referrals through MASH and/or CHaRMM
- Consideration of taking action against the parent and/or guardian of the child, where appropriate.

11. Climate Change/Sustainability Implications

11.1 This policy in isolation does not have relevant climate change and/or sustainability implications, however, the Council is responsible for enforcing aspects of the law that will contribute to this agenda, including:

- declaration of air quality management areas
- approval of processes under Part B of the Environmental Protection Act 1990.
- licensing of private hire vehicles and Hackney Carriages

12. Summary of Options

12.1 The following options are available to the Executive in consideration of this policy:

1. The Executive adopts the revised policy;
2. The Executive amends the revised policy; or
3. The Executive rejects the revised policy; retaining the policy agreed in 2018.

13. Conclusion

13.1. The amended Enforcement Policy will continue to provide the framework for transparency and consistency in our approach to exercising regulatory functions.

14. Background Papers

Guildford Borough Council's [Corporate Enforcement Policy 2018](#)

Regulators Code 2014

Regulators Code: Summary of regulators and regulatory functions covered 2014

Legislative and Regulatory Reform Act 2006

Legislative and Regulatory Reform (Regulatory Functions) Order 2007

Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2009

Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2011

Legislative and Regulatory Reform (Regulatory Functions) (Amendment) Order 2014

Equalities Impact screening assessment

15. Appendices

Appendix 1: Draft Corporate Enforcement Policy

Appendix 2: Equalities Impact Assessment

Appendix 3: Consultation feedback and responses

Service	Sign off date
<i>Finance / S.151 Officer</i>	<i>R Stubbs 19/7/22</i>
<i>Legal / Governance</i>	<i>N. Joss 22/8/22</i>
<i>HR</i>	
<i>Equalities</i>	
<i>Lead Councillor</i>	
<i>CMT</i>	<i>07/22</i>
<i>Executive Liaison</i>	<i>31/08/22</i>
<i>Committee Services</i>	