

Environmental Excellence Policy Development Panel

Agenda

Members of the Panel:

Cllr K S Kelly (Chairman)

Cllr N J Harpley

Cllr N J Brennan (Vice Chairman)

Cllr K E Lawrence

Cllr D J Britcher

Cllr G K Nurden

Cllr A D Crotch

Cllr S M Prutton

Cllr J Davis

Cllr J M Ward

Cllr J F Fisher

Cllr J Leggett (ex officio)

Date & Time:

Thursday 23 June 2022 at 6.00pm

Place:

Council Chamber, Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich

Contact:

Leah Arthurton tel (01508) 533610 Email: Leah.arthurton@southnorfolkandbroadland.gov.uk

Website: www.southnorfolkandbroadland.gov.uk

PUBLIC ATTENDANCE:

If a member of the public would like to attend to speak on an agenda item, please email your request to committee.bdc@southnorfolkandbroadland.gov.uk, no later than 5.00pm on Monday 20 June 2022.

AGENDA

- 1. To receive declarations of interest under Procedural Rule no 8;**
- 2. Apologies for absence;**
- 3. Minutes of the meeting held on 14 April 2022; (minutes attached page 5)**
- 4. Regulatory Enforcement Policy; (report attached page 8)**

DECLARATIONS OF INTEREST AT MEETINGS

When declaring an interest at a meeting Members are asked to indicate whether their interest in the matter is pecuniary, or if the matter relates to, or affects a pecuniary interest they have, or if it is another type of interest. Members are required to identify the nature of the interest and the agenda item to which it relates. In the case of other interests, the member may speak and vote. If it is a pecuniary interest, the member must withdraw from the meeting when it is discussed. If it affects or relates to a pecuniary interest the member has, they have the right to make representations to the meeting as a member of the public but must then withdraw from the meeting. Members are also requested when appropriate to make any declarations under the Code of Practice on Planning and Judicial matters.

Have you declared the interest in the register of interests as a pecuniary interest? If Yes, you will need to withdraw from the room when it is discussed.

Does the interest directly:

1. affect yours, or your spouse / partner's financial position?
2. relate to the determining of any approval, consent, licence, permission or registration in relation to you or your spouse / partner?
3. Relate to a contract you, or your spouse / partner have with the Council
4. Affect land you or your spouse / partner own
5. Affect a company that you or your partner own, or have a shareholding in

If the answer is "yes" to any of the above, it is likely to be pecuniary.

Please refer to the guidance given on declaring pecuniary interests in the register of interest forms. If you have a pecuniary interest, you will need to inform the meeting and then withdraw from the room when it is discussed. If it has not been previously declared, you will also need to notify the Monitoring Officer within 28 days.

Does the interest indirectly affect or relate any pecuniary interest you have already declared, or an interest you have identified at 1-5 above?

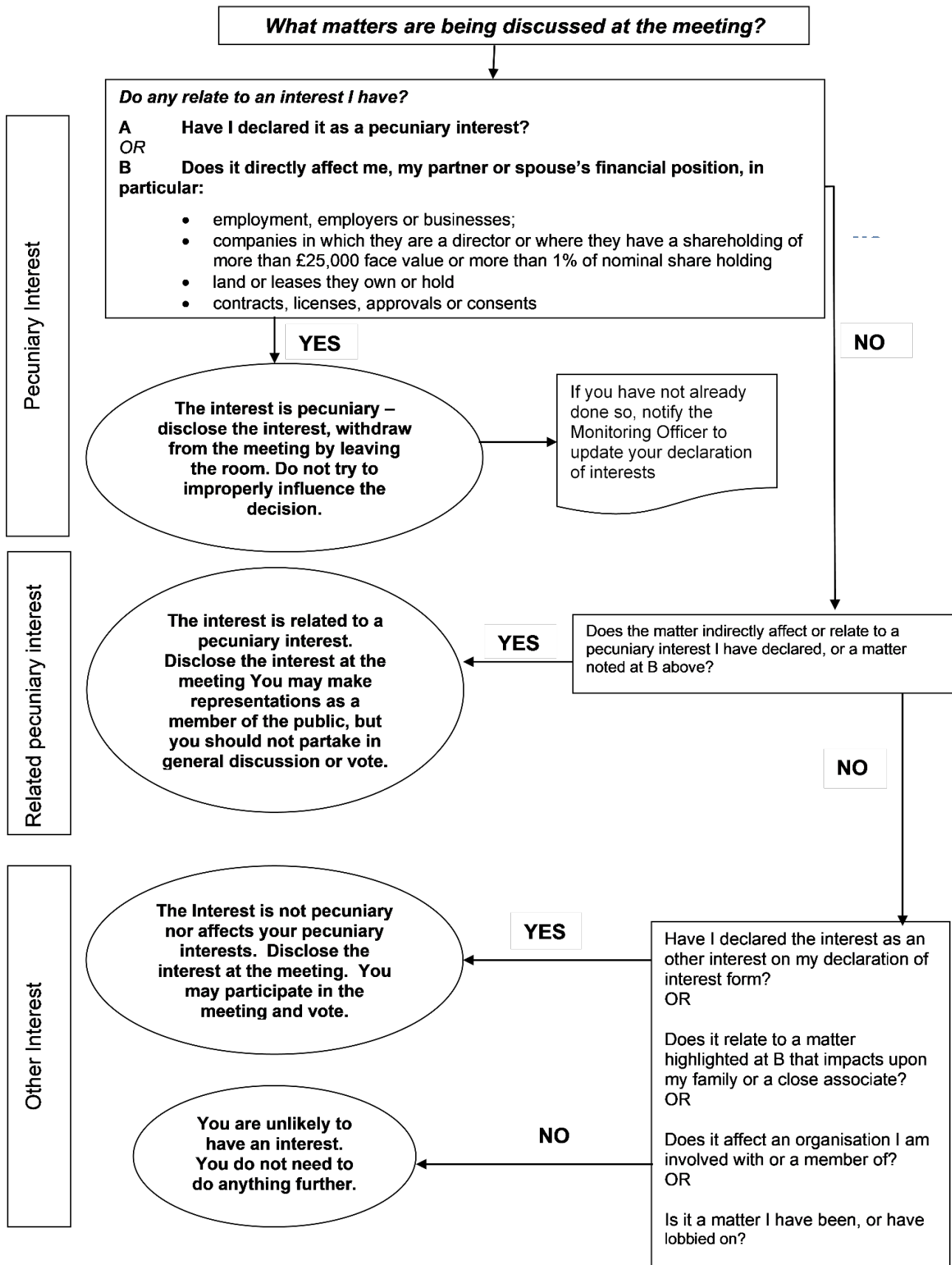
If yes, you need to inform the meeting. When it is discussed, you will have the right to make representations to the meeting as a member of the public, but you should not partake in general discussion or vote.

Is the interest not related to any of the above? If so, it is likely to be an other interest. You will need to declare the interest, but may participate in discussion and voting on the item.

Have you made any statements or undertaken any actions that would indicate that you have a closed mind on a matter under discussion? If so, you may be predetermined on the issue; you will need to inform the meeting, and when it is discussed, you will have the right to make representations to the meeting as a member of the public, but must then withdraw from the meeting.

**FOR GUIDANCE REFER TO THE FLOWCHART OVERLEAF.
PLEASE REFER ANY QUERIES TO THE MONITORING OFFICER IN THE FIRST
INSTANCE**

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



ENVIRONMENTAL EXCELLENCE POLICY DEVELOPMENT PANEL

Minutes of a meeting of the Environment Excellence Policy Development Panel of Broadland District Council, held at Thorpe Lodge, 1 Yarmouth Road, Thorpe St Andrew, Norwich on Thursday 14 April 2022 at 6.00pm.

Committee Members Present: Councillors: K S Kelly (Chairman), N J Brennan, D J Britcher, A D Crotch, J Davis, N J Harpley, K E Lawrence, S M Prutton and J M Ward

Cabinet Member Present: Councillor: J Leggett

Officers in Attendance: The Assistant Director Community Services (S Phelan), the Housing Standards Service Manager (K Philcox), the War Homes Programme Manager (K Strandoo) and the Democratic Services Officer (DM)

29 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors J F Fisher and G K Nurden.

30 MINUTES

The minutes of the meeting held on 27 January 2022 were confirmed as a correct record and signed by the Chairman.

Arising from the minutes, the Assistant Director Community Services updated members on the following:

- Electrical, battery and textile collection service – this weekly collection service had been launched on 1 April 2022 and 110 small electrical items, 5 bins of batteries and 2 large containers of textiles had been collected.
- The food waste service would be rolled out across the whole district in October 2022 with publicity starting in August. Food waste bags were now fully compostable.
- Work had started on a joint project with other councils to explore the possibility of a coffee pod collection service.

- Discussions were ongoing with Veolia and DEFRA regarding the new duties likely to be placed on local authorities. A decision had been taken to push back the provision of 180ltr bins to new households pending the outcome of the new legislation.
- Quarterly recycling rates – the latest recycling rate was approximately 54%.

31 WARM HOMES PROGRAMME – UPDATE

Members considered the report of the Warm Homes Programme Manager which gave an overview of activities and outputs delivered by the Norfolk Warm Homes Programme working in partnership with Norfolk Authorities, Clarion Housing and Saffron Housing Trust and provided an outline of future projects for the coming year. The Warm Homes Programme Manager took members through the report. She drew attention to the funding provided by National Grid which had enabled grants for first time heating for the private sector and social housing but had also enabled a package of wrap-around support to be developed which had been very successful in providing additional help and advice and had led to the establishment of a network of contacts. This funding stream had seen over £4m invested in central heating; the scheme would finish at the end of May.

A subsequent funding application had been successful in securing government funds to deliver insulation and renewable heating systems with a focus on improving the energy efficiency of homes, reducing fuel poverty and reducing carbon emissions. The scheme was aimed at low income households with low energy performance ratings. Members noted the delivery outcomes to date of the latest funding scheme. Looking ahead, the recently awarded further government funding under the Sustainable Warmth Completion Scheme would be delivered over the coming year to target those most in need.

The Chairman congratulated officers on the work undertaken. In response to questions, officers confirmed that the limited availability of installers had caused issues but that a procurement exercise had been undertaken to increase the supply of suitably qualified installers. The government were aware of the issues and were exploring options to resolve this, including working with the Local Enterprise Partnerships (LEPs) to upskill and increase the number of local regional companies certified to deliver government grant schemes. The LEPs were also establishing regional procurement frameworks.

In response to a question regarding the extent of the issue of fuel poverty in the district, officers confirmed that it was difficult to fully understand the extent of the problem but circa 6500 households were likely to be in fuel poverty. It was unclear how many of these households were rented accommodation and there was a need to capture landlords as well as home owners. The government funding schemes to date had seen up to 45 homes in Broadland improved which meant there was still much work to be done. There would also be a need to be mindful that the installation of new low energy renewable heating units could lead to higher running costs which needed to be addressed with occupants.

A question was raised as to how people became aware of the funding available and officers commented that social media was increasingly being used to reach out to residents. Connections with other agencies and housing stock data also helped the council to proactively approach suitable households.

Officers confirmed that the type of insulation installed as part of the grant schemes was fibre based, non-flammable and regulations ensured that the insulation installed allowed for the building to breath.

In answer to a question as to what help was available to people in difficulty because of the cost of existing central heating, officers confirmed that there was currently little help available other than the government's current Energy Bills Rebate providing £200 discount on energy bills to be paid back over the next five years and a £150 non repayable council tax rebate. The team were receiving an increase in calls from residents concerned about their rising energy bills and the Warm Homes website was being updated with energy saving advice and information about where to seek further financial support. Reference was made to the particular issue facing those fleeing domestic abuse who were already in hardship. Officers commented that the Council was, via the help hub, looking to develop a hardship package of support to reach vulnerable people.

The Portfolio Holder congratulated the team on its work and asked for a further update in 6 months' time.

RESOLVED

To note and support the ongoing activities of the Norfolk Warm Homes Programme with the aim of supporting residents living in fuel poverty through grant assisted improvements to increase thermal efficiency and provide renewable heating solutions to homes.

(The meeting concluded at 6:40pm)

Chairman

Regulatory Enforcement Policy

Report Author(s): Andrew Grimley
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Portfolio: Environmental Excellence

Ward(s) Affected: All Wards

Purpose of the Report:

This report presents a proposed overarching Enforcement Policy for adoption to replace the council's existing enforcement policy.

Recommendations:

1. Council to agree the adoption of the proposed over-arching Enforcement Policy at Appendix 2 to replace the existing overarching enforcement policy, retaining as separate documents its other existing thematic enforcement policies.

1. Summary

- 1.1 This report and the proposed new overarching enforcement policy at Appendix 2 set out arrangements applicable to a range of the council's regulatory and enforcement services listed below in paragraph 2.1. The proposed policy will not apply to fraud investigations.
- 1.2 The council's robust approach to regulation and enforcement in the service areas covered by this report involves:
- a) Maximising the offer of appropriate advice and support to legal duty holders,
 - b) Making rapid responses and early interventions to nip in the bud community concerns and incidents of non-compliance, and
 - c) An abbreviated prosecution approach that expedites enforcement and minimises costs to council tax payers.
- 1.3 The council as a regulator exercising enforcement powers is subject to specific expectations and its overarching enforcement policy now requires updating. The council's existing overarching enforcement policy in at Appendix 1. The revised and updated overarching enforcement policy presented in Appendix 2 is proposed for adoption.
- 1.4 If adopted, the proposed new overarching enforcement policy will:
- a) Effectively update the broad enforcement policy framework.
 - b) Set out the council's broad policy statements for investigation and robust enforcement.
 - c) Support rapid and efficient enforcement.
- The proposed enforcement policy will apply both to breaches of established legal duties and to offences identified through incidents arising, reports received, officer inspections and investigations. The key test of enforcement questions will be that there is sufficient evidence and public interest, and that it is necessary and proportionate, to carry out enforcement.
- 1.5 Adopting the proposed enforcement policy will provide the necessary foundations, and will help to ensure that there is no need for repetition in detailed thematic enforcement policies to follow for consideration and adoption. Those thematic enforcement policies will contain detailed considerations in individual areas regulation, including decision-making thresholds and criteria for specific powers and areas of legislation being too numerous to include in one policy document.
- 1.6 The proposed enforcement policy approach, designed to correspond with that of South Norfolk Council as a collaborating partner, would see a common set of enforcement policy provisions being adopted by both councils. This would give the clarity and certainty to common officer teams in how they approach and administer regulation and enforcement. This is recommended by officers because, from a regulatory and enforcement services perspective, both districts share similar characteristics, profiles of regulatory non-compliance and offending, and enforcement requirements. No significant enforcement policy distinctions or

special requirements have been identified that would affect the adoption of the proposed overarching enforcement policy.

2. Background

- 2.1 The council is responsible for administering a wide range of legislation, advising and regulating to ensure compliance, and where necessary taking enforcement action. The enforcement services subject to the proposed enforcement policy at Appendix 2 are Regulatory services for environmental protection (including environmental quality, community protection and community safety & intervention), food and safety, and licensing, together with Housing Standards services including enforcement for gypsy and traveller unauthorised encampments.
- 2.2 An enforcement policy serves two purposes:
 - a) To establish a documented policy framework informing enforcement approaches, decision-making and practices of investigating officers and other decision-makers.
 - b) To provide information about the council's policy approach to those people and businesses which are regulated and those protected by regulation, so that they can know what to expect and can assure themselves when facing potential enforcement.
- 2.3 Following the Enforcement Concordat in 1998 and the Hampton Report in 2005, the Regulators' Code was published in July 2013, and this replaced the Regulators' Compliance Code. The Regulators' Code is a statutory code of practice introduced under section 23 of the Legislative and Regulatory Reform Act 2006 which came into force on 6 April 2014. Each regulator covered by the Regulators' Code is expected to adopt an enforcement policy that incorporates its requirements.
- 2.4 While there is no explicit legal requirement to document enforcement policies, without doing so it would be more difficult for the council to demonstrate compliance with the Regulators' Code and preceding external expectations. Many regulatory bodies, including this council and other local authorities, have adopted and published an enforcement policy based upon the principles of good regulation and the predecessors of the Regulators' Code.
- 2.5 The council last updated its overarching enforcement policy in November 2015 and a copy of the main document is attached at Appendix 1. The overarching enforcement policy now requires review. The revised policy at Appendix 2 proposes updates and revisions to the policy, including specific new considerations dealing with issues linked to equality, to vulnerable people and to minors.

3. Current position/findings

- 3.1 Enforcement policies can range from single high-level generic cross-service documents to highly detailed sets of policies. Detailed policies can extend to setting the preferential order of enforcement options in a single thematic area and

the criteria for decision-making (minimum culpable age, etc.). The council's existing enforcement policy document at Appendix 1 provides an overarching policy together with thematic policies set out in appendices. The appendices to the existing enforcement policy have not been included in Appendix 1 because they will be the subject of updated versions coming forward as separate proposed new policies.

- 3.2 There are advantages in separating the overarching enforcement policy and thematic enforcement policies into separate documents:
- a) It is simpler to administer and update each policy without adverse impact on the others.
 - b) It encourages a helpful focus on the key considerations applicable to a particular area when enforcement policy question arises.
 - c) During challenges and legal proceedings, technicalities can focus on policy wording and it is helpful to keep policy documents tightly focussed.
- 3.3 Local government delivers a range of regulatory functions across diverse services, utilising a range of legislation and legal powers. Some regulatory functions/services may rely mainly on a single act of parliament or set of regulations. Others may make use of a range of legal powers from different legislation to achieve the desired outcomes. Changes in legislation and government policy are increasingly frequent, and national policy approaches have become more diverse between the various themes of regulation and enforcement falling to local authorities. Forseeably, the need for making revisions to the council's enforcement policies will become more frequent.
- 3.4 All our regulatory services' enforcement approaches and decision-making should comply with the Regulators' Code of practice. If this council and South Norfolk Council were to maintain differing enforcement policies, with differing requirements, there would be a significant risk that our common services officer teams operating to different sets of policies and corresponding procedures could make mistakes, with risks to enforcement case outcomes. The council's overarching enforcement policy needs to be brought up to date in key areas noted in paragraph 4.2.
- 3.5 The approach proposed will enable services to respond quickly and accountably to emerging threats, whilst reducing duplication and any risk of requiring policy revisions each time new legislation is enacted.

4. Proposed action

- 4.1 The proposed new overarching Regulatory Enforcement Policy at Appendix 2 has been updated and revised to satisfy the Regulators' Code and reflect good enforcement practice.
- 4.2 Whilst this proposed new enforcement policy adopts a fresh format, many of the considerations are consistent with the previous enforcement policy. The key changes concern:

- a) Changes in legislation and regulators' compliance expectations (throughout the document).
- b) The council's vision.
- c) Explicit consideration of equality issues (draft Policy paragraphs 18 and 85),
- d) Provisions governing action against vulnerable people (draft Policy paragraphs 106 and 107).
- e) Provisions governing action against minors (draft Policy paragraphs 66, 108 and 109).
- f) Measures to deter reoffending and improve offenders' standards of behaviour (several places in the draft policy).

5. Other options

- 5.1 **Option 1 – Do Nothing.** The council is the legally obliged to update its existing enforcement policy, however doing nothing would fail to reflect opportunities identified in this report and changes in national expectations on regulators.
- 5.2 **Option 2 – Pursue a different policy.** The council decide to update its policy but to take a different line on enforcement principles, approaches and detailed considerations than those proposed in Appendix 2.

6. Issues and risks

- 6.1 **Resource Implications** – No new budget implications have been identified. The existing policy position of robust enforcement involves greater numbers of enforcement cases, vigorously pursued, with attendant implications for officer time and legal costs. In other respects, the proposed overarching enforcement policy contains no changes raising significant new resource implications.
- 6.2 **Legal Implications** – The updating of the council's overarching enforcement policy is supportive of robust and enforcement. Legal advice has been taken on the draft policy and no new implications have been identified arising from the proposed enforcement policy.
- 6.3 **Equality Implications** – The proposed enforcement policy includes equality assessments and specific considerations concerning enforcement and young or vulnerable people. There are no identified impacts on any specific individuals or groups having protected characteristics.
- 6.4 **Environmental Impact** – Positive enforcement is protective of the environment. No adverse implications have been identified.
- 6.5 **Crime and Disorder-** Positive enforcement is protective of our communities from crime and disorder. No adverse implications have been identified.
- 6.6 **Risks** – Adopting the overarching enforcement policy as proposed raises no identified risks beyond the matters covered in this report.

7. Conclusion

- 7.1 The overarching Enforcement Policy as proposed meets the expectations of the Regulators' Code and recognised good practice. Adopting the policy will establish update the council's provisions, supporting good regulation and positive enforcement.

8. Recommendations

- 8.1 Council to agree the adoption of the proposed overarching Enforcement Policy at Appendix 2 to replace the existing overarching enforcement policy, retaining as separate documents its other existing thematic enforcement policies.

Background papers

1. Broadland District Council's enforcement policy (November 2015).
2. UK Government, former Better Regulation Delivery Office (now BEIS) – [Regulators' Code](#).

BROADLAND DISTRICT COUNCIL



HOUSING AND ENVIRONMENTAL SERVICES DEPARTMENT

Enforcement Policy

Date: November 2015

Review date:

November 2016

A summary of the Policy is available in large print, on tape or in other languages on request

Contents	Page
Introduction	3
Enforcement Activity	4
Principles of Good Regulation	5
Intelligence and Risk led Enforcement	7
Enforcement Action	7
Working with external agencies and enforcement bodies	10
Publicity	10
Contacting the Environmental Services Department	61
Appendices	12
Food Safety	13
Regulatory Services	21
Health and Safety	27
Environmental Protection	42
Private Sector Housing	50

1. Introduction

- 1.1. In 1998 the Cabinet Office published the “Enforcement Concordat” to help promote consistency in the UK regulatory enforcement regime.
- 1.2. The Enforcement Concordat set out principles of good enforcement policy and although a voluntary code of practice it was adopted by 96% of all central and local government bodies with enforcement functions.
- 1.3. Following the recommendations of the Hampton Report¹, the Enforcement Concordat was supplemented by a statutory code of practice, the “Regulators Compliance Code”, to give the Hampton Principles a statutory basis.
- 1.4. This is provided by the Legislative and Regulatory Reform Act 2006, which places a duty on regulators to have regard to five Principles of Good Regulation². The code of practice was issued on 17th December 2007 and came into force on 6th April 2008.
- 1.5. This enforcement policy which is a developed enhancement of a document originally produced by the erstwhile Norfolk Better Regulation Partnership (NBRP) seeks to deliver improved regulatory outcomes, whilst reducing unnecessary burdens on compliant businesses.
- 1.6. The enforcement policy re-affirms the work originally developed by the NBRP and furthers the aim of providing consistency of approach within Broadland District Council’s Environmental Services Department and with other partner regulatory services within Norfolk.
- 1.7. In accordance with the above, this document seeks to mirror as far as possible the existing Enforcement Policies of other partner regulatory services to enable and facilitate collaborate enforcement processes and joint enforcement activities.
- 1.8. This enforcement policy accords with the principles of the Human Rights Act 1998, the European Convention on Human Rights, The Freedom of Information Act 2000 and Regulation of Investigatory Powers Act 2000.
- 1.9. This enforcement policy is intended to iterate the basic principles of enforcement activity with specific matters and issues relating to:-
 - 1.9.1.1. Private Sector Housing
 - 1.9.1.2. Environmental Protection (incorporating Pollution Control and Street Scene
 - 1.9.1.3. Environmental Enforcement (incorporating Health and Safety, Food Safety and licensing)

These principles are within dedicated enforcement documents forming appendices to this policy. In all cases this main policy and the specific relevant document must be considered in conjunction.

¹ “Reducing administrative burdens: effective inspection and enforcement” – Philip Hampton 2005

² Transparency, accountability, proportionality, consistency and targeted action.

2. Enforcement Activity

For the purpose of this document 'enforcement' includes action carried out in the exercise of, or against the background of, statutory enforcement powers. This is not limited to formal enforcement action such as prosecution or issue of notices and would include the inspection of premises for the purpose of checking compliance with legal requirements and the provision of advice to aid compliance.

This enforcement policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulator's Compliance Code.

In certain instances the regulator may conclude that a provision in the Code is either not relevant or is outweighed by another provision. The regulator will ensure that any decision to depart from the Code will be properly reasoned, based on material evidence and documented.

2.1 Formal Action

2.1.1 Whilst recognising that most businesses want to comply with the law the regulator also recognises that some elements of business and individuals will operate outside the law (both intentionally and unintentionally).

2.1.2 Broadland District Council will consider taking formal action in serious breaches which may include any of the following circumstances:

- a. Where there is a risk to public health, safety or damage to the environment.
- b. For matters where there has been recklessness or negligence.
- c. A deliberate or persistent failure to comply with advice, warnings or legal requirements.
- d. Any act likely to affect animal health or welfare, disease prevention measures, or the integrity of the food chain.
- e. Obstruction or assault (including verbal assault) of an officer in the execution of their duties.

(THE ABOVE LIST IS NOT EXHAUSTIVE)

2.1.3 For the purposes of this document 'formal action' means: Prosecution, Simple Caution, Issue of Penalty Notices, Seizure, Suspension, Forfeiture, revocation/suspension of a licence, registration or approval, Written or Verbal Instruction, Advice or Warning, or any other criminal or civil proceedings, applied either separately or in any appropriate combination.

3. Principles of Good Regulation

The five principles of good regulation are:

- Transparency;
- Accountability;
- Proportionality;
- Consistency; and
- Targeted only at cases for which action is needed.

3.1. Transparency

We will communicate in plain English or in the appropriate language or method

In most circumstances we will ensure that people affected by formal action are informed of what is planned, and allow for discussion and time to respond before the action is taken. We will also give them a named officer's contact details.

We will make a clear distinction between legal requirements and recommended works.

As part of our commitment to equality we will use the following:-

- Where businesses or the public do not have English as a first language we will offer translations of correspondence at the time of the inspection
- We also use INTRAN, the Interpretation and Translation Agency for the Public Services of Norfolk covering telephone interpreting, face to face interpreting, sign language and lip speaking service.
- We can provide large print documents and Braille
- We can provide taped information
- Documents can be emailed

3.2. Accountability

The regulatory officers will actively work with businesses and the public to advise and to assist with compliance and complaints.

- Out of hours contact for services will be provided for complaints or requests of an immediate high risk public health impact such as food poisoning outbreaks; serious pollution incidents; serious accidents and animal disease outbreaks.
- Carrying out evening visits and inspections when businesses are open during these times.
- Regulatory Officers will show their identification (and authority if requested) at the outset of every visit and explain the reason for the visit, unless the nature of the investigation requires otherwise.
- Contact points and telephone numbers will be provided for business and public use.
- The whole range of enforcement activities will be dealt with as promptly and efficiently as possible in order to minimise time delays.
- The Environmental Services Department has a complaint procedure for use by businesses, the public, employees and consumer groups. This is available on request by telephone and from reception desks.
- Feedback questionnaires will be routinely used to gather and act upon information about the service we provide.

- To help keep businesses up to date we will include information to highlight new legal requirements, with letters sent after an inspection or visit; information on the internet and direct mailing.

3.3. Proportionality

- Any action required will be proportionate to the seriousness of the breach and the risk to health, safety or the environment.
- The most serious formal action, including prosecution, will be for serious breaches of the law where there is a significant risk to health, safety or the environment or where there has been a flagrant disregard for the requirements of the law.

3.4. Consistency

- Similar issues will be dealt with in the same way by the Regulatory Officers.
- There are arrangements in place to ensure discussion and comparison of enforcement decisions by the Regulatory Officers.
- All Regulatory Officers undertaking enforcement duties will be suitably trained, qualified and authorised so as to ensure that they are fully competent to undertake their enforcement duties.

3.5. Targeted

All enforcement action will be primarily targeted towards those situations that give rise to the most serious risks, where the risks are least well controlled and against deliberate or organized crime. Other factors also determine priorities for enforcement activity, including Government targets and priorities, new legislation, national campaigns and public concerns.

4. Intelligence and Risk Led Enforcement

Through capturing a coherent and robust intelligence picture, effective strategies and tasking and co-ordination for dealing with particular problems can be developed. This methodology enables the identification of new, current and emerging problems, and gives the capability to provide strategic and tactical direction as to how they can best be tackled. Activities are targeted based on general or specific risks identified via trends, history or specific incidents. Enforcement Agencies exchange information as part of their partnership work in reducing crime and disorder.

5. Enforcement Action

The Regulatory Officers will have regard to the guidance documents, which exist both generally, for example, the Code for Crown Prosecutors produced by the Crown Prosecution Service (CPS) as well as other guidance relevant to the individual regulator.

In determining the nature of enforcement action to be taken, the Regulators should ensure that any sanction or penalty should:-

- Aim to change the behaviour of the offender;
- Aim to eliminate financial gain or benefit from non-compliance;

- Be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction;
- Be proportionate to the nature of the offence and the harm caused;
- Aim to restore the harm caused by the regulatory non-compliance where appropriate;
- Aim to deter future non-compliance.

During an investigation a person who it is believed may have committed an offence may be formally interviewed. These interviews will be conducted under the rules of the Police and Criminal Evidence Act 1984.

5.1 Conflict of Interest in Food Law Enforcement Matters

Where a breach of food law is detected in premises where the enforcing authority is itself the food business operator, then except where the health and safety of an individual or the community is at risk and immediate action is required, the following protocol will be followed:-

Where the breach is sufficiently serious to warrant more than the provision of advice, information, assistance or a written warning, a food officer from another food authority within Norfolk will be asked to assist in the decision making process as to the action required to be taken. The Chief Executive should also be informed of serious breaches without delay.

The food officer's role is to assist and challenge the decision making process to ensure that appropriate, proportionate and consistent action is to be taken to remedy the breach, prevent re-occurrence and to minimise the risk of 'conflict of interest' for the enforcing authority. A record of the food officer's involvement will be kept such that it is auditable.

5.2 Prosecution

Regulatory Officers will follow guidance which requires two main tests to be considered in relation to instigating a prosecution:

A. The Evidential Sufficiency Test – i.e.

- Is there admissible, substantial and reliable evidence that an offence has been committed? i.e. Can it be used in court? Is there enough evidence? Is the evidence sound and factual? (Which may include an expert opinion).
- Has the Police and Criminal Evidence Act 1984 been complied with to ensure fair and open gathering of the evidence?

B. The Public Interest Test – i.e.

- Is it in the public interest to prosecute?

The guidance gives a number of factors that may lead to a decision not to prosecute, including: -

- a) The court is likely to impose a nominal penalty;
- b) The offence was committed as a result of a genuine mistake or misunderstanding;

- c) If the loss or harm caused can be described as minor and was the result of a single incident;
- d) There has been a long delay between the offence taking place and the date of the trial, unless:
 - The offence is serious;
 - The delay has been caused in part by the defendant;
 - The offence has only recently come to light; or
 - The complexity of the offence has meant that there has been a long investigation;
- e) A prosecution is likely to have a bad effect on the victim's physical or mental health;
- f) The defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health;
- g) The defendant has put right any loss or harm; or
- h) Details may be made public that could harm sources of information, international relations or national security.

The Regulatory Officers will also consider whether or not a prosecution is appropriate by consideration of the factors contained in paragraph 2.1.2 of this policy.

When considering formal enforcement action, the Regulatory Officer will, where appropriate, discuss the circumstances with those suspected of a breach and take these into account when deciding the best approach.

The Environmental Service Department will have an internal procedure for the authorisation of any investigations that may result in prosecution. All such cases will be regularly reviewed.

If formal action is taken, the Environmental Services Department is likely to seek to recover the costs of the investigation. The Court determines the level of fine imposed and costs awarded.

5.3 Simple Cautions

A simple caution in certain cases may be offered as an alternative to a prosecution. The purpose of a simple caution is to deal quickly with less serious offences, to divert less serious offences away from the Courts, and to reduce the chances of repeat offences.

The regulators will comply with the provisions of the Home Office Circular 30/2005. The following conditions must be fulfilled before a caution is administered:

- There must be evidence of the offender's guilt sufficient to give a realistic prospect of conviction;
- The offender must admit the offence; and
- The offender must understand the significance of the caution and agree to being cautioned.

If a person/Company declines the offer of a formal caution, the regulator will normally pursue the prosecution action.

5.4 Forfeiture

Where an accused has not agreed to voluntarily surrender any infringing goods then, on successful conclusion of legal proceedings, forfeiture may be applied for. This does not preclude a regulator taking forfeiture proceedings in their own right in appropriate circumstances.

5.5 Proceeds of Crime

Where appropriate, working in partnership as necessary, the regulatory authority will seek to recover the assets of convicted offenders under the Proceeds of Crime Act 2002.

5.6 Directors

On the conviction of a Director connected with the management of a company the prosecutor will, in appropriate cases, draw to the Court's attention their powers to make a Disqualification Order under the Company Directors Disqualification Act 1986.

5.7 Civil Claims

Any enforcement action is completely separate and distinct from civil claims made by individuals for compensation or other remedy. Enforcement is not undertaken in all circumstances where civil claims may be pursued, nor is it undertaken to assist such claims.

The Environmental Services Department may upon request provide solicitors acting for individuals pursuing a civil claim, a factual report, which details the investigation and involvement in the case. There may be a charge for this report.

6. Working with external agencies and enforcement bodies

If a business has a Primary Authority (also if appropriate a Lead or Home Authority scheme or informal Lead or Home Authority scheme), the regulator will contact the Primary Authority before enforcement action is taken, unless immediate action is required because of imminent danger to health, safety or the environment.

The Environmental Services Department will liaise with the other partner regulators to ensure that any proceedings instituted are for the most appropriate offence.

7. Publicity

Regulatory authorities have a responsibility to protect the public from detrimental trading and environmental practices. Regulators undertake a range of activities to achieve this. These include actions that are taken after the detection of an offence, as well as measures to prevent and deter their commission.

One such measure is the publication of convictions and information concerning significant detrimental trading or other behaviour. The publicity generated by prosecutions and other enforcement action acts as a deterrent to others. It also reassures the general public that Regulators take a serious view of such detrimental behaviour.

The Head of Environmental Services Department will therefore consider publishing the name and address of each person convicted of or subject to other enforcement action, together with details of the issues involved. In reaching a decision as to whether to publish such information, the Head of Environmental Services will consider the following factors:-

- The specific details of the offence committed or detrimental activity.
- The public interest in disclosing personal information e.g. the deterrent effect of the publication.
- Whether the publication would be proportionate.
- The personal circumstances of the offender.

This list is not exhaustive and other factors may be relevant in the circumstances of an individual case.

Broadland District Council

Enforcement Policy

2022

DRAFT

Introduction

1. Broadland District Council's vision is of working together to create the best place and environment for everyone, now and for future generations
2. We are committed to growing the economy; supporting individuals and empowering communities; protecting and improving the natural and built environment, whilst maximising quality of life; and moving with the times, working smartly and collaboratively
3. To support the above objectives, we are committed to good regulatory enforcement practice and to avoid the imposition of any unnecessary regulatory burden.
4. This enforcement policy sets out a framework to achieve this and reflects the relevant legislative powers and duties of the council.
5. This enforcement policy has been updated following the implementation of the Regulators Code April 2014, which applies to specified regulatory functions carried out by the council, and, to the implementation of the Anti-social Behaviour, Crime and Policing Act 2014.
6. This enforcement policy has been approved in line with the council's constitution and supersedes the council's previous overarching enforcement policy.
7. Subsidiary to this overarching enforcement policy there are several subject-specific enforcement policies. These specific enforcement policies but apply where legislation, government or good practice has required them, for example, Food Safety, Planning Enforcement, Private Sector Housing Enforcement Service, Integrated Pollution Prevention & Control. They will be revised and updated individually from time to time.
8. In updating this enforcement policy there has been consideration of the legislation, guidance and codes listed in **Appendix 1**.
9. This policy does not apply to the council's:
 - a. Financial fraud investigations and enforcement
 - b. Tenancy enforcement & special investigations
 - c. Estates & property leasing
 - d. Property Services

This policy is not intended to apply to any future parking, markets or highways enforcement (which the council does not carry out at present).

What is this policy for?

10. The purpose of this policy is to provide a consistent, correct, efficient and effective approach to making enforcement decisions within relevant areas of service delivery. It also serves to communicate the council's policy towards addressing non-compliance with regard to the legislation that is enforced.
11. The council uses a range of activities to ensure compliance with the legislation enforced by the services listed in Appendix 2. These include:
 - a. Site visits, inspections, and patrols
 - b. Acting on intelligence received
 - c. Carrying out investigations
 - d. Serving legal notices/orders to affect a stop, a change, a restriction or an improvement
 - e. Issuing financial penalties
 - f. Giving formal warnings, conditional cautions, and simple cautions
 - g. Giving informal advice, including education & awareness programmes
 - h. Injunctive actions, byelaws, and temporary powers
 - i. Prosecutions
 - j. Carrying out test purchases, seizure, sampling, and analysis
 - k. Licensing and Permits

The above range of enforcement activities and actions may change as further legislation is enacted or repealed.

When does this policy apply?

12. The policy applies to enforcement actions taken by the council to deal with legislative non-compliance with the acts, regulations and orders that are enforced by the service areas listed in Appendix 2.
13. The term enforcement action includes any action taken by the council and its officers to achieve compliance, for example.
 - a. Giving advice, guidance, information, and support to encourage compliance
 - b. Giving informal warnings for instances of minor non-compliance
 - c. Agreeing to voluntary undertakings to permit immediate or intensive action to be taken to ensure rapid compliance, e.g., voluntary premises closure, surrender of a permit or license, surrender of items, etc.
 - d. Removal, review or nullification of licences, permits, agreements, leases, etc.
 - e. Investigation & seizure of items
 - f. Formal action such as the service of a premises closure order, statutory notice, a penalty notice or issuing a simple or conditional caution
 - g. Instituting legal proceedings such as prosecution, injunction, or court order

14. There may be other options for enforcement action available in respect of service areas. There may also be service specific statutory obligations regarding enforcement. These will be identified in the published policies relating to those services as referred to at points 8 & 10.
15. In applying this policy regard shall also be had to underlying policies or protocols that deal with specific service areas or issues.

General principles for dealing with non-compliance

16. There is an escalating scale of actions that can be taken depending on the nature and seriousness or severity of the non-compliance and whether it is a recurrent issue. Decisions on what the appropriate action to take is made by officers named in the council's published scheme of delegations. This enforcement policy will be taken into account when those decisions are under consideration.
17. The type of enforcement action taken will depend on the level of risk and concern .
18. The council and its officers will be fair, objective and consider the council's published approach to equality <https://www.southnorfolkandbroadland.gov.uk/downloads/file/2711/equality-and-diversity-policy>.
19. Enforcement activities, including determining whether to investigate or not, will be based on whether there is an appropriate offence, any relevant risk assessments, the quality of intelligence and any available evidence, local service priorities, public nuisance considerations, the evidential and public interest tests, etc. Matters of local concern can also be considered. Where evidence is identified of a clear breach or offence we will robustly investigate in terms of taking formal action against the perpetrator.
20. In addition to statutory obligations all those who are subject to enforcement action will be informed of the reasons in writing.
21. Where further action is needed to achieve compliance, whether this be to a domestic occupier, a landlord, a business, or a group such as a charity, , this will be expressly stated with a clear timeframe (where applicable). This process should involve dialogue and research to ensure timeframes applied are reasonable and achievable.
22. Where there is negligent, persistent, or deliberate non-compliance, particularly by a business, it will be dealt with firmly. This is to ensure compliant businesses and individuals can operate in the Broadland district free of unfair or illegal competition.
23. Enforcement actions will be proportionate to the non-compliance and will ensure the minimum legal standard of compliance is maintained.
24. Enforcement action shall not necessarily be triggered if those who are subject to regulation become aware themselves of a non-compliance and show a demonstrable willingness to address the matter by seeking advice from the council (or other agencies or their own legal representation).
25. Enforcement action against business will consider relevant Primary Authority agreements/arrangements, previously agreed formal sampling plans, inspection plans and documented quality control arrangements.
26. Where there are shared roles with other enforcement agencies, such as the Police, HSE, EA, FSA, etc., enforcement activities will be consulted on and co-ordinated as far as possible, to

avoid duplication, ensure clarity and improve regulatory effectiveness. Where appropriate, partnership work will be undertaken in line with agreed Memorandums of Understanding and any other agreements or guidance documents applicable. If these are not in place then there shall be structured, formal liaison.

27. The council cannot take legal action against itself. Where potential formal enforcement action concerns a local authority establishment or activity, the enforcing service must notify their Service managers and the Assistant Directors responsible for the establishment or activity causing concern. The Assistant Directors must notify their relevant Directors. The Directors shall ensure that decisions concerning non-compliance internal to the council are made are free from potential and/or actual conflicts of interest. The Directors will have the ability to involve another local authority or independent organisation to review decisions where any concern remains.
28. Where non-compliance is subject to an investigation, the individuals or organisations will be made aware of the investigation shall be informed of the outcome.
29. Witnesses in legal proceedings shall be kept updated in accordance with relevant service standards and targets.
30. Where legislative non-compliance is identified, but it is not the duty or responsibility of the council to address this, information may be passed to other enforcement agencies or organisations. This shall occur with clear regard to data protection law, GDPR and any relevant protocols or Memorandums of Understanding where they are in place.

No Action

31. In certain circumstances, it might be appropriate that no action is taken. For example:
 - a. When the health and safety risk is sufficiently low enough.
 - b. Where there are extenuating circumstances regarding the person against whom action would be taken.
 - c. Taking formal action would be disproportionate or inappropriate in the circumstances of the case.

Advice guidance and support

32. Where there is evidence of non-compliance, but it is decided that the matter is minor, of low risk and/or is easily resolved, the council can consider an advice and guidance approach as a first response.
33. Such advice would include a clear explanation of what action is required to achieve compliance, a clear timeframe for implementation and a compliance check. This might be appropriate when new legislation is introduced, and businesses may be unaware of new responsibilities and/or where the nature of the breach is minor, and the public are at low risk from any negative consequence or impact.
34. The council is open to dialogue in relation to any advice or guidance given by an authorised officer.

Informal warnings

35. In some cases, an opportunity will be given to make improvements to comply with the law within a reasonable time.
36. Informal warnings can take the form of a verbal warning, a report, or a written warning. Informal warnings will explain:
 - a. the law that applies,
 - b. the nature of the non-compliance,
 - c. the action to take,
 - d. the time by which compliance should be achieved (if applicable),
 - e. clearly define what are legislative requirements and what are recommendations, and
 - f. the consequences of continuing with non-compliance.
37. Informal warnings may be used as evidence of previous conduct in legal proceedings should non-compliance continue to an extent to justify formal action.
38. The council will keep an audit trail that identifies the enforcement steps taken and the opportunities given to achieve compliance.

Voluntary undertakings

39. The council may, in certain circumstances, accept voluntary undertakings that a non-compliance will be rectified and/or a recurrence prevented. Failure to honour voluntary undertakings is taken seriously and formal enforcement action to ensure compliance is likely to follow.

Statutory notices & orders

Notices

40. Some legislation confers powers to issue statutory notices. Notices require that specified action, to achieve compliance, be carried out within a defined timescale.
41. Notices may also prohibit specified activities until the non-compliance has been rectified and/or until safeguards, to prevent future non-compliance, have been put in place.
42. The service of some notices may also be accompanied by a fee to recover costs of investigation, preparation, and service of notices.
43. Failure to comply with a statutory notice may constitute a criminal offence and may lead to prosecution or the imposition of a financial penalty and/or the carrying out of necessary works in default by the council and subsequent recovery or the costs for those works and administration and organisation of them.
44. Some notices issued may be advertised in the public domain, affixed to the premises and/or registered with the Land Registry and/or as local land charges.

Orders

45. Some legislation confers powers to issue statutory orders. Orders require the prohibition or restriction of activities, occupation and/or use, by anyone or specified groups.

46. The service of some orders may also be accompanied by a fee to recover costs of investigation, preparation, and service of the order.
47. Failure to comply with a statutory order may constitute a criminal offence and may lead to prosecution or the imposition of a civil penalty and/or the carrying out of necessary works in default by the council and subsequent recovery or the costs for those works and administration and organisation of them.
48. Some orders issued may be advertised in the public domain, affixed to the premises and/or registered with the Land Registry and/or as local land charges.

Action against licences, permits, agreements, etc.

49. The council issues and enforces a number of formal licences, permits, permissions, agreements, etc. Occasionally the council has a role to play in ensuring that appropriate standards are met and reflect the permits or similar documents issued by other enforcement agencies.
50. Serious or repetitive non-compliance with the terms, conditions or restrictions of a licence, permit, permission, agreement, etc. may lead to its status being reviewed, revoked, suspended, terminated, or amended. In such circumstances this final decision will be reached following compliance with the appropriate process, the presentation of relevant evidence and with all relevant considerations taken into account.
51. Non-compliance with the terms, conditions or restrictions of licences, permits, permissions, agreements, etc. can also result in the instigation of formal action and legal proceedings.
52. When considering premises or person licence applications, the council may, where appropriate, take the previous history of the premises, the person and the applicant into account when processing and deciding such applications.
53. Where stated in the principal legislation most licences and permits are subject to automatic suspension or effectively lapse if they are time limited or if there is a failure to pay due fees.

Provision of Services Regulations 2009

54. Certain licensing activities are considered services and are therefore subject to the requirements of the Provision of Services Regulations 2009. This covers the application process, how fees are set and charged and whether tacit consent is applicable. Where this applies the relevant service shall set out how the licensing process complies with these regulations.

Financial penalties

55. The council has powers to issue financial penalties of various kinds, be they fixed or variable in respect of some offences/non-compliances as set out in a variety of statutes. Some examples are fixed penalty notices (FPNs), penalty charge notices (PCNs) or Civil Penalties.
56. If these notices/fines are not paid, or there is repeated offending, the council may also be able to commence formal enforcement action and/or legal proceedings depending on the statute being applied. This could be recovery or the imposed penalty or prosecution for the offence that led to the imposition of the penalty.

57. If a financial penalty is paid the council will not (or in some cases cannot) take further enforcement action in respect of the non-compliance that led to its imposition. Payment of a financial penalty does not prevent prosecution or the issue of a further penalty in respect of future or recurrent non-compliance.
58. In some circumstances, where a non-compliance is serious in its impact or is recurrent, prosecution may be a more appropriate (where available) recourse that the council takes where there is a choice between a penalty and prosecution.
59. Where the statute stipulates that the council put in place and publish policy, statements, or similar before a power to use financial penalties can be used this will be done by the individual service and covered by that service's enforcement policy.

Cautions

Simple Cautions

60. Simple Cautions are an alternative to prosecution and may be offered for some less serious offences where there is sufficient evidence to justify prosecution and the person admits the offence and agrees to accept a caution voluntarily.
61. Where a simple caution is offered and declined, the council is likely to consider taking forward a prosecution.
62. Simple cautions shall be issued in accordance with Ministry of Justice guidelines.

Conditional Cautions

63. Conditional Cautions are another alternative to prosecution and may be offered for some less serious offences where there is sufficient evidence to justify prosecution and the person admits the offence, agrees to accept a conditional caution voluntarily, including the conditions attached to it.
64. If the conditions are complied with or completed within the timescales determined, the case is finalised and there will be no prosecution. If, however, the conditions are not complied with, a prosecution is likely to follow.
65. Conditional cautions shall be issued in accordance with Ministry of Justice guidelines.

Injunctive actions, orders etc.

66. In some circumstances the council may seek a direction from the Court (in the form of an order or an injunction) to ensure that a non-compliance is rectified and/or prevented from recurring. In certain situations, the council can seek injunctions against minors. Where this is considered necessary, no action will be taken against any minor without full consultation with Norfolk County Council's Children's Services and or Norfolk Youth Offending Team.
67. The Court may direct that specified activities be suspended until the non-compliance has been rectified and/or that safeguards have been put in place to prevent future non-compliance.
68. Failure to comply with a Court Order constitutes 'contempt of court', a serious offence which may lead to imprisonment.

69. After the issue of some specific enforcement notices, the council is required to seek an enforcement order from the Court, thus providing the Court with an opportunity to confirm the restrictions previously imposed. Otherwise, the council will usually only seek a Court Order if the circumstances warrant this action.
70. Criminal Behaviour Orders (CBO's). Where the non-compliance under investigation amounts to anti-social behaviour and, where there is to be a criminal prosecution for the behaviour a CBO may be sought to stop the activity. We will always liaise with the Operational Police Team before seeking an Order. This type of action may be used in incidents such as persistent targeting of an individual or a group of individuals in a particular area.
71. Public Spaces Protection Orders (PSPO's) are used to prohibit specified activities relating to anti-social behaviours, and/or require certain things to be done by people engaged activities, within a defined public area.
72. Forfeiture Proceedings - This course of action may be used together with seizure and/or prosecution where there is a need to dispose of goods to prevent them re-entering the marketplace or being used to cause a further problem. Any application for forfeiture will be made to the Magistrates' Court.
73. Proceeds of Crime Applications may be made under the Proceeds of Crime Act 2002 for confiscation of assets in serious cases. The purpose is to recover the financial benefit that the offender has obtained from their criminal conduct. Applications are made after a conviction has been secured.

Compulsory Purchase and Enforced Sale

74. Enforced sale – a power that allows the council to recover debts registered against the title of a property by forcing its sale. This is a process set out under the Law of Property Act 1925. If the council utilises this power, it will be done in line with statutes and all relevant guidance to ensure the process is fair and proportionate.
75. Compulsory purchase – a power that allows the council to purchase a property/land without the consent of the owner. There are various legislative powers that allow compulsory purchase in given circumstances, for example the Town and Country Planning Act 1990. If the council utilises this power, it will be done in line with statutes and all relevant guidance to ensure the process is fair and proportionate.

Time Limited, Event Specific Powers

76. Where circumstance dictates, 'time-limited' powers may be introduced by central Government to help control certain events or issues. An example of this would be the emergency powers introduced to help limit the spread of coronavirus during the COVID-19 pandemic.
77. Where the council is empowered to enforce temporary or time limited powers, the following will occur:
 - a. The appropriate officer (usually the Assistant Director or above) will inform the appropriate Director as to their purpose and how they will be implemented, managed, and monitored.

- b. The appropriate officer (usually the Director or above) will delegate powers to appropriate officers, with the consummate experience, knowledge and, where appropriate, qualifications, to manage and to discharge these duties.
 - c. A temporary authorisation for the use of the temporary powers, will be issued for relevant officers, which the Authority will be able to produce on request.
 - d. Where required, officers will be provided with appropriate training.
 - e. Where required, risk assessments will be amended and/or introduced to cover the use of the temporary powers and any attendant staff safety consequences of said powers.
 - f. Systems will be adopted or adjusted to ensure the use of the temporary powers can be recorded, monitored, and managed.
78. It may be that there are other distinct enforcement agencies empowered to enforce the same or different, but related, powers. Where this is the case, the appropriate officer (usually the Service Manager or above) will ensure that:
- a. Named individuals of appropriate position in other agencies are contacted and communication lines established.
 - b. Temporary protocol/s is/are agreed and instigated, that clearly define the roles of the agencies, particularly where there is a joint enforcement role, and how activity will be coordinated, recorded, and monitored.
 - c. A steering group arrangement will be established or co-opted to oversee any activity. Decisions and actions arising from these meetings will be recorded.
 - d. Where required activities will be effectively coordinated, for example joint operations. This may necessitate the need for the establishment of 'operational groups. The jointly agreed arrangements and outcomes arising from operations will be recorded.

Byelaws

79. A byelaw is a locally adopted law that can be espoused by the council. There are a number of acts of parliament that allow this process (enabling Act's). The process for adopting byelaws is set out in [The Byelaws \(Alternative Procedure\) \(England\) Regulations 2016](#). The process is overseen by the Ministry of Housing, Communities and Local Government (MHCLG) and final approval is given by the Secretary of State.
80. Where a byelaw is adopted by the council the relevant Service will set out how this is used under their own specific Enforcement Policy. An example of an adopted byelaw in the Broadland district is in respect of our Private Hire and Hackney Carriage Policy and Conditions.

Formal actions – legal proceedings

81. The council may prosecute in respect of non-compliance with appropriate legislation in line with the principles set out in this enforcement policy.
82. The appropriate Assistant Director with legal advice must consent to any decision to instigate legal proceedings and shall have regard to the Crown Prosecutions Service's Code for Crown Prosecutors as well as this policy.

83. The Crown Prosecution Service's Code involves a two-test decision making process namely, an evidential test and a public interest test. If there is insufficient evidence to provide a realistic prospect of conviction, then no prosecution should be undertaken. Where there is sufficient evidence then a prosecution must also be determined to be in the public interest.
84. Successful prosecution can also lead to the disqualification of individuals from specific activities or from acting as company directors. For example, the prosecution of a private sector landlord, or managing agent, may render them 'a not fit and proper person' under the terms of the council's private sector housing licensing scheme(s).

Decisions on enforcement action

85. Deciding when and how to take enforcement action will be taken based on the following guiding principles.
- a. **Accountability** - to recognise that it is the responsibility of every business and individual to comply with the law and that most want to do so.
 - b. **Proportionality** - to ensure that action taken relates directly to the actual or potential risk to health, safety, the environment, or economic disadvantage to residents, consumers, or businesses.
 - c. **Consistency** - to ensure a broadly similar approach is taken in similar circumstances to achieve consistent results with due regard to the specifics of each case.
 - d. **Transparency & Openness** - to ensure that the enforcement action that will be taken by the council is easily understood and that clear distinctions are made between legal requirements and what are recommendations that not compulsory.
 - e. **Objectivity** - to ensure that decisions are not influenced by reason of ethnicity, gender, gender reassignment, marital and civil partnership status, pregnancy and maternity, disability, sexual orientation, age, socio-economic status, employment status, or religious beliefs of the offender, victim, or witnesses.
 - f. **Equality** - to ensure that specific consideration is given to meet any special needs of business proprietors/managers and the public where appropriate. Sensitive consideration will be given where persons involved are children, elderly, infirm or vulnerable because of mental ill-health.
 - g. **Targeting** - to ensure that regulatory action is directed primarily at those activities that present the greatest risk.
 - h. **Deter** – to ensure the perpetrator and others are deterred from repeating the non-compliance.
 - i. **Improve** - to ensure behaviours standards are improved for the benefit of the wider community.
86. Decisions will:
- a. Consider whether similar social, environmental, or economic outcomes could be achieved without taking enforcement action.

- b. Consider risk, negligence or culpability and protect people from any (further) harm.
- c. Include the details and results of any requirement to consult with other organisations before taking action.

Appealing enforcement decisions & complaints against the service

- 87. Where there are rights of representation or appeal mechanisms against enforcement decisions these will be communicated in accordance with the relevant statutory obligations. In the absence of such obligations these will be communicated at the same time as the action is taken, or, if that is not possible, as soon as is reasonably practicable afterwards.
- 88. Service specific standards are usually published on the council's website. Where these are not available online, they can be advised in writing on request by the relevant enforcement service area or team.
- 89. An appeal against enforcement action is distinct and separate from a complaint against the conduct of an officer or a service. If the recipient of enforcement action or someone affected by that enforcement action is aggrieved by its imposition, they should seek remedy by way of appeal to the relevant authority/court/tribunal, where they are legislatively allowed to do this. If anyone is dissatisfied with the conduct of council officers/service, or believes there has been a failure to follow this policy, any related codes, or to meet service standards, a 'complaint about service' can be made using the council's Complaint procedure <https://www.southnorfolkandbroadland.gov.uk/downloads/file/3617/south-norfolk-council-complaints-policy>

Publicising enforcement actions

- 90. Officers should follow the advice of both legal and communications representatives with regard to press releases and other publicity, particularly where details of a particular person, group or business are to be identified. This to ensure the prevention of any data protection non-compliance by the council and to ensure any press releases align with corporate objectives.
- 91. Enforcement actions and outcomes will only be published with the intention of:
 - a. Reassuring community stakeholders that legislative non-compliance is taken seriously and dealt with,
 - b. providing public information on the standards of acceptable conduct and thus to deter others from undertaking similar non-compliant activities,
 - c. promoting and increasing intelligence about similar issues, and
 - d. to act as a deterrent to offenders or potential offenders from offending or repeat offending.
- 92. In all cases the human rights of victims, witnesses, and those against whom action has been taken, shall be taken into account.

Public Registers

93. Certain legislation/statute requires/allows the council to add details of certain enforcement activity or licensing onto a public register, for example the database of rogue landlords, etc. These will be maintained by the council in accordance with statute and guidance.

Conduct of Investigations

94. Investigations relating to enforcement activities will be conducted in accordance with relevant legislation and statutory obligations and with regard to any associated guidance or codes of practice, in so far as they relate to the council and its officers.
95. At the time of publication these include:
- a. Police and Criminal Evidence Act 1984
 - b. Criminal Procedure and Investigations Act 1996
 - c. Building Act 1984
 - d. Housing Act 1996
 - e. Housing Act 2004
 - f. Criminal Justice and Police Act 2001
 - g. Criminal Procedure and Investigations Act 1996
 - h. Data Protection Act 1998
 - i. Human Rights Act 1998
 - j. Regulation of Investigatory Powers Act 2000
 - k. Investigatory Powers Act 2016
 - l. Criminal Justice and Police Act 2001
 - m. Legislative and Regulatory Reform Act 2006
 - n. Regulatory Enforcement and Sanctions Act 2008
 - o. Protection of Freedoms Act 2012
 - p. Regulators' Code 2014
 - q. General Data Protection Regulations 2016
 - r. Proceeds of Crime Act 2002
96. These Acts, Regulations and their associated guidance, control investigations and how evidence is collected and used. They give a range of protections to investigating officers, potential defendants, and the public.

Authorisation of Officers

97. Only officers who are competent by training, qualification and/or experience will be authorised to take enforcement action.
98. Officers will also have sufficient understanding of this enforcement policy to ensure a consistent approach to their duties.

99. Due regard will be given to the qualification requirement framework applicable to each professional area of enforcement expertise.
100. Officers will always identify which service area they represent. They shall show their official identification or authorisation whenever exercising statutory powers and on request.
101. Details of which officers are authorised to make decisions about enforcement action are contained within the council's constitution, various schemes of management and in the council's Scheme of Delegation. These documents along with service specific procedures, can be made available on request.
102. Community Safety Accreditation Scheme (CSAS) – is a voluntary process whereby the chief constable can choose to accredit Local Authority officers with certain police powers to help tackle certain issues, for example the issuing of fixed penalty notices for cycling on a footpath, etc. Where council Officers have been accredited with these powers they will be set out in the scheme of delegations and will be part of the officer's authorisations.
103. Byelaws – where byelaws are adopted by the council, they will be set out in the scheme of delegations and will be part of the relevant council Officers authorisations.

Partners & Protocols

Partners

104. The council works with a wide range of partners, stakeholders, professional bodies, neighbouring local authorities, and partner enforcement agencies (internal and external). The council values the partners we work with and will engage with them in relation to enforcement activity and procedures where there are dual enforcement roles or specific targeted activity. An example of this would be working with the police in terms of antisocial behaviour issues within our areas.

Protocols

105. Protocols are developed to help clarify how services will work with other partners, enforcement agencies or internal services in relation to enforcement activity, especially where there are dual enforcement roles. Each service is responsible for developing their own protocols, which will sit as separate documents.

Management of Enforcement Action for Vulnerable People

106. As a guiding principle across all services, where enforcement action is considered against any vulnerable person where possible and appropriate consultation will take place with the appropriate Norfolk County Council / voluntary teams including Norfolk Safeguarding Adults Board (NSAB) and Norfolk County Council's Adults Social Services. <https://www.norfolksafeguardingadultsboard.info/>
107. The process helps to ensure that a proportionate approach is taken, properly considering the needs of a vulnerable resident with our responsibility to the wider communities that we serve. It recognises that a person's responsibilities are not mitigated by the presence of a vulnerability, e.g., not to cause a statutory nuisance to others. Safeguarding issues and the support needed to meet responsibilities are key points.

Management of Enforcement Action for Minors

108. As a guiding principle across all services, where enforcement action is considered against any minor where possible appropriate consultation will take place with the Norfolk County Council / voluntary teams including with Norfolk County Council's Children's Services.
109. Broadland District Council, local Police, health services, local schools, community, and the voluntary sector all come together to keep children safe at the Norfolk Safeguarding Children Partnership <https://www.norfolkscb.org/> . The Safeguarding Board wants to reach parents, children and young people, and all local organisations with information about stopping child sexual exploitation. There are 9 different "types" of child sexual exploitation. Sexual exploitation often happens alongside other forms of child exploitation, such as forcing children to break the law by carrying drugs or weapons and using that to blackmail a child. It's easy to understand the danger to children when their "best friend" is a criminal.

Policy status, feedback, and review

110. This enforcement policy has been approved in line with the council's constitution, following consultation within the council and other enforcement agency stakeholders.
111. This enforcement policy will be monitored by the council's Legal advisors and reviewed in 2025. This may be brought forward if new legislation is enacted, or current legislation is repealed that impacts significantly on the operation or status of this enforcement policy. Consultation will be sought should a review indicate significant change to the policy is needed.
112. Feedback on this enforcement policy may be given at any time via corporate complaints or form.

Contact details and obtaining copies of this policy

This policy will be published on the council's website and will be available to download.

Hard copies are available on request.

The council's accessibility statement is published on the website at:

<https://www.southnorfolkandbroadland.gov.uk/accessibility>

By letter at
Broadland District Council, Thorpe Lodge, 1 Yarmouth Road, Norwich NR7 0DU

By telephone at
Broadland District Council: 01603 431133

By email at
Broadland District Council at
customerservices@southnorfolkandbroadland.gov.uk

Appendix 1 - Guidance and legislative codes that influenced the preparation of the policy

1 Principles of Good Regulation

The Legislative and Regulatory Reform Act 2006, Part 2, requires the council to have regard to the Principles of Good Regulation when exercising a regulatory function specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007. These include those carried out by our environmental health and licensing services.

2 Regulators' Code

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

3 Human Rights Act 1998

Broadland District Council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. Due regard is had to the right to a fair trial and the right to respect for private and family life, home, and correspondence.

4 The Code for Crown Prosecutors

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

5 Specific Enforcement Legislation

For a full list of specific legislation covered by this regulatory enforcement policy you are referred to both the service authorisations and officer schemes of delegation.

Appendix 2 – Service areas to which this policy does apply

Directorate	Service area
Place	a. Food, Safety and Licensing b. Housing Standards c. Environmental Protection (including Environmental Management, Community Protection and Community Safety & Intervention) d. Planning Enforcement e. Building Control enforcement