

## REVISED ENFORCEMENT POLICY

<b>Head of Service:</b>	Rod Brown, Head of Housing & Community
<b>Report Author</b>	Oliver Nelson
<b>Wards affected:</b>	(All Wards);
<b>Urgent Decision?(yes/no)</b>	No
<b>If yes, reason urgent decision required:</b>	
<b>Appendices (attached):</b>	Draft revised Compliance and Enforcement policy

### Summary

As a cross cutting issue and with the agreement from all policy committee chairs, to consider a revised compliance and enforcement policy.

### Recommendation (s)

#### The Committee is asked to:

- (1) Consider the revised draft compliance and enforcement policy**
- (2) Nominate and Authorise the Head of Housing and Community in consultation with the Chair of the Strategy and Resources Committee to make any changes as appropriate following feedback from committee.**
- (3) Nominate and Authorise the Head of Housing and Community to carry out a consultation based on the draft, make any consequential amendments and bring the matter back to the committee for final adoption.**

### 1 Reason for Recommendation

- 1.1 The existing enforcement policy dates from 2014 and was adopted by a now abolished committee. Reliance on such a legacy policy places the Council at increased risk of challenge.
- 1.2 This existing policy can be located on the [council's website](#).

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- 1.3 Owing to the passage of time, the policy requires changes to update generally and to enhance its robustness. An opportunity has also been taken to rename the policy “Compliance and Enforcement Policy” to reflect the fact that enforcement can take many forms ranging from a verbal instruction to a formal prohibition or injunction.
- 1.4 It is necessary to have a robust policy as it is commonly relied upon during litigation and to aid Officer’s justification in taking particular courses of action. In this respect it can become critical during appeals hearings and external scrutiny such as matters considered by the Local Government and Social Care Ombudsman.

## 2 Background

- 2.1 The Council has a wide range of enforcement and compliance powers and duties in relation to businesses and individuals within the borough. In the interests of fairness and transparency it is normal for a local authority to adopt a policy which governs the use of these powers or execution of the duties.
- 2.2 The existing 2014 policy was framed around the then new Regulators Code, issued as part of the Legislative and Regulatory Reform Act 2006. The Council must have regard to the Regulators Code when developing policies and operational procedures that guide their regulatory activities.
- 2.3 Whilst government departments have evolved, the Regulators Code and the thematic elements of transparency, proportionality and consistency remain. The revised Compliance and Enforcement Policy attached to this report takes into account the Regulators Code.
- 2.4 The updates to the policy are:
  - 2.4.1 Enhancements around the use of Antisocial Behaviour tools which have arisen since the creation of the current version.
  - 2.4.2 More explicit statements concerning the policy around cost recovery where it is permitted.
  - 2.4.3 A development of policy around the issuing of fixed penalties and civil sanctions as an alternative to prosecution for certain offences.
  - 2.4.4 The approach to rent repayment orders which were introduced subsequent to the current version.
  - 2.4.5 Some consequential amendments to reflect the change in senior staff structure.
- 2.5 The proposed revised policy does not apply to planning enforcement work which relies upon a separate policy bespoke to this service area.

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- 2.6 Best practice is to carry out a consultation with those to whom the policy applies. In this context it is anticipated that, subject to the committee's decision, the consultation will be run for four weeks beginning in the second half of February 2025. This will allow sufficient time for the results of the consultation to be assessed and any resultant changes to the draft made for consideration by the committee at its meeting of 15<sup>th</sup> July 2025. The main stake holders will be the business community and the general public. To support contact with these groups, a communications plan will be produced utilising the Council's existing contacts, partners and channels to invite comments generally on the contents of the draft revised policy.

### 3 Risk Assessment

Legal or other duties

#### 3.1 Equality Impact Assessment

- 3.1.1 The progression of the draft document to public consultation does not in itself require a formal equalities impact assessment and the recommendations in this report are expected to have a neutral effect on the Council's public sector equality duty.

#### 3.2 Crime & Disorder

- 3.2.1 A carefully balanced compliance and enforcement policy will have a positive effect on crime and disorder including supporting the victims of antisocial behaviour.

#### 3.3 Safeguarding

- 3.3.1 No specific impact. However it is important to note that officers working in the service areas affected will commonly be the first to encounter safeguarding issues in the community and are trained to recognise and report them.

#### 3.4 Dependencies

- 3.4.1 None

### 4 Financial Implications

- 4.1 It is assumed that all enforcement undertaken within the remit of this revised policy will be delivered within existing service budgets.

- 4.2 **Section 151 Officer's comments:** None for the purpose of this report.

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### 5 Legal Implications

- 5.1 As a cross cutting issue covering all of the Council's policy committees, it is consistent with the Council's Constitution (Appendix 3) that this committee make policy in this area.
- 5.2 A clear and robust policy is necessary to continue to undertake successful compliance and enforcement activities.
- 5.3 An important legal principle to be avoided is fettering discretion through an absolute blanket approach which takes no account of individual circumstances. Likewise, where the policy is departed from it would be expected that a record be made of this and justifications set out in a note attached to the case file.
- 5.4 **Legal Officer's comments:** The update has been conducted by the relevant department, so there are no comments on behalf of Legal Services to make further to the content of this report.

### 6 Policies, Plans & Partnerships

- 6.1 **Council's Key Priorities:** The following Key Priorities are engaged:
  - Safe and Well
  - Opportunity and Prosperity
  - Green and Vibrant
  - Effective Council
- 6.2 **Service Plans:** The matter not included within the current Service Delivery Plan.
- 6.3 **Climate & Environmental Impact of recommendations:** None
- 6.4 **Sustainability Policy & Community Safety Implications:** As outlined in the body of this report.
- 6.5 **Partnerships:** None. Whilst it is common to work with partners in compliance and enforcement matters, the contents of this report are in reference to the options available to Epsom & Ewell Borough Council only.

### 7 Background papers

- 7.1 The documents referred to in compiling this report are as follows:

#### **Previous reports:**

- 26 June 2014 Epsom & Ewell Borough Council Social Committee

#### **Other papers:**

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- Office for Product and Safety Standards The Regulators Code [www.gov.uk/government/publications/regulators-code](https://www.gov.uk/government/publications/regulators-code) [accessed 16/12/24]