



THE REGULATORY SERVICES ENFORCEMENT POLICY

EQUALITY IMPACT ASSESSMENT

16th August 2005

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1. The policy

The Regulatory Enforcement Policy is a joint policy covering the enforcement activities of the Building Control, Environmental Health, Health Safety & Licensing, Planning, Private Housing and Trading Standards services. This policy replaces previous enforcement policies held by the individual services.

2. Aim of the policy

The aim of the enforcement policy is to define the principles that the Regulatory Services will follow when taking enforcement/regulatory decisions. This will seek to ensure that such decisions are consistent, fair and appropriate to the circumstances.

Possession and publication of an enforcement policy is considered best regulatory practice and complies with the principles contained in the Enforcement Concordat, to which the Council signed up in 2000.

The benefit of having a combined policy is that regulatory action by a number of Council services affecting a large proportion of daily activities across the Borough will follow the same principles, thus incorporating greater consistency and fairness in the Council's impact on community.

3. Impact on different groups

Enforcement is a powerful tool which is used to change unacceptable behaviour and seek to redress harm caused by illegal acts. It is important therefore to ensure that the enforcement policy is not inherently discriminatory and that our enforcement in practice does not discriminate against particular groups of the community.

This impact assessment finds that there is no evidence to suggest that the current enforcement policies, and hence the new policy, have or will have an adverse impact on any particular group of people.

The assessment has highlighted that more factual data is required in respect of specific activities in order that more fact based assessments can be undertaken and a number of recommendations have been made in section 10 to address this.

4. Evidence used

Equalities data connected to the activities of the regulatory services is not comprehensive and tends to be concentrated in some specific activities. Areas where data does exist centres around customer satisfaction surveys and the regulation of food businesses, noise nuisance and private rented accommodation. This historic data is

relevant because the regulatory services enforcement policy is based on similar policies which have been operating for a number of years.

Customer satisfaction surveys

Customer satisfaction surveys are undertaken annually and include customers and businesses that use the regulatory services e.g. the Environmental Services customer surveys undertaken between 2001 and 2004. These surveys are supplemented in some cases by those undertaken by specific service units themselves, for example, the Trading Standards customer survey 2004.

The 2004 Environmental Services customer satisfaction survey used a sample of 4,500 customers, including residents, businesses and other service users and achieved a 15% response rate. Of the respondents 54% were male and 48% female, 39% were from BME groups and 61% were White and 21% had a disability.

The results of the 2004 survey showed that overall 77% customers were satisfied with the service and 14% dissatisfied. Of these results, satisfaction with the regulatory services alone was only 52% but this drop might be expected as some of the respondents would be people against whom regulatory action was taken. It was surprising therefore that only 11% of customers were dissatisfied compared to the combined regulatory and non-regulatory rate of 14%. Table 1 provides a breakdown of satisfaction by equality categories, from the 2004 survey.

Table 1: Environmental Services Customer Satisfaction Survey, 2004									
	Gender		Ethnic Group				People with a Disability		Total
	Male	Female	Black	White	Asian	Mixed	Yes	No	
No. of respondents	277	226	49	343	137	15	104	388	
%age satisfied	78%	78%	87%	81%	72%	57%	74%	79%	77%
%age dissatisfied	14%	12%	4%	13%	16%	21%	16%	13%	14%
%age treated fairly	83%	86%	96%	87%	81%	80%	76%	87%	84%
%age treated unfairly	17%	14%	4%	13%	19%	20%	24%	13%	16%

Note: Within % satisfaction the totals may not add to 100% as the table has not included those 'neither satisfied, nor dissatisfied'.

These results show the following:

- ❖ There appears to be little difference between the views of male and female customers.
- ❖ There does appear to be a difference in the views of different ethnic groups. In these groups, both their satisfaction with the services and their view about fair treatment followed the same pattern. In order of the most satisfied first, the groups were; Black, White, Asian and Mixed as the least satisfied group.
- ❖ Customers with a disability did express a small but noticeable difference in their satisfaction with the service and more so about how fairly they had been treated.

The results of this latest survey can be incorporated into general trends over the last four years, as follows:

- Differences between genders has been steadily diminishing and in 2004 levels of satisfaction and fair treatment were almost identical for both genders.
- Overall satisfaction has been steadily rising although Asian groups appear to consistently less satisfied and feel less fairly treated than other groups. A similar result was observed with the independent Trading Standards survey in 2004.
- Since 2002, the proportion people with a disability who feel less fairly treated, has been growing, unlike those without a disability.

Food premises regulation

The latest census data from 2001 showed that the ethnic grouping of Brent's population is predominantly White, followed by Asian, then Black, and at the lower end, Chinese and other groups. The gender breakdown is roughly 50:50.

This contrasts with a survey undertaken of 325 food businesses in the borough (of the 2,000 food businesses in Brent) which shows that most food businesses are run by Asian proprietors, then White and to a lesser extent by Chinese and Black proprietors. A breakdown of the types of business found that the majority of catering businesses (e.g. restaurants and take-aways) are run by White proprietors whilst the majority of retailing businesses (e.g. supermarkets and confectioners) are run by Asian proprietors. These results are presented in table 2 below.

	Gender		Ethnic Group					People with a Disability	
	Male	Female	Black	White	Asian	Mixed	Chinese & other	Yes	No
Population of Brent (Census 2001)	49%	51%	20%	45%	28%	4%	3%	17%	83%
% total food businesses			9%	32%	45%	1%	10%		
- Caterers			10%	40%	31%	1%	16%		
- Retailers			7%	17%	70%	0%	0%		
- Other food businesses			7%	38%	40%	12%	12%		

The difference between the population breakdown and an actual breakdown of businesses is important in considering enforcement with respect to those businesses, otherwise there is a risk that incorrect conclusions will be drawn.

A survey in February 2005 of 86 food businesses to determine their level of hygiene (obtained through inspection) revealed a mixed result, as shown in table 3. The numbers of businesses used in the survey was too small to draw any firm conclusions but the proportion of food businesses assessed as having unacceptable standards, do appear to be higher in some ethnic groups, namely Chinese and Asian businesses. Further investigation is needed to determine whether standards in these businesses are actually lower or whether adopted enforcement practice places an unfair bias against them.

Through a qualitative review of the policy, there is no obvious evidence to suggest that it does exert an unfair bias. Although the policy lays down broad principles for

enforcement decisions, enforcement officers are given a significant degree of flexibility in making those decisions on the merits of each particular circumstance.

Table 3: Standards of hygiene in food businesses in Brent, 2004					
Ethnic Group					
	Black	White	Asian	Mixed	Chinese & other
No. premises surveyed	3	33	43	1	6
- Of an acceptable standard	66%	39%	26%	100%	0%
- Of an unacceptable standard	34%	61%	74%	0%	100%

Research currently being undertaken by Environmental Health that may assist in this area of uncertainty is the 'Safer Food Better Business' project which is seeking to find a strategy to permanently improve standards in food businesses. The project will enable an assessment to be made of how proprietors from different ethnic groups respond to the support provided by officers and are motivated to maintain standards once intensive daily Council support has ceased.

Table 4 shows data on formal enforcement taken in 62 food businesses between April 2004 and July 2005. 'Formal enforcement' refers to instances where standards of hygiene were so poor that a statutory improvement notice was served on the proprietor, food was seized because it was unfit for consumption, the business was forced to close temporarily, or the proprietor was prosecuted in court.

Table 4: Formal Enforcement in Brent's Food Businesses, 2004-5					
Ethnic Group					
	Black	White	Asian	Mixed	Chinese & other
Enforcement against food businesses	10%	21%	61%	2%	6%

Table 4 by shows that most enforcement in 2004/5 was taken against Asian run food businesses and although most food businesses are run by Asian proprietors, this does not explain the disproportionately large difference in the frequency of enforcement taken against this group. Comparing this with the assessment of standards in food businesses (table 3), the level of enforcement against Asian proprietors would be expected to be higher if the standards are lower in those businesses. This argument applies equally to White run businesses, the next group against which most enforcement is taken.

Regulation of statutory nuisances (e.g. noisy neighbours)

	Ethnic Group				
	Black	White	Asian	Mixed	Chinese & other
Enforcement against residents causing noise nuisance	73%	9%	9%	9%	0%

Table 5 shows the number of residents or occupants against whom formal enforcement was taken to stop them causing noise nuisance, predominantly loud music. In this case formal enforcement refers to the ultimate sanction of prosecution and seizure of equipment. The survey was conducted between September 2004 and July 2005 and totalled 11 residents. This shows that in complete contrast to enforcement in food businesses, Black residents are the group against which most enforcement is taken. The result shows a stark contrast to the make up of Brent's population, given in table 2. The disproportionate rate of enforcement may be influenced by housing circumstances, which sees a greater proportion of younger black people living in densely occupied accommodation with poor sound insulation, as found in some blocks of flats.

Whilst a limited assessment of enforcement activity has been possible, more data is required to make it more statistically reliable and an assessment of other businesses types and regulated activities would enable more widespread conclusions to be drawn.

Regulation of Privately Rented Housing

An independent Equality Impact Assessment of the PHS Enforcement Strategy was carried out by Private Housing Services in January 2004. Being part of Housing Services, Private Housing Services were not included in the ES Customer Surveys explained in the preceding sections. The results, which relate to the equalities data of the tenant that made an enquiry or complaint to the service, are shown in table 6.

	Gender		Ethnic Group					People with a Disability	
	Male	Female	Black	White	Asian	Mixed	Chinese & other	Yes	No
Population of Brent (Census 2001)	49%	51%	20%	45%	28%	4%	3%	17%	83%
% tenants	41%	59%	30%	44%	16%	3%	7%	36%	64%
Outcomes of PHS intervention									
Not improved	9%	7%	4%	11%	7%	0%	15%	9%	8%
Already fit	7%	19%	15%	11%	14%	0%	15%	19%	10%
Improved	43%	41%	30%	52%	24%	25%	54%	44%	37%
Unfit and made fit	41%	33%	51%	25%	55%	75%	15%	28%	46%
TOTAL	100%	100%	100%	100%	100%	100%	100%	100%	100%

The assessment concluded that:

- ✧ The gender of customers was representative of the borough's population and there were no obvious anomalies with regard to the range of casework outcomes, between recorded genders.
- ✧ The number of customers with a disability was much higher than that of the population. This is due to the 'disabled facilities grant' offered to disabled residents by the service. There were no obvious anomalies with regards to the range of casework outcomes, between the two categories of recorded disability or otherwise.
- ✧ The ethnicity of customers was representative of the borough's population and there were no obvious anomalies with regards to the casework outcomes, across categories of recorded ethnicity.

5. Consultation undertaken

Consultees

The target audiences for consultation were chosen because they either had used or had an interest in the Council's enforcement practices or they represented ethnic minority groups. The latter consultation was important to ensure input on the policy (drafted solely by ethnic white Council officers) was representative of the diverse ethnic make-up of the borough.

Consultation was undertaken in samples of the following groups:

- Customers that had recently required a service from the Council
- Businesses that had recently been inspected by Council officers
- The Local Business Partnership
- Local business, consumer and citizen support and advisory agencies/groups
- The black and minority ethnic forum
- National enforcement agencies

In total just over a thousand customers, businesses and agencies were actively consulted.

Method of consultation

Consultation on such a 'dry' subject was inevitable going to be difficult. For this reason, presentations to focus groups were not considered appropriate. Mailing out the policy to consultees was also not considered effective as the majority of recipients would probably not be interested, resulting in a significant waste of paper.

The main method chosen was to write to consultees inviting them to comment on the policy if they were so interested. This was supplemented by sending copies of the policy to enforcement agencies and business, consumer and citizen support groups. Passive consultation was also arranged by placing the policy on the Council's 'current consultations' internet page.

A questionnaire was sent with the policy to assist people in providing feedback. Consultees were encouraged to provide comments and make an assessment of the policy in relation to three key aspects, namely:

1. Is the policy is clearly understood by everyone who might be affected by it?
2. Is the policy is reasonable in achieving a balance between protecting people and not being too restrictive on those we regulate or in stifling necessary economic growth?
3. Is the policy fair so that no sections of the population are unlawfully disadvantaged or discriminated against?

Results of consultation

Consultation ended at the end of July 2005. Of those consulted, 75 residents and businesses requested copies of the policy and of those 20 people provided comments, representing 2% of those consulted.

A number of comments were received and these are reproduced in appendix 1.

The results from 16 assessment received are shown in the table below.

	Assessment				
	Very	Fairly	Partly	Not very	Unsure
Reasonable	8	5	2	1	0
Clear	8	7	1	0	0
Fair	7	6	2	0	1
Total	23	18	5	1	1
Percentage	48%	38%	10%	2%	2%

The results of the assessment suggest that the majority of respondents found the policy largely reasonable, clear and fair.

6. Publication of consultation

Following approval of the policy by the Council's elected members, the policy will be available on the Council's Environment and Culture internet pages along with results of the consultation.

7. Public concern

A Best Value review of the Regulatory Services, undertaken in 2003, sought views of customers and businesses that we regulate. Their concerns are summarised below.

- ✧ The speed with which requests for service are responded to.
- ✧ The speed with which reported breaches of the law are resolved.
- ✧ Being kept informed of the progress of their case.
- ✧ Easier access to services
- ✧ More support given to businesses

- ✧ Businesses kept up to date of new legislation

Other concerns that have arisen through discussion with customers on their specific complaints include:

- ✧ The sufficiency of action taken to deter a recurrence of the breach.
- ✧ Action is taken on minor breaches as well as serious ones.
- ✧ Enforcement is applied consistently to all areas of the borough and to all sectors of Brent's population and businesses.

The policy seeks to alleviate the majority of these concerns and this appears to be supported by the results of the consultation exercise.

8. Justification for impact

This assessment concludes that the Regulatory Services Enforcement Policy does not have a negative impact on customers or businesses in terms of their race, disability or gender. It is the purpose of a published enforcement policy to demonstrate that the Council does exercise fair enforcement.

9. Dealing with unjustified impact

No impact was identified.

10. Future monitoring

The assessment has highlighted that more monitoring and analysis is needed to address the variety of enforcement activities undertaken by the regulatory services. It also identifies areas where, although an adverse impact is unlikely, further research is required to find out why anomalies exist around enforcement activities. In particular the following recommendations are made to address these issues:

- (1) The differences in customer satisfaction/complaints between ethnic groups needs to be researched in order to determine whether they are peculiar to the regulatory services, to Brent, or nationwide.
- (2) More equalities data needs to be collected on the proprietorship of different types of business that are regulated by the Council to provide baseline data against which more meaningful comparisons can be made.
- (3) More equalities data needs to be collected on the regulatory activities of different types of business and activities that are regulated by the Council to allow impacts to be assessed.