

# LONDON BOROUGH OF BRENT

**Executive - 12 September 2005**

## **Report from the Director of Environment and Culture and the Director of Housing and Customer Services**

**For action**

Wards affected: **ALL**

**Report Title: Regulatory Services Enforcement Policy**

Forward Plan Ref: ES-04/05-291

### **1.0 Summary**

- 1.1 The regulatory services enforcement policy represents a commitment by a number of Council services, across two departments, to apply a consistent standard of enforcement.
- 1.2 The regulatory services are; Building Control, Environmental Health, Health Safety & Licensing, Planning, Private Housing Services, StreetCare and Trading Standards.
- 1.3 This overarching policy sets out the common principles and standards for enforcement policies within specific services. These service enforcement policies are, and must remain, consistent with this overarching policy.

### **2.0 Recommendations**

- 2.1 That the findings of the equalities impact assessment set out in Appendix 1 are accepted.
- 2.2 That the policy set out in Appendix 2 is adopted as the enforcement policy of the Council in respect of the regulatory services and approved for use, to commence from 1<sup>st</sup> November 2005.

### 3.0 Detail

- 3.1 A best value review of the Council's regulatory services, namely Building Control, Health Safety and Licensing, Environmental Health, Planning Services, Streetcare and Trading Standards in Environment and Culture and Private Housing Services in Housing and Customer Services, was undertaken in 2003. The review identified the need for a common enforcement policy, stating a common approach to enforcement thereby ensuring consistency in enforcement across the wide-ranging services.
- 3.2 An enforcement policy defines the principles to be followed when enforcement decisions are to be taken, to ensure that those decisions are consistent, fair and appropriate to the circumstance. The term 'enforcement' is used in this instance to mean *'actions taken by officers to prevent or rectify infringements of legislation enforced by the Council'*.
- 3.3 In 2000, Brent Council signed up to the principles of good enforcement practice enshrined in the Enforcement Concordat. The Concordat was published by the Cabinet Office in 1998 and sets out what those being regulated can expect from enforcement officers employed by local authorities and other agencies. This policy builds on those principles by setting out clear statements about the circumstances which warrant various degrees of enforcement activity.
- 3.4 If members decide not to adopt the proposed policy, individual services will continue to comply with their own enforcement policies. Inevitably there will be a greater risk of inconsistency in enforcement between different regulatory services and a greater risk of inequality in enforcement.
- 3.5 If adopted the policy will commence on 1<sup>st</sup> November 2005. Before commencement, the regulatory services will undertake to ensure their existing policies, procedures and guidance, are compatible with this adopted policy. From 1<sup>st</sup> November 2005 whilst the individual regulatory services may retain their own enforcement policies these must be compatible with this "overarching" enforcement policy (see paragraph 4 of the Policy document).
- 3.6 The regulatory services will amend their management systems to ensure that the adopted policy is adhered to when taking enforcement decisions.
- 3.7 The adopted policy will be published on the Council's internet pages and linked to the relevant service pages. The regulatory services will also provide hard copies on request.
- 3.8 The enforcement policy affects enforcement decisions taken by the regulatory services made up of Building Control, Health Safety and Licensing, Environmental Health, Planning Services, Streetcare and

Trading Standards and Private Housing Services. Private Housing Services were included because they were part of the Best Value Review and operate similar enforcement practices to the regulatory services in Environment and Culture. It will not affect enforcement undertaken by other units of the Council such as Audit and Investigations and Education”.

#### **4.0 Financial Implications**

4.1 No additional financial implications are anticipated as the policy is unlikely to change current practices. However failure to follow the policy could result increased costs as a result of legal challenge and possible failure to recover costs.

#### **5.0 Legal Implications**

5.1 There is no legal requirement to have an enforcement policy. However it is desirable to ensure consistency across enforcement services and as a public statement of the Council’s intentions.

5.2 If members agree to adopt the policy it will be important that all enforcement decisions are taken in accordance with it. It is equally important that decisions are made on the merits of each case and the policy has sufficient flexibility to ensure that this can be done.

5.3 Failure to properly apply the policy could leave the council open to legal challenge either via judicial review in the High Court or in stay of proceedings applications during prosecutions in the Magistrates and Crown Courts.

#### **6.0 Diversity Implications**

6.1 An equalities impact assessment was carried out on the policy and found that there was no evidence to suggest that it has or will have an adverse impact on customers or businesses in terms of their race, disability or gender.

6.2 The assessment also highlighted the importance of monitoring equalities data particularly in respect of enforcement activities where there is a potential for causing immense harm to individuals in terms of their economic situation and their liberty.

#### **7.0 Staffing/Accommodation Implications (if appropriate)**

7.1 There are no direct staffing implications as no additional resources are required to implement the policy.

#### **8.0 Environmental Implications**

8.1 There are environmental implications as the regulatory services have a major impact on the environment through their enforcement activities.

The policy has been reviewed through the ISO14001 environmental management process and has been amended to ensure that the Council's enforcement decisions will have a positive impact on the environment.

**Background Papers**

None except those referenced in the Enforcement Policy itself

**Contact Officers**

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