



**Cabinet**  
14 January 2019

**Report from the Strategic Director  
of Regeneration & Environment**

**Regulatory Enforcement Policy and Service Standards as  
Required by the Regulators' Code**

<b>Wards Affected:</b>	All
<b>Key or Non-Key Decision:</b>	Key
<b>Open or Part/Fully Exempt:</b> (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
<b>No. of Appendices:</b>	Two: <ul style="list-style-type: none"> <li>Appendix 1 - The Enforcement Policy</li> <li>Appendix 2 - The Service Standards</li> </ul>
<b>Background Papers:</b>	None
<b>Contact Officer(s):</b> (Name, Title, Contact Details)	Simon Legg, Senior Service Manager, 020 8937 5522 <a href="mailto:simon.legg@brent.gov.uk">simon.legg@brent.gov.uk</a>

**1.0 Purpose of the Report**

- 1.1 Under Section 22 of the Legislative and Regulatory Reform Act 2006, local authorities must have regard to the Regulators' Code when exercising regulatory functions.
- 1.2 This report seeks approval of an updated Enforcement Policy (the policy) and a set of Service Standards (the standards) as required by the Regulators' Code.
- 1.3 The policy and the standards follow the formation of the Council's Regulatory Hub in March 2018 which brought a core cluster of Environmental Services regulatory teams together as one. The policy updates the sanctions available to the Council when taking enforcement action, supports the functions of the Enforcement Practitioners Group and provides some uniformity and consistency between our regulatory teams as our area based working model establishes.

## **2.0 Recommendations**

### **2.1 That Cabinet agree:**

2.1.1 The contents of the Enforcement Policy (see Appendix 1)

2.1.2 The contents of the Service Standards (see Appendix 2)

2.1.3 The delegation of authority to the Strategic Director of Regeneration & Environment after consultation with the relevant Cabinet member, to update the Enforcement Policy and the Service Standards as required in accordance with the Regulators Code.

## **3.0 Detail**

3.1 Under Section 22 of the Legislative and Regulatory Reform Act 2006, local authorities must have regard to the Regulators Code <sup>1</sup> when exercising regulatory functions. The Regulators Code (the Code) was published by the Department for Business, Innovation and Skills, Better Regulation Delivery Office in 2014 when it became statutory and is now the responsibility of the Office for Product Safety and Standards.

3.2 The Code reflects Government's commitment to reducing regulatory burdens for business by providing a clear set of principles on how local authorities should interact with those they are regulating. At the same time, it recognises businesses need clear regulatory information, guidance and advice that they can rely on in order to invest and grow.

3.3 The regulatory functions that fall within the scope of the Code are specified in the Legislative and Regulatory Reform (Regulatory Functions) Order 2007 (as amended)<sup>2</sup>, in accordance with Section 24 of the Legislative and Regulatory Reform Act 2006. In general, these functions include duties carried out by the Council's Trading Standards, Food Safety, Environmental Improvement, Environmental Enforcement, Licensing, Noise and Nuisance Control and Public Safety teams.

3.4 However, the Better Regulation Delivery Office published guidance titled 'Regulators' Code Frequently Asked Questions' dated February 2015, which recommends local authority regulators who act outside the statutory scope of the Code, should adopt it on a voluntary basis as a sensible option.

3.5 In following this recommendation, it is proposed that the Council's Planning Enforcement team adopt the proposed policy and standards on a voluntary basis, even though there is no statutory requirement to do so.

3.6 The policy and the standards will not apply to the Council's Private Housing Service who whilst statutorily, must have regard to the Code, have an existing service specific enforcement policy which they will continue to adhere to.

---

<sup>1</sup> <https://www.gov.uk/government/publications/regulators-code>

<sup>2</sup> <https://www.legislation.gov.uk/ukSI/2007/3544/contents/made>

- 3.7 The key principles of the Code are that regulators should:
- Carry out their activities in a way that supports those they regulate to comply and grow
  - Provide simple and straightforward ways to engage with those they regulate
  - Base their regulatory activities on risk
  - Share information about compliance and risk
  - Ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities
  - Ensure their approach to their regulatory activities is transparent.
- 3.8 The policy and the standards which are attached as Appendix 1 and Appendix 2 to this report, provide guidance to officers which should be followed when conducting regulatory activities so their actions are transparent, accountable, proportionate, consistent and targeted only when needed. The Council must have regard to the Code when developing policies and principles that guide its regulatory activities.
- 3.9 It should help businesses and regulated persons, to understand our methods for achieving compliance and the criteria followed when considering the most appropriate response to a breach of legislation.
- 3.10 Whilst there is no legal requirement for this, whenever possible, the policy and standards follow a format provided by the Better Regulation Delivery Office in a 'Local Authority Tool Kit', retaining the same headings to ensure the documents cover all the Code's requirements and to provide some uniformity and consistency with those documents used by other local authorities.
- 3.11 The service standards have been drafted to mirror as closely as possible, those found in Brent Council's Customer Promise which commands good quality and easily accessible council services and information.
- 3.12 This report recommends that authority to update the policy and the standards is delegated to the Strategic Director of Regeneration & Environment in consultation with the relevant Cabinet member. This will enable timely updates following any feedback received, changes to our enforcement approach, procedures, priority setting process, statutory guidance or any other similar requirements.
- 3.13 It is important that the policy and the standards are easily accessible to those who we regulate once they are approved. The Code requires the policy and the standards to be clearly visible on the London Borough of Brent's website and they should be well signposted.
- 3.14 In accordance with the Code, details of any fees and charges made by the Council's regulatory teams, must also be published on the Council's website and these are to be kept up to date.
- 3.15 In addition, the Council is required to publish details of performance against the policy including feedback from satisfaction surveys and data relating to complaints about them and appeals against their decisions.

## **4.0 Financial Implications**

- 4.1 The staffing resource to unify and implement the processes and procedures, will be met from the relevant service area base budgets.
- 4.2 There will also be a nominal cost associated with the final publishing and making these documents available on the Council's website. This will be met from existing budgets.

## **5.0 Legal Implications**

5.1 Section 22 of the Legislative and Regulatory Reform Act 2006 states:

- (1) A Minister of the Crown may issue and from time to time revise, a code of practice in relation to the exercise of regulatory functions.
- (2) Any person exercising a regulatory function to which this section applies must, except in a case where subsection (3) applies, have regard to the code in determining any general policy or principles by reference to which the person exercises the function.
- (3) Any person exercising a regulatory function to which this section applies which is a function of setting standards or giving guidance generally in relation to the exercise of other regulatory functions must have regard to the code in the exercise of the function.

5.2 The Regulators' Code states:

Paragraph 6.1 Regulators should publish a set of clear service standards, setting out what those they regulate should expect from them

and.

Paragraph 6.2 d) their enforcement policy, explaining how they respond to non-compliance;

- 5.3 The purpose of the Enforcement Policy and Service Standards subject to this report, is to satisfy the Council's statutory obligations as set out above.
- 5.4 Failure to adopt an Enforcement Policy and Service Standards may leave the London Borough of Brent open to legal challenge and place the Council at risk of reputational damage should any regulatory activity fail as a result of not having these documents in place and ensuring staff follow the contents of them.

## **6.0 Equality Implications**

- 6.1 The proposals in this report are a statutory requirement. They have been screened to assess their relevance to equality and were found to have no equality implications. The policy and the standards aim to provide a transparent and consistent approach to the way the London Borough of Brent conducts its regulatory activities, the consequences of which support fairness and equality.

## **7.0 Consultation with Ward Members and Stakeholders**

- 7.1 There has been no specific consultation with ward members as the proposed policy and standards are a statutory requirement and would apply to all applicable staff throughout the Borough.
- 7.2 The Lead Member for Community Safety, Councillor Miller, was briefed on this report, the policy and the standards at meetings held on 5 October 2018 and 29 November 2018.
- 7.3 All the regulatory teams subject to this policy and standards, have been consulted on the contents of the said documents.

## **8.0 Human Resources Implications**

- 8.1 The Council's Regulatory Teams are generally, already operating with the requirements of the Code. There will be some staffing implications taking officers away from their frontline duties to provide training on the new policy and the standards if approved, implementing them and in the longer term, providing managerial oversight, but it is expected that these will be minimal and can be managed within the relevant service areas.

## **9.0 Related Documents**

The Regulators Code can be accessed from;  
<https://www.gov.uk/government/publications/regulators-code>

Frequently asked questions and answers from the Guidance for Regulators Information Point (GRIP) website can be found at;  
[https://www.regulatorsdevelopment.info/grip/local\\_authorities](https://www.regulatorsdevelopment.info/grip/local_authorities)

**Report sign off:**

**AMAR DAVE**

Strategic Director of Regeneration  
and Environment