

Table of Contents

Enforcement Policy Binder	
Proposed Overall Policy	2
Service Specific - Draft Enforcement policies	
1.b PSH Wiltshire Enforcement Policy	13
1.c Council Housing Enforcement Policy	35
1.d Environmental Enforcement Policy	39
1.e Parking Services Enforcement Policy	47
1.f public protection enforcement policy	51
1.g Planning Enforcement Policy 2024 v5	65
Enforcement Indicators	74

Enforcement Policy

Draft for October 2024

Reference Number	1.1	Status	Draft
Sponsor(s)	Corporate Director of Place	Author(s)	Executive Office with Enforcement Management Group
Document objectives	<p>To establish a 'one council' approach to enforcement activity across Wiltshire Council, consistent with the Regulators Code and the council's aim to remain focused on prevention, as an effective means of ensuring that businesses and individuals, local premises, practices and activities comply with legislation and statutory requirements. This will ensure that such activity does not put the economic wellbeing, health and safety or amenity of the general public, employees, other businesses or consumers at risk.</p> <p>The policy sets out common principles that the Council will follow when taking enforcement action so that the Council's approach is consistent, transparent, accountable, proportionate and targeted.</p>		
Intended Recipients	<p>Officers undertaking enforcement activity on behalf of Wiltshire Council (including Public Protection, Planning, Building Control, Environmental Enforcement, Parking, Highways, Waste, Internal Audit, Private Sector Housing, Education Welfare, Libraries and Health and Safety and any other services which may undertake enforcement).</p> <p>The public</p>		
Group/Persons Consulted:		<p>Cabinet, cllrs, town and parish councils, businesses</p> <p>Enforcement Management Group</p>	
Ratifying Body	Full Council	Date Ratified	xxx
Date of Issue	xxx		
Next Review Date		October 2026	
Contact for Review		Executive Office	

Purpose

A guiding theme of the Council's Business Plan is a focus on investment in prevention and early intervention, to tackle problems before they get worse. The primary function of local authority regulatory activity is to protect the public, the environment and the local economy.

We believe that by taking an assertive approach to enforcement, we can better protect scarce public resources, protect the communities we serve and provide a deterrent to the small minority of people who break the rules.

In formulating this policy regard has been had to relevant legislation and codes, including the Principles set out in the councils the Legislative and Regulatory Reform Act 2006. The policy sets out how the council will have regard to the five principles of good regulation when taking enforcement action, so that it is carried out in a way which is:

1. Transparent, 2. Accountable, 3. Proportionate, 4. Consistent; and 5. Targeted.

The '[Regulators' Code](#)' issued in 2014 also outlines 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 and hear their views
- 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 to comply
- ensure that their approach to their regulatory activities is transparent

The scope of enforcement

The council has a wide range of enforcement powers and responsibilities for ensuring that legal requirements are met.

Enforcement responsibilities include Public Protection (Environmental Health, Anti-Social Behaviour, Trading Standards and Licensing) Planning, Building Control, Environmental Enforcement, Parking, Highways, Waste, Internal Audit, Private Sector Housing, council housing, Education Welfare and Health and Safety and any other services which may undertake enforcement.

The council recognises that most individuals and businesses want to comply with the law. It will assist and advise where this is considered possible and appropriate, but will consider taking enforcement action against those who disregard legal requirements or act irresponsibly. However, enforcement action does not always have to mean taking formal action, such as prosecution, but includes the following outcomes:

- Inspection of premises;
- Imposition of condition on a licence;
- Compliance advice, verbal warnings and requests for action;
- Formal Warning;
- Community Protection Warning (CPW) – a formal written warning that a person is causing detriment to an area before the decision to issue a CPN;
- Community Protection Notice (CPN) – issued after CPW and can be used to deal with all types of anti-social behaviour along with a fine for breach;
- Statutory Notice;
- Fixed Penalty Notice;
- Simple Caution – as an alternative to prosecution for less serious offences where a person admits the offence and consents to a simple caution;
- Prosecution – for serious or recurrent breaches and where action has failed to secure compliance;
- Works in default;
- Injunction – a special court order compelling a party to do or refrain from doing a particular activity;
- Order e.g. Criminal Behaviour Orders;
- Other formal action e.g. seizure, possession proceedings, recovery action, suspension or revocation of licences, vehicles or permissions. Any money connected with an offence can be recovered under the Proceeds of Crime Act 2002

Wiltshire Council's approach to enforcement

Summary

This is a summary of Wiltshire Council's approach to enforcement, set out against the five principles of good regulation.

Transparent

- We have a 'one council' approach
- We publicise our enforcement policies on our website
- We explain when it is necessary to undertake enforcement
- We publicise prosecutions

Accountable

- We make decisions based on evidence
- We ensure appropriate training and authorisation of officers
- We publicise relevant complaints and appeals processes

Proportionate

- We believe prevention is better than cure
- We act in proportion to the seriousness of any breach
- We consider risk and the evidential and public interest tests for prosecution

Consistent

- We take a similar approach in similar circumstances
- We monitor the quality of enforcement activity and share best practice within the council (with relevant indicators included in the corporate performance frameworks)
- We liaise with other enforcement agencies to ensure consistency
- We ensure no discrimination on grounds of protected characteristics and other aspects

Targeted

- We target enforcement activity on the nature of reported breaches
- We monitor compliance with initial and subsequent interventions
- We share relevant information between enforcement teams within the council
- We work with other enforcement agencies

The following pages explain in more detail our approach under each of the five principles.

1. Transparent

The Regulators' Code applies on a statutory basis for many council services and, where it does not, the council adopts the principles behind it for all enforcement activity on a voluntary basis (as [recommended](#) by government, in place of the previous voluntary enforcement concordat). It sets out what businesses, and others being regulated, are entitled to expect from enforcement officers.

This policy applies to enforcement action undertaken by or on behalf the Council. Where considered appropriate, this overarching policy may be supplemented by additional enforcement policies and procedures produced by individual service areas; and these are published on the council's website.

Officers will act in accordance with the principles of the statutory [Regulators' Code](#) and the Growth Duty. However, in certain instances we may conclude that a provision in the Regulators' Code or [Growth Duty](#) is either not relevant or is outweighed by another provision. Other relevant provisions include (but are not limited to):

- The Enforcement Policy Statement of the Health and Safety Executive
- the National Local Authority Enforcement Code Health and Safety at Work England, Scotland and Wales, April 2013
- The Food Standard Agency's Regulators' Code
- The Secretary of State's Statutory Guidance to Local Authorities on the Civil Enforcement of Parking Contraventions, November 2015
- Case law

We will ensure that any decision to depart from relevant policy guidelines will be properly reasoned and based on material evidence. Any departure from this policy will first be considered by the relevant director unless a delay in making such a decision will result in serious risk of personal injury, risk to public health or impact effective running of the service. All such decisions will be recorded on our systems in compliance with the Openness of Local Government Bodies Regulations 2014.

Where the Council has adopted service standards for enforcement practices within individual services, enforcement action will usually follow the procedures laid out for those service areas, unless specific circumstances indicate otherwise and where a departure from this could be justified.

So far as it is appropriate to do so, the council will be open about how it will undertake its responsibilities and explain in a timely manner when it is necessary to take enforcement action.

We will also take steps to publicise prosecutions and other enforcement activity that we believe will have a deterrent effect on other people. We will use social and other media to make clear that Wiltshire Council acts to protect finite public resources, protect the law-abiding majority and to dispel any suggestion that we are a "soft touch".

2. Accountable

The council will make decisions based on evidence and in line with the principles of natural justice. The council will ensure that officers who take enforcement action on its behalf are appropriately authorised to do so (either under statute or by virtue of the council's scheme of delegation), competent, suitably qualified and trained and acting in accordance with adopted service standards.

Any complaints will be dealt with in accordance with the council's customer complaints procedure, but having regard to any on-going legal processes. The council will ensure that enforcement action and investigations take place in accordance with relevant provisions from the following:

- Health and Safety at Work Act 1974
- Police and Criminal Evidence Act 1984 - and associated codes of practice;
- The Criminal Procedure and Investigations Act 1996;
- The Human Rights Act 1998
- The Regulation of Investigatory Powers Act 2000
- Criminal Justice and Police Act 2001
- Housing Act 2004
- Legislative and Regulatory Reform Act 2006
- Regulatory Enforcement & Sanction Act, 2008
- Public Sector Equality Duty under the Equalities Act 2010
- The Protection of Freedoms Act 2012
- Anti-social Behaviour, Crime and Policing Act 2014
- Data Protection Act 1998 and GDPR 2018
- Code for Crown Prosecution Service
- Plus any other relevant legislation other enforcement services regularly use

This is not an exhaustive list. Regard shall be had to other relevant legislation, statutory guidance, codes of practice for enforcement agents, national regulatory codes, as well as corporate guidance and policies.

In a number of cases the law provides a right of appeal against various types of enforcement action. In cases where legislation requires it, the council will seek to ensure that relevant details of the appeal mechanism are clearly set out in writing.

3. Proportionate

This policy involves a concerted approach by the council to take more enforcement activity, to publicise this to a greater extent and to ensure that we increase the protection we provide to our communities.

The council believes that prevention is better than cure and will often work to advise and assist on compliance with the law. All enforcement activities will be carried out in a helpful manner, actively working with individuals and businesses to advise on compliance.

Officers will explain clearly in plain language what is expected of those to whom legislation applies and what can be expected of the enforcement service. Clear distinctions will be drawn between statutory requirements and advice or guidance regarding what is good practice but not compulsory.

Any enforcement action will be proportionate to the risk and seriousness of the breach of legislation. There may be occasions when the breach is considered to be serious and/or where informal action is not appropriate. In such cases, immediate enforcement action may be taken without prior notice and, as noted above, some services have specific legislative guidance and regulations which set out the enforcement requirements in these services.

In assessing what enforcement action is necessary and proportionate, consideration will be given to the six core principles underlying the design of an effective modern sanction system as set out in the Macrory Review;

- aim to change the behaviour of the offender
- aim to eliminate any 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 regulatory non-compliance, where appropriate
- aim to deter future non-compliance

In line with the Regulators' Code, we will also ensure that risk assessment precedes and informs all aspects of our approaches to regulatory activity, including advice, support, enforcement and sanctions by assessing the risks to regulatory outcomes. Our risk assessments frameworks will:

- be based on all available relevant and good-quality data
- include explicit consideration of the combined effect of the potential impact of non-compliance on regulatory outcomes, and the likelihood of non-compliance
- evaluate the likelihood of non-compliance, consider all relevant factors including, past compliance records and potential future risks, the existence of good systems for managing risks, evidence of recognised external accreditation, and management competence and willingness to comply

Every case is unique and will be considered on its own merits. However, when making decisions whether to prosecute or not the council will take into account the advice set out in the Director of Public Prosecution's [Code for Crown Prosecutors](#) on the need for the evidential and public interest tests to be met.

4. Consistent

The council will endeavour to ensure that enforcement action is consistent by taking a similar approach in similar circumstances, based on the Regulators' Code and other statutory provisions. However, officers will take into account many variables such as level of risk, compliance history and the attitude and actions of those involved – and the facts of each case – which may result in different outcomes in what appear potentially similar investigations.

Where national schemes or authoritative guidance for enforcement risk assessment exist, we will base our assessments upon them where it is appropriate to do so. An example of this is the HSE Enforcement Management Model. This approach helps to:

- provide a framework for making consistent enforcement decisions
- monitor the fairness and consistency of inspectors' enforcement decisions in line with policy
- assist offenders in their understanding of the principles which inspectors follow when deciding on a particular course of action

The council maintains management systems to monitor the quality and nature of enforcement activity undertaken so as to ensure, as far as is practicable, uniformity, consistency in approach and a quality service in general. Relevant indicators are included in the corporate scorecard

Where an enforcement team wishes to commence a prosecution or legal action they are supported by legal services and a standardised enforcement manual, which sets out requirements for putting together effective prosecution files. An Enforcement Management Group, comprising team managers from the various enforcement functions, will share best practice on implementing this standard approach.

In a similar way, council services will ensure appropriate liaison arrangements are in place with other authorities and enforcement agencies which may have a shared enforcement role, to ensure consistency of decisions.

When making enforcement decisions, the council will ensure that there is no discrimination against any individual on the grounds of age, race, ethnic or national origin, nationality, religion and belief, sex, gender identity, marital status, employment status, disability, sexual orientation, social class, responsibility for children or dependents, trade union membership, unrelated criminal convictions or any ground that cannot be justified.

5. Targeted

Regulatory activity will be based on relevant factors such as business size and capacity and the nature of reported breaches.

Assistance of others is often crucial to the success of enforcement action by the council. Where information is given to assist the council's enforcement, the council will treat such information with confidence. However, if formal action is taken, information that has been provided may be required to be disclosed and made public by law.

Where non-compliance has been dealt with by providing advice or guidance the council will monitor that compliance in a variety of ways. For low risk, low level non-compliance, the council will seek reassurance that compliance will be secured. For more serious non-compliance, re-visits or further proactive monitoring may be undertaken. Council services will work with and consult other service areas within the council, or other agencies, as necessary (recognising that lack of compliance in one area may be indicative of a lack of compliance in others). This multi-faceted approach will help to deliver increased levels of compliance.

Within the council, an Enforcement Management Group will allow for relevant information on non-compliance to be shared between enforcement teams, or gathered from other services. The Group will offer advice to individual officers in determining the best and most appropriate course of action. This will ensure that enforcement action is intelligence-led and does not lead to problems being passed between services.

Where there is a wider regulatory interest, enforcement activities will be coordinated with other regulatory bodies and enforcement agencies to maximise the effectiveness of any enforcement. Where an enforcement matter affects a wider geographical area beyond the local authority's boundaries, or involves enforcement by one or more other local authorities or organisations, where appropriate all relevant authorities and organisations will be informed of the matter as soon as possible and all enforcement activity coordinated with them. The officers will share intelligence relating to wider regulatory matters with other regulatory bodies and enforcement agencies including:

- Government agencies including HMRC, DWP and UK Border Force
- Wiltshire Police
- Dorset and Wiltshire Fire and Rescue Services
- HSE and Statutory Undertakers

Where there is a need for the council and any of the enforcement teams to share information with other agencies, we will follow the provisions of Section 115 of the Crime and Disorder Act 1998, the UK General Data Protection Regulation 2018 (UK GDPR), the Data Protection Act 2018, as well as Part 9 of the Enterprise Act 2002. Under s241A of the Enterprise Act 2002, a public authority which holds prescribed information to which section 237 applies, may disclose that information to any person for the purposes of, or in connection with, prescribed civil proceedings only (including prospective proceedings). All investigations are undertaken in accordance with legal requirements and relevant government guidance, as well as council policies on information sharing and data protection.

Policy Review

This policy will be reviewed as necessary to ensure that it remains fit for purpose. Ongoing performance of enforcement related activity will be reported as part of the council's performance management arrangements. Any revisions will be agreed in accordance with the council's constitution. Service specific enforcement policies have been developed in line with this overall policy. Ongoing review and revision of service specific enforcement policies will be made in line with the overall policy by the relevant director in consultation with the lead cabinet member.

Further Information

Service specific enforcement policies and procedures can be obtained from individual service areas or from the Council's website. These have been developed in line with this overall policy and are available on the council's website.

DRAFT

Private Sector Housing Enforcement Policy 2024

Wiltshire Council



September 2024

This policy is intended to provide guidance to Officers, Landlords, business' and members of the public on the circumstances where enforcement action will be pursued. Authorised officers undertaking any enforcement action will be qualified and experienced and will have regard to this policy, and to all applicable Statutory Guidance.

Contents:

1.0 [Introduction](#)

2.0 [Legislation](#)

2.5 [Formal Notices](#)

3.0 [Enforcement Procedure](#)

3.3 [Decision to take Enforcement Action](#)

4.0 [Priorities](#)

5.0 [Required Level of Remedial Works](#)

6.0 [Local Large Charge](#)

7.0 [Charging for Notices](#)

8.0 [Appeals](#)

9.0 [Offences](#)

10.0 [Civil Penalties](#)

11.0 [Simple Cautions](#)

12.0 [Prosecution](#)

13.0 [Works in Default](#)

14.0 [Action by Agreement](#)

15.0 [Exercise of Power of Entry](#)

16.0 [Houses in Multiple Occupation \(HMO's\)](#)

[The Management of Houses in Multiple Occupation \(England\) Regulations 2006](#)

[HMO Licensing](#)

17.0 [Rent Repayment Orders](#)

18.0 [Mobile Homes](#)

19.0 [The Electrical Safety Standards in the Private Rented Sector \(England\) Regulations 2020](#)

20.0 [Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#)

21.0 [Minimum Energy Efficiency Standards \(MEES\)](#)

22.0 [Empty Homes](#)

23.0 [Banning Orders & Rogue Landlords Data base](#)

1.0 Introduction

- 1.1 Wiltshire Council is committed to improving standards in private rented sector housing, ensuring accommodation is well managed, properly maintained, safe and habitable.
- 1.2 Authorised officers (officers) within the private sector housing Team have both duties and discretionary powers to take enforcement action, using a range of legislation to address issues arising at privately owned accommodation and mobile home sites.
- 1.3 There are a number of challenges that face the Private Sector Housing team as a result of the profile of the district and obligations placed upon it by Central Government. The main challenge is the number of properties that fall within the private sector that are considered to be in poor repair, non-decent and have serious hazards. It is the responsibility of the Private Sector Housing team to respond to these issues and facilitate improvements in the sector by use of education, enforcement and where possible, financial assistance.
- 1.4 This Policy provides an overview of the broad principles and processes which the Council will seek to follow in considering and taking action. The Enforcement Policy will ensure a consistent approach among Council Officers and members of the public can be clear in what to expect from the Council.

2.0 Legislation

- 2.1 The principal piece of legislation used by the Private Sector Housing team is the [Housing Act 2004](#) (referred to as “the Act”). However, there are circumstances where other pieces of legislation may be more appropriate in dealing with the identified problem. Officers are expected to use professional judgement to determine the most appropriate piece of legislation to use. In some cases it may be appropriate to use a range of enforcement tools. Housing Act 2004 & [The Housing Health and Safety Rating System \(England\) Regulations 2005](#).
- 2.2 Where the Private Sector Housing team has reason to enter a property, we will inspect the whole property using the housing health and safety rating system

(HHSRS). This system has been adopted by regulations, as set out in Part 1 of the Act, as the prescribed methodology for identifying defects and assessing the likelihood of a harm outcome occurring as a result of the defects. The aim is to identify deficiencies within dwellings that may lead to a hazard. Each hazard is assessed and assigned a band. These bands are translated into either a category one or a category two hazard.

Category 1 Hazards (bands A, B & C) represent a serious danger to health. The Act places a mandatory duty on the Council to take action where a category 1 hazard has been identified and to require the risk of harm posed by the category 1 hazard(s) to be reduced.

Category 2 Hazards (bands D, E, F, G, H, I & J) represent a lesser danger to health. The Council have a power to deal with category 2 hazards to require the reduction of the hazard.

- 2.3 In the great majority of cases the Council will take enforcement action where Category 1 Hazards have been identified, in accordance with its duty.
- 2.4 Where category 2 hazards are identified alongside category 1 hazards, where a high category 2 hazard (band D) is identified or where there are multiple category 2 hazards indicating poor housing conditions the more likely that formal enforcement action will be taken.

2.5 Formal Notices

- 2.5.1 Formal notices under The Housing Act formally bring the issues identified to the attention of owners, agents and occupiers. The service of such notice places a legal obligation on those who the notice is served to carry out works that will be specified within the notice. Failure to comply with any or all parts of the notice is an offence and could result in further formal actions highlighted in this document. The following notices are available under the Housing Act 2004.

Hazard Awareness Notices
Improvement Notices
Suspended Improvement Notices
Prohibition Orders

Suspended Prohibition Orders
Emergency Remedial Action
Emergency Prohibition Order
Demolition Order
Clearance Area

2.5.2 The following tools are also available where the Housing Act 2004 measures are not appropriate, or do not sufficiently deal with the problem.

- Environmental Protection Act 1990 section 80 - Notices can be served if the officer is of the opinion that there is a statutory nuisance at the premises. The premises must be deemed prejudicial to health or a nuisance.
- Building Act 1984
 - section 59/60 - Used to deal with unsatisfactory provision of or defective drainage issues in existing buildings.
 - section 64/65 - Used where sanitary conveniences are insufficient or in need of replacement and are considered prejudicial to health or a nuisance.
 - section 76 - Used where the property is so defective so as to be prejudicial to health. This notice notifies the person responsible of the local authority's intention to remedy the problem (similar to work in default).
- Public Health Act 1936
 - section 45 - Used where there are defective sanitary conveniences due to their repair and/or cleansing ability. They must be in such a state as to be prejudicial to health or a nuisance.
 - section 17 - Where any drain, private sewer, water closet, waste pipe or soil pipe has not been maintained.
- Local Government (Miscellaneous Provisions) Act 1976
 - section 33 - Used where services such as the water supply are due to be, or have been, cut off to a domestic property.
 - Section 35 – Used where a private sewer is obstructed
 - section 16 - Used to formally request information about a premises or a person.

- Local Government (Miscellaneous Provisions) Act 1982 – Section 29 – Used to secure empty buildings that are not effectively secured against unauthorised entry.
- Prevention of Damage by Pests Act 1949 section 4 - Used where there is evidence of or harbourage of rats or mice at a property.
- Housing Act 1985 (as amended) - Some provisions within the 1985 Act have not been revoked and may be appropriate to use in some circumstances. In particular the overcrowding provisions are still available and can be used where the 2004 Act is not sufficient.
- Police and Criminal Evidence Act 1984, Criminal Procedures and Investigation Act 1996, Regulation of Investigatory Powers Act 2000 – used in relation to interviews under caution, prosecution and gathering evidence.

3.0 Enforcement Procedure

3.1 The aim of the Private Sector Housing team is to improve the housing conditions in the private sector by use of advice and education and where possible financial assistance. However, there are occasions where these methods are not proportional to the hazards identified or the Council have a duty to take action and therefore, it is necessary to consider enforcement action.

3.2 In doing so, officers will be expected to follow the principles of the Enforcement Concordat, which encourages openness, proportionality and consistency. In order to achieve this, Officers will be expected to be transparent in the way they have made decisions by keeping clear records and file notes. All remedial work that is required must be sufficient to remove any risks but not so excessive as to be burdensome. Officers must ensure they have consideration of this policy in any decision making.

3.3 Decision to take enforcement action.

3.3.1 Enforcement action will be based on risk. Assessment of risk will be based on current legislation and specific guidance. An inspection of a property must be carried out along with a HHSRS assessment to determine if there are category 1 or category 2 hazards within the property. Having made this assessment and

dependent on the problems within the property consideration will be given to the most appropriate course of action to reduce the hazards to an acceptable level.

- 3.3.2 The most appropriate legislation must be identified for dealing with the hazard. Only where the Housing Act 2004 is not appropriate should other legislation be considered.
- 3.3.3 Officers are required to make informed judgements and will be suitably trained for this responsibility they will decide on the most appropriate action with consideration of this Policy, guidance documents and any other relevant documentation.
- 3.3.4 A Statement of Reasons will be provided with any notice served, explaining why the Council has decided to take a particular course of action rather than any other kind of enforcement action.
- 3.3.5 Where category 2 defects are identified regard must also be had to other schemes that are available to assist with housing repairs. Tenants, homeowners and landlords may be able to access a number of grants and loan schemes, which may negate the need for formal action to be taken.
- 3.3.6 Where there are only category 2 hazards consideration must be given to the overall effect of the multiple hazards and whether they are indicative of a rundown property.
- 3.3.7 Enforcement action on owner occupiers and long leaseholders will be based on the health and safety risk to the occupants or other affected persons. However, action will not be taken where a more appropriate contractual remedy exists. Where an inspection and subsequent HHSRS assessment identifies a significant hazard(s), in the great majority of cases a hazard awareness notice will be served unless the Council is confident that the hazard will be removed or reduced to an acceptable level by other means.
- 3.3.8 Where a significant hazard is identified which requires attention, and the person responsible for the property is unable to carry out the recommended works

because of financial hardship, they will be made aware of appropriate financial assistance options available to them from the Council.

3.3.9 Where the conditions at one property causes a health and safety hazard or statutory nuisance to the occupants of another property, or the general public, or others persons who might reasonably be expected to visit the property enforcement action will be considered regardless of property tenure.

3.3.10 The Council may use enforcement action to encourage owners of empty properties to bring them back into use.

4.0 **Priorities**

4.1 The Housing Act 2004 and subsequent HHSRS regulations 2005 have identified a number of hazard categories that have been found within the home. There are 29 hazards that arise from disrepair, lack of maintenance or poor design. The health effects from these hazards range from death to mental stress and the HHSRS provides the opportunity to compare unrelated hazards such as fire with other hazards such as damp and mould growth. This is done through the calculation of a hazard score. The higher the score is the higher the risk posed by the hazard.

4.2 This enforcement policy sets the following prioritisation scheme for dealing with hazards (see table one). This will be subject to regular review. The principal behind this is detailed below.

- All category 1 hazards will be dealt with as a priority over category 2 hazards.
- Where there are multiple category 1 hazards, those with the highest scores will be a priority over the lower scores.
- Where there are category 2 hazards, the higher scored category 2 hazards will be dealt with first, unless target hazards have been identified in the property.
- Where an officer has identified deficiencies and felt it necessary to hazard-rate them, even if the result is a low category 2 hazard, the officer must consider at the very least offering advice, or serving a hazard awareness notice. Where the hazard is a target hazard, any necessary remedial works should be considered.

4.3 When a complaint is received an officer will prioritise the complaint based on the information provided by the complainant. Where insufficient information has

been provided the complainant should be contacted within 5 working days in order to gain the appropriate information to prioritise the complaint.

4.4 Using professional judgment and knowledge of the HHSRS the assigned officer will prioritise the complaint as a P1, P2, P3 or P4. Complaints classed as P1 require an immediate response as these are considered an emergency. P1 classifications are likely to be very rare. P2 complaints are those that are suspected to be category 1 hazards. These should be responded to within 10 working days. P3 complaints should be responded to within 1 month and P4 complaints within 3 months.

4.5 In times of high service demand it may not be possible to adhere to these timescales. The complainant should be kept informed as to the potential waiting time and it may be necessary for Private Sector Housing Manager to implement the measure in paragraph 4.6.

4.6 Where high volumes of work are experienced it is likely that P3 and P4 cases will be kept on a waiting list. In some cases the Private Sector Housing Manager may make the decision that certain cases will not be dealt with by Private Sector Housing. Where possible these cases will be forwarded to alternative schemes for assistance or encouraged to take their own action using provisions under the Environmental Protection Act 1990 or the Landlord and Tenant Act 1985.

Priority (P)	Main options for Action	Priority (P) Main options for Action Other options available for consideration
Category 1		
Immediate action	P1 Highest band A+ Imminent risk to health and safety.	<ul style="list-style-type: none"> • Emergency Action • Prohibition Order • Improvement notice • Demolition Order <ul style="list-style-type: none"> • Clearance • Suspend notices • Hazard awareness Notice
High Priority P2	P2 Hazard Bands A – C Including target hazards	<ul style="list-style-type: none"> • Improvement notice • Prohibition Order <ul style="list-style-type: none"> • Clearance • Demolition • Suspend notices • Hazard awareness notice
Category 2		

Medium Priority	P3 - Target Hazards Bands D – J High bands D - F	<ul style="list-style-type: none"> • Improvement notice • Suspend notices • Hazard awareness notice 	<ul style="list-style-type: none"> • Prohibition Order
Low Priority	P4 - Low bands G - J	<ul style="list-style-type: none"> • Hazard Awareness notice • Suspend notices 	<ul style="list-style-type: none"> • Improvement notice • Prohibition Order

5.0 Required level of remedial works

- 5.1 As a minimum, category 1 hazards must be reduced to a low category 2.
- 5.2 Where this is not possible all reasonable steps must be taken to reduce the hazards as far as reasonably practicable. In some cases, such as listed buildings, category 1 hazards may remain. This scenario should have been considered when deciding which course of action is most appropriate and may influence the officer's decision as to which type of enforcement action to take.
- 5.3 Target hazards should be improved to the ideal where this is possible and reasonable to do so.
- 5.4 When deciding on the remedial works, regard must be had to the seriousness of the hazard, the ideal that the property should achieve, and the level of work required that is reasonable to reduce the hazard significantly without incurring excessive cost.
- 5.5 For the hazard of fire, where the property is an HMO, section 10 of the Housing Act 2004 states that the LHA must consult with the Fire Authority before taking any action and deciding on the remedial works. A Memorandum of Understanding has been developed to ensure that this process does not become burdensome to both parties.

6.0 Local land charge

- 6.1 Notices will be placed on the local land charges register.

7.0 Charging for Enforcement Notices

- 7.1 The Housing Act allows charges to be made for certain enforcement notices under section 49 of The Housing Act 2004. In line with the relevant legislation the Council will issue a charge following the service of these notice(s). The charge will be for the Council's costs in taking such action. The charge will take into account the Officers time taken to prepare the formal notices including all administrative costs.
- 7.2 A charge can be placed as a local land charge on the property of which it relates. This is recorded in the register of local land charges maintained by HM Land Registry. This register is normally searched during a property sale by purchasers.

8.0 Appeals

- 8.1 Where an enforcement notice is served it must contain detail on the appeal procedure for the action being taken.
- 8.2 The person served with the notice/order has the right to appeal against the notice/order on any grounds. The main reasons for appeal are likely to be the contents of the notice/order and the schedule of work. Appeals can also be made on the grounds that the notice/order was not served on the correct person, or that a different course of action would be more appropriate.
- 8.3 Appeals are made to the Residential Property Tribunal (RPT). The intention is that the tribunal will be able to make a decision based on paperwork and statements supplied by both parties. On occasion a hearing will be held where both parties must present their cases. There is no requirement for legal representation. The RPT may request to visit the property in question.

9.0 Offences

9.1 Housing Act 2004

- 9.1.1 Section 30 - Failure to comply with an improvement notice without reasonable excuse – the notice recipient commits an offence and is liable to a Civil Penalty being imposed of up to £30,000, or a Prosecution on summary conviction they can be fined up to level 5 on the standard scale. The obligation to carry out the

remedial works continues despite the fact that the period for completion has expired.

9.1.2 **Section 32 - Failure to comply with a Prohibition Order** – an offence is committed if the premises is used in contravention to the order, or permission is given for the premises to be used in contravention to the order. On summary conviction fines up to level 5 on the standard scale may be levied.

9.2 **Environmental Protection Act 1990**

Failure to comply with a notice under s80 – the notice recipient commits an offence and is liable to prosecution. On summary conviction the fine can be up to level 5 on the standard scale

9.3 **Management of Houses in Multiple Occupation (England) regulations 2006**

Failure to comply with these regulations is a strict liability offence. Where non-compliance is found the person(s) are liable to either a Civil Penalty of up to £30,000 for each offence or a prosecution on summary conviction the fine can be up to level 5 on the standard scale.

9.4 **Building Act 1984** – Failure to comply with a notice under s59/60, s64/65 & s76 -

the notice recipient commits an offence and is liable to prosecution. On summary conviction fine can be up to level 4. In addition a daily charge of £2 until works are completed can be incurred.

9.5 **Public Health Act 1936** – Failure to comply with a notice under s45 - the notice

recipient commits an offence and is liable to prosecution. On summary conviction where steps other than work is required the fine is up to level 1 & £2 a day after conviction. Where work is required the fine can be up to level 4 and £2 a day after conviction.

9.6 On the standard scale, the fines currently stand at

Level 4 is currently up to £2,500.

Level 5 is currently an unlimited fine.

10.0 Civil Penalties

- 10.1 Civil Penalties are an alternative disposal method to a prosecution. The Local Authority can choose to impose a Civil Penalty for any qualifying offence instead of prosecuting the responsible person.
- 10.2 When deciding whether or not to apply a Civil Penalty, the Council must be satisfied that there is sufficient admissible and reliable evidence that an offence has been committed by an identifiable individual(s) or company and that there would be a realistic prospect of conviction where the matter would be prosecuted in the courts.
- 10.3 The criminal standard of burden of proof, 'beyond reasonable doubt', must be evidenced in the officers file that this standard has been met.
- 10.4 Where the Council is satisfied that a relevant offence has been committed, Civil Penalties will, in most cases, be the primary consideration for the Council.
- 10.5 There will however be circumstances where a Simple Caution or Prosecution remains the most appropriate course of action. The higher the culpability of the offender, the worse their track record, and/or the higher the risk of harm presented the more likely that a prosecution will be pursued.
- 10.6 Any decision to apply a Civil Penalty will be fully considered by panel made up of the Head of Housing, Migration and Resettlement, the Private Sector Housing Manager and one other manager. A recommendation will then be made by the Private Sector Housing Manager to the Council's Legal Team.
- 10.7 If it is deemed that a Civil Penalty is the appropriate course of action the Council will fully adhere to the processes set out in the Housing and Planning Act 2016.
- 10.8 As an absolute minimum in determining the level of Civil Penalty to impose the Council will ensure that the Penalty removes any financial benefit the offender may have obtained as a result of committing the offence.

10.9 Revenue from Civil Penalties is ring fenced to support further Housing Enforcement Work.

10.10 Statutory Guidance on Civil Penalties can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/697644/Civil_penalty_guidance.pdf

11.0 Simple Cautions

11.1 The Council can consider the use of a Simple caution as an alternative to a prosecution where the person who has committed an offence(s) fully accepts responsibility of such and where the circumstances suit a simple caution rather than a prosecution.

11.2 Simple Cautions will be considered where:

- The defendant is aged 18 or over; and
- The defendant has admitted their guilt; and
- The defendant agrees to be given a Simple Caution; and
- A Civil Penalty is not appropriate or cannot be applied; and
- Where there is evidence of the offence but the public interest is best served this way

11.3 Should the defendant not agree to receive a Simple Caution, they will be prosecuted.

11.4 Cautions can be mentioned to the Court when sentencing the same offender for a later offence.

12.0 Prosecution

12.1 When making a decision to prosecute, the Council must first be satisfied that there is sufficient, admissible and reliable evidence that an offence has been committed by an identifiable individual(s) or company and that there is a realistic approach of conviction.

12.2 Where there is a breach of a notice or an order the officer must investigate the offence and take into consideration; Any reasonable explanation provided, any

mitigating evidence, an individual's state of health and the offenders attitude of the offence. The investigation of the offence will involve inviting the relevant people in for a interview to be conducted under caution, in accordance with the relevant parts of the Police and Criminal Evidence Act 1984.

12.3 The criminal standard of burden of proof, 'beyond reasonable doubt', must be met and evidenced in the officers prosecution file. In addition, it must be considered in the public interest to prosecute.

12.4 Prosecutions will be brought without unavoidable delay.

13.0 Works in Default

13.1 The Housing Act 2004 makes provisions for the Council to carry out works to a property where the person responsible has failed to comply with an enforcement notice.

13.2 Works in default can be carried out either instead of a prosecution or a Civil Penalty or in addition to a prosecution or Civil Penalty. The works in default procedure should be followed.

13.3 It is proposed that works in default should be used where there is an imminent risk of harm to the health and safety of the occupiers.

13.4 If it is to be used in other circumstances where the risks presented justify it, full justification based on the merits of the case will be required. Such works will be an option where it is possible to recover and secure the full costs, including overhead costs.

13.5 It is also proposed that it should be used in conjunction with a prosecution or Civil Penalty where it is appropriate to do so. This would be dependent on the nature of the hazard(s) but should be considered due to the delays often experienced during legal proceedings. The delays often result in the remedial action being postponed leaving the occupier living in unacceptable conditions and being exposed to hazards.

14.0 Action by Agreement

- 14.1 The Housing Act 2004 also makes provision for remedial works to be carried out by agreement where an improvement notice has been served. This is where the local authority arranges for the required works to be carried out at the request of the person responsible and they are then charged for the full cost.
- 14.2 In order to use this provision the officer must be confident that the cost of the works will be repaid in full once the work is complete.
- 14.3 The budget must be in place for this procedure. If the costs incurred cannot be paid they must be placed as a charge against the property. The Enforced Sale Procedure may then be used if considered appropriate.

15.0 Exercise of power of entry

- 15.1 Authorised officers have the power to enter properties at any reasonable time to carry out its duties under section 239 of the Housing Act 2004 where at least 24 hours' notice of their intention to do so to the owner of the premises (if known) and to the occupier (if any) has been given.
- 15.2 No notice of an inspection is required where the inspection does not fall within the exemptions specified in section 239(6) & (7). These exemptions are to ascertain whether an offence has been committed under section 72 (offences in relation to licensing of HMOs), Section 95 (offences in relation to licensing houses) or section 234(3) (offences in relation to the HMO Management Regulations).
- 15.4 Where entry is consistently refused application will be made to the magistrates court for a warrant to enter premises.
- 15.4 An application to the magistrates court for a warrant of entry may also be made where the premises is unoccupied or where prior warning of entry is likely to defeat the purpose of the entry. A warrant under this section includes power to enter by force, where necessary.

16.0 Houses in Multiple Occupation (HMO's)

16.1 A HMO is defined within The Housing Act as properties that are occupied by **three** or more people across two or more households that share basic amenities. Where the requirements are met some HMO's are subject to mandatory HMO Licencing.

16.2 HMO's present a greater risk to occupiers than single family homes and the conditions, facilities, amenities and management are regulated.

16.3 In all cases, and at all times, the Council expects full voluntary compliance with all regulatory provisions applying to HMO's and their management.

16.4 In addition to the enforcement options described within this document the Council has the further powers detailed below to ensure that adequate standards are met and maintained in HMO's:

- The Management of Houses in Multiple Occupation (England) Regulations 2006
- Interim Management Orders
- Final Management Orders

16.5 The Management of Houses in Multiple Occupation (England) Regulations 2006 (The Management Regulations)

16.5.1 All HMO's, whether licensable or not, are subject to these Management Regulations. These regulations are the minimum management standards that must be adhered to at all times.

16.5.2 The regulations cover the management and repair of the HMO. There are no notice provisions with these regulations and therefore a breach of a Management Regulation is a strict liability offence and each individual breach of a Management Regulation is a separate and specific offence. Where breaches are identified the officer must go straight to considering imposing a Civil Penalty or prosecution.

16.5.3 The Council will treat each proven breach of a Management Regulation as it would any other offence covered by this Policy.

16.6 HMO Licensing

16.6.1 A HMO meets the requirements of Mandatory HMO Licensing where the property is occupied by **five** or more persons across two or more households sharing basic amenities.

16.6.2 It is a criminal offence for a person to control or operate a HMO without the required Licence.

16.6.3 HMO Licensing allows for the assessment of the fitness of a person to be the Licence holder and manager. Should a person not be deemed a fit and proper person to be the Licence Holder and/or Manager the HMO Licence will not be issued. Where a Licence Holder and/or Manager of an existing Licence become unfit or improper their Licence will be revoked.

16.6.4 There are currently no declared Additional or Selective Licencing schemes in Wiltshire.

17.0 Rent Repayment Orders

17.1 Rent Repayment Orders were introduced under The Housing Act 2004 to cover situations where the landlord of a property failed to obtain a Licence for a property that was required to be Licensed.

17.2 Rent repayment orders have now been extended through the Housing and Planning and Planning Act 2016 to cover a wider range of offences:

- Failure to comply with an Improvement notice (Housing Act 2004)
- Failure to comply with a Prohibition Order (Housing Act 2004)
- Breach of a Banning Order made under the Housing and Planning Act 2016
- Using violence to secure entry to a property (Criminal Law Act 1977)
- Illegal eviction or harassment of the occupiers of a property (Protection from Eviction Act 1977)

17.3 Rent Repayment Orders are an additional penalty over and above any other sanction and can be granted to either the tenant, where they were paying rent themselves, or the local housing authority, where rent was paid through Housing

Benefit or through the housing element of Universal Credit. If the rent was paid partially by the tenant then any rent repaid must be split.

- 17.4 Where a Civil penalty has been imposed in respect of an offence, and there is no prospect of the landlord appealing against the penalty, a rent repayment order can be made against the landlord. Any income received by the Council is ring-fenced to support further Enforcement Action.

18.0 Mobile Homes

- 18.1 Wiltshire has a significant number of permanent mobile home parks and mobile homes.
- 18.2 Wiltshire Council will always work with site owners in a constructive way to improve sites where necessary and address any issues that arise.
- 18.3 In circumstances where site owners refuse to cooperate and breach a Condition of their Licence a compliance notice will be served under the [Caravan Sites and Control of Development Act 1960](#) requiring remedial works. The service of such notice will come with a charge for the Council's costs in taking such action.
- 18.4 Where a compliance notice is breached Wiltshire Council will consider taking the case forward for prosecution.

19.0 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020

- 19.1 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 came into force on 1st July 2020 and apply in England to new tenancies from 1st April 2021 and existing tenancies from 1st April 2021.
- 19.2 These Regulations require landlords in the Private rented sector to ensure that minimum electrical safety standards are met in their properties and ensure the electrical installation are inspected and tested by a competent person at regular intervals of no more than five years, unless specified on the report. The landlord must provide a copy of the electrical safety report to their tenants within 28 days

(and prospective tenants), and if requested, to their local housing authority (LHA) within 7 days. Where the report shows remedial work is necessary, the landlord must complete this work within 28 days and supply written confirmation to their tenants and to their local authority.

- 19.3 Where Wiltshire Council finds that a landlord is in breach of their duties under regulation 3 the Regulations allow for a financial penalty to be imposed, up to £30,000.
- 19.4 Where a landlord has breached their duties under Regulation 3, The Civil Penalty Policy should be followed for determining the appropriate level of financial penalty in each particular case.
- 19.5 Please read in conjunction with [Adoption of policy to allow penalty charge notices and the recovery of costs of work undertaken to be made under The Electrical Safety Standards in the Private Rented Sector \(England\) Regulations 2020](#)

20.0 Smoke and Carbon Monoxide Alarm (England) Regulations 2015

- 20.1 These Regulations require that all rented properties must be fitted with a working smoke alarm on each level of the premises where there is a room used as living accommodation at the start of each Tenancy.
- 20.2 In addition, where any room contains a fixed combustion appliance and is used as living accommodation must also be fitted with a working carbon monoxide alarm at the start of each tenancy.
- 20.3 Such alarms must be repaired or replaced once by the landlord once they have been informed that they are faulty.
- 20.4 Where the Local Authority has reasonable grounds to believe that these requirements have not been met; they must serve a remedial notice on the landlord requiring that they be provided. If the landlord does not comply with the notice, the Local Authority must carry out works in default of that notice to provide or maintain the detectors and may levy a penalty charge.

- 20.5 The penalty charge acts to reimburse the Local Authority for undertaking those works and also as a punitive penalty for non-compliance.
- 20.6 Please read in conjunction with [Adoption of policy to allow penalty charge notices to be issued under The Smoke and Carbon Monoxide Alarm \(England\) Regulations 2015](#)

21.0 Minimum Energy Efficiency Standards (MEES)

- 21.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended) requires primarily that landlords:
- Have an Energy Performance Certificate (EPC) and provide a copy to tenants whenever they rent their properties out; and
 - Ensure all rented homes have at least an E rating on the EPC or have been otherwise registered for a specified exemption.
- 21.2 Where the Council is satisfied, on the balance of probabilities, that a landlord has been at any time in the preceding 18 months in breach of one or more of the regulations 23, 36 or 37(4)(a), it may serve a penalty notice which imposes either a financial penalty, publication penalty or both.
- 21.3 Please Read in conjunction with [Adoption of policy to allow penalty charges to be issued to the relevant person for non-compliance of responsibilities under The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#)

22.0 Empty Homes

- 22.1 Wiltshire Council will risk assess problematic empty properties and we have the full range of informal and formal action available. Where the condition of an empty property gives significant rise to risk of the health, safety and welfare of members of the public formal action will be considered where all informal avenues have failed.

23.0 Banning Orders & Rogue Landlords database

- 23.1 A number of Housing offences along with a number of other offences trigger potential liability to a Banning Order. The complete list of offence can be viewed here: [Banning orders for landlords and property agents under the Housing and Planning Act 2016 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/541123/banning-orders-for-landlords-and-property-agents-under-the-housing-and-planning-act-2016.pdf)
- 23.2 In every case where a housing Banning Order Offence has been committed the Council will consider applying for a Banning Order and the decision will be publicised.
- 23.3 In all cases where the statutory conditions are met the Council will apply to enter the Landlord or agents details on the Rogue Landlords Database.

Wiltshire Council - Enforcement Policy

1. Housing Management Enforcement Policy

2. Aim of Housing Management Enforcement

2.1 This policy applies to all enforcement activities taken by the Housing Service for breach of tenancy, including rent arrear and anti-social behaviour actions.

2.2 This policy should be read in conjunction with any service specific and corporate policies and procedures as well as national guidance on enforcement issues.

2.3 The council manage its tenancies through prevention, intervention, and enforcement. Where necessary enforcement will be used when other prevention and intervention methods have been unsuccessful.

2.4 All officers will follow this enforcement policy as far as reasonably practicable. Any departure from the policy, for example to deal with situations of urgency or imminent risk, must be justifiable and be approved by the appropriate line manager when practicable, which may be after the event.

2.5 Staff will be trained to effectively identify and manage breach of tenancy appropriately.

2.6 All available and appropriate legal powers will be used in a reasonable and proportionate manner to effectively deal with any given tenancy breach.

2.7 This policy applies to all properties operated within the Housing Revenue Account (HRA), and all non-HRA domestic residential property held by the General Fund, leased or licensed by the council to a tenant or provider.

3. Background

3.1 The Tenancy Management Policy, Rent Arrears Policy, Anti-Social Behaviour Policy and Procedure and compliance policies set out Wiltshire Council's approach.

3.2 Proportionate consistent and targeted enforcement action will be used when other prevention and intervention methods have been unsuccessful.

3.3 The principal legislation applicable to this policy is:

- The Housing Act 1985, 1988, 1996 and 2004
- ASB Crime and Policing Act 2014.

3.4 The principal guidance applicable to this policy is: Anti-social behaviour powers: Statutory guidance for frontline professionals.

3.5 Additional legislation that Wiltshire Council operates within is as follows:

- The Crime and Disorder Act 1998.
- Data Protection Act 2018.

4. Housing Management's approach to checks on compliance

4.1 The service will use its intellectual data to ensure that it meets its statutory obligations in relation to maintaining Heating, Electrical safety, Fire safety, Lift safety, Asbestos, Legionella risk assessments and Damp & Mould (HRA scorecard).

4.2 Tenancy breaches can be detected intellectually, for example rent arrears or by detection during interactions with tenants in their homes and communities (tenancy inspections and neighbourhood reviews).

4.3 Tenants and members of the public can also report any concerns to us;

- Online
- By email
- Via our housing portal - iHousing
- By telephone to 0300 456 0117
- In person to a member of staff
- In writing: Housing Management Team, Wiltshire Council, Bourne Hill, The Council House, Salisbury SP1 3UZ

4.4 The Service will endeavour to ensure that enforcement action is consistent by taking a similar approach in similar circumstances. However, officers will take into account many variables such as level of risk, compliance history and the attitude and actions of those involved which may result in different outcomes in what appear potentially similar investigations.

5. Housing Management's Responses to non-compliance

5.1 Enforcement in the context of this policy includes informal action carried out through the provision of advice, verbal warnings initial warning, and final warning letters.

5.2 Formal enforcement will be taken where informal action has been unsuccessful or is deemed inappropriate when considering the seriousness of the report and non-compliance, measures include:

- extension of an introductory tenancy,

- demotion of tenancy,
- community protection warning,
- community protection notice,
- closure order,
- injunction,
- criminal behaviour order,
- undertaking
- possession proceedings
- warrant of entry

5.3 Wiltshire Council will work in partnership with a variety of organisations including, but not limited to:

- Fire and Rescue Services,
- Police,
- NHS Medical and Mental Health Teams,
- Social Services
- Probation Services
- Third or Voluntary Sector service providers,
- Trading Standards.

5.4 The service recognises that there is diversity within the community and enforcement activities will have regard to this.

6. Service Standards

6.1 Tenant Satisfaction Measures (TSM) are sent to out annually (year one 50% of tenants receive TSM, year 2 the remaining 50% receive TSM). The Regulator of Social Housing sets the core questions and the responses are collected and published on the website and reported to the Housing Board. The TSM data is submitted to the Regulator of Social Housing.

6.2 Satisfaction Surveys are sent to tenants to enable them to advise us of their opinions on the service that they have received. Negative feedback is reviewed and followed up where applicable.

6.3 Service KPIs are routinely monitored and scrutinised by the Housing Board.

7. Appeals and Complaints

7.1 .A demoted tenant or introductory tenant will have the opportunity to appeal the decision to seek to evict and the Council will review the decision if requested.

7.2 A community protection notice may be appealed at a Magistrates' Court within 21 days of issue of the notice.

7.3 A closure order may be appealed at a Crown Court within 21 days of the decision to make the order.

7.4 The Council has a formal complaints procedure which ensures that any complaint is dealt with quickly, consistently and helpfully. Complaints can be made in person, in writing, by e-mail or on-line.

WILTSHIRE COUNCIL

ENVIRONMENTAL ENFORCEMENT POLICY

1.0 Policy Aim

- 1.1 The aim of this policy is to ensure that a consistent and fair approach is adopted by Wiltshire Council regarding Environmental Enforcement. In addition, this policy will aim to inform the public, businesses and other stakeholders of the principles of when and how enforcement action will be taken.
- 1.2 'Environmental Enforcement' covers all actions that Wiltshire Council undertakes to secure compliance with various pieces of environmental legislation. Effective enforcement action against environmental crime requires commitment from all concerned. Such action may involve advisory visits, formal action, issuing statutory notices or even prosecution. Evidence suggests that a combination of enforcement action and rapid, persistent cleansing can prevent environmental damage like fly tipping from reappearing.

2.0 Background

- 2.1 In 2002 the government started a process that reviewed enforcement issues that affect local environmental quality. This resulted in a new piece of legislation being introduced, the Clean Neighbourhoods and Environment Act (2005) (CNEA). This Act extends and dramatically improves the powers that Local Authorities have to tackle environmental crimes. The CNEA was written following an extensive review of all the legislation currently used to deal with local environmental quality, and through consultation with current service providers. In addition, the Unauthorised Deposit of Waste (Fixed Penalties) Regulations 2016 amended the Environmental Protection Act 1990 (EPA) in May 2016. These Regulations introduced a fixed penalty notice for small scale fly-tipping which provides an effective penalty for minor fly-tipping.
 - 2.1.1 The Council has a direct duty to enforce relevant legislation like the CNEA and EPA. This may involve dealing with individuals or householders as well as commercial and business employers or employees.
 - 2.1.2 The Council will assist and advise where possible. However, it will undertake the necessary enforcement action against those who refuse to comply.
 - 2.1.3 This policy should be read in conjunction with legislation, the wider council enforcement policy and other corporate policies, as well as service procedure guides.
 - 2.1.4 Arising from the introduction of such environmental legislation like the CNEA and EPA, this Environmental Enforcement Policy sets out the approach to dealing with environmental crimes such as fly tipping, littering and domestic or commercial waste offences.
 - 2.1.5 The Enforcement Team within the Waste & Environment Directorate conducts environmental enforcement action. This policy applies to this team and assists in the important role in achieving the goals and priorities by protecting the environment for residents, workers and visitors to the County.

- 2.1.6 This policy outlines the practical application of environment enforcement, which will ensure a 'firm but fair' approach by Council officers. The processes identified in this document will assist officers in their decision making process.
- 2.1.7 All officers will follow this policy, as far as reasonably practicable. Any departure must be approved by the appropriate line manager (which may be after the event). The departure must be justifiable, in responding to imminent risk or urgency.

Principles of good regulation

- 5.1.1 In common with the corporate enforcement policy, this service policy has regard to the five principles of good regulation when taking enforcement action, so that it is carried out in a way which is: 1. Transparent, 2. Accountable, 3. Proportionate, 4. Consistent; and 5. Targeted.
- 5.1.2 Consideration of these principles brings significant benefits to the Council, residents and businesses as a whole. By facilitating compliance, enforcement officers can achieve higher compliance rates and reduce the number of costly prosecutions they have to undertake. This will allow officers to target those who flout the law or act irresponsibly.
- 5.1.3 Where possible and appropriate, problems which have been identified will be dealt with by assistance, advice and guidance to achieve compliance with legal duties and best practice. Enforcement action will only be conducted as a last resort or following a significant breach of legislation.
- 5.1.4 It is the Council's intention to increase the awareness of businesses and members of the public in relation to their responsibilities and obligations under the relevant environmental legislation.
- 5.1.5 Both oral and written advice will be conducted as back up to other media which may be used to educate those persons affected by the requirements of the relevant legislation.
- 5.1.6 The aim is to achieve a general awareness of legislation to assist with compliance. However, this may not be used in an area where a serious or significant contravention has already been identified.

6.0 Enforcement Options

- 6.1 Wiltshire Council recognises the importance of achieving and maintaining consistency in its approach to making decisions that concern standards of enforcement action.

In making the decisions officers will consider:

- The seriousness and prevalence of the offence
- Any explanation offered by the defendant
- The age of the defendant
- The past history of the offender

- The likelihood of the offender being able to establish a defence
- The action type as to which action is deemed appropriate or effective
- Whether there has been flagrant disregard for the condition of the local environment
- Advice from the Council's Legal Department

6.1.1 Having considered all the relevant information and evidence, one or more of the following options for action are available to officers:

- No action
- Informal action
- Formal action – To include; Statutory Notices, Fixed Penalty Notices, Formal Caution or Prosecution

6.2 No Action

Where an investigation reveals at the time of the inspection that no offence has occurred or that an offence has occurred but no offender can be identified.

6.3 Informal Action

6.3.1 To facilitate compliance with the legislation, informal action may be used to address issues in the form of offering advice and recommendations for action, either verbally or in writing. Such action may be appropriate in the following circumstances:

- When an offence was committed by genuine mistake or accident
- Where the offence has been committed by a child or young person
- When there is insufficient evidence for formal action

6.3.2 In addition to the above circumstances, officers will assess each case individually and use their own discretion as to the required course of action.

6.3.3 When giving verbal advice, officers will ensure that breaches of legislation are made clear and understood by recipients.

6.3.4 Officers will ensure that when advising in writing that they contain all information necessary to identify any breach of legislation, indicating specific legislation contravention.

6.4 Formal Action

Enforcement Officers will consider the use of formal action in accordance with the relevant legislation, working practices and guidance.

Statutory Notices

- 6.4.1 Notices shall be served to require offenders to cease contravening activities, or give offenders reasonable time to rectify a contravention. Notices may require contravening activities to cease immediately where circumstances relating to health, safety or environmental damage demand. In other circumstances, reasonable time will be allowed.

Fixed Penalty Notices

- 6.4.2 Fixed Penalty Notices will be issued under specific legislation. If a fixed penalty is not paid within the prescribed period then prosecution will normally be the next course of action.

- 6.4.3 The following circumstances are likely to warrant the use of a fixed penalty:

- An enforcement officer has witnessed an offence
- An enforcement officer believes that there are reasonable grounds that an offence has been committed
- There is a suitable witness or witnesses to the offence and the offender can be clearly identified
- The alleged offender has not previously received a fixed penalty notice for the same offence

Formal Caution

- 6.4.4 Formal Cautions may be considered as an alternative to prosecution. According to the Home Office Circular 18/1994, the purpose of a formal caution is to:

- Deal quickly and simply with less serious offences
- Divert less serious offences away from the courts
- To reduce the likelihood of repeat offences

Prosecution

- 6.4.5 Where the circumstances warrant it and alternative actions such as informal action are considered inappropriate, considerations for prosecution taken into account will be:

- Flagrant Breach of Law – When an offence has been committed where the environment has been affected
- Failure to comply with a Statutory Notice – When officers have issued notices combined with recommendations and advice but offences persist
- Failure to pay or accept a Fixed Penalty Notice
- When an authorised officer is deliberately obstructed from carrying out their duties

6.5 When circumstances have been identified warranting prosecution, all details regarding the incident will be considered in a consistent, fair and objective manner. Any decisions will be made in conjunction with the Enforcement Manager and the Council's Legal department.

7.0 Code of Conduct (Public Interest & Evidential Tests)

7.1 Evidential Tests

7.1.1 Officers must consider the evidential burden in bringing a Prosecution. The test for evidential burden is that the Council must show to the Court that the defendant's guilt can be proved 'beyond reasonable doubt'.

7.1.2 This test should be in the mind of officers when considering evidence accumulated throughout the course of an investigation with the aim of strengthening the Council's case.

7.1.3 To assist in achieving the evidential burden officers must consider the application of the following;

- Seeking out as many witnesses as possible and achieving written statements
- Following up any defence put forward and recording the further investigation.
- Photographs taken on site visits are vital and are a useful tool to support the investigation. An officer should consider if photographs taken go far enough to prove the offence.
- Making detailed site reports in officers notebooks listing times, dates, places, comments made by other persons and by the officer detailing any conversations.
- Ensuring that formal interviews are tape recorded and in accordance with the Police and Criminal Evidence Act (1984) (PACE).

7.1.4 The ultimate aim of producing quality evidence is to assist the Legal Services Department in determining that there is enough evidence to provide a "realistic prospect of conviction" against each defendant.

7.2 Public Interest Test

7.2.1 It is not the rule that every criminal offence must be automatically prosecuted.

7.2.3 The Council must consider if bringing a prosecution is in the 'Public Interest' to prosecute.

7.2.4 The Council must consider a range of factors set out below, balancing a 'for and against' before coming to a decision.

7.2.5 Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the suspect.

7.2.6 Some factors may increase the need to prosecute but others may suggest that another course of action would be better.

7.2.7 A prosecution is likely to be needed if:

- A conviction is likely to result in a significant sentence;
- The defendant was in a position of authority or trust;
- The evidence shows that the defendant was a ringleader or an organiser of the offence;
- There is evidence that the offence was premeditated;
- The defendant has ignored previous verbal and/or written warnings given by the Council;
- There is evidence that the offence was carried out by a group;
- The victim of the offence was vulnerable, has been put in considerable fear, or suffered personal attack, damage or disturbance;
- The offence was committed in the presence of, or in close proximity to, a child;
- The offence was motivated by any form of discrimination against the victim's ethnic or national origin, disability, sex, religious beliefs, political views or sexual orientation, or the suspect demonstrated hostility towards the victim based on any of those characteristics;
- The defendant's previous convictions or cautions are relevant to the present offence;
- The defendant is alleged to have committed the offence while under an order of the court;
- There are grounds for believing that the offence is likely to be continued or repeated, for example, by a history of recurring conduct;
- The offence, although not serious in itself, is widespread in the area where it was committed; or
- A prosecution would have a significant positive impact on maintaining community confidence.

7.2.8 A prosecution is less likely to be needed if:

- The court is likely to impose a nominal penalty;
- The offence was committed as a result of a genuine mistake or misunderstanding (these factors must be balanced against the seriousness of the offence);
- The loss or harm can be described as minor and was the result of a single incident, particularly if it was caused by a misjudgement;
- 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;
- A prosecution is likely to have a bad effect on the victim's physical or mental health, always bearing in mind the seriousness of the offence;

- The defendant is elderly or is, or was at the time of the offence, suffering from significant mental or physical ill health, unless the offence is serious or there is real possibility that it may be repeated.
- The defendant has put right the loss or harm that was caused (but defendants must not avoid prosecution or diversion solely because they pay compensation); or
- Details may be made public that could harm sources of information, international relations or national security.

7.2.9 The above list is not exhaustive and the Council should consider each case on its own merits.

8.0 Authorisation

8.1 Only officers who are authorised by the council may undertake certain aspects of environmental enforcement action; to include the signing and serving of notices. Such authorisation is given through a scheme of delegation.

8.1.1 Action taken under legislation to which this policy applies will only be conducted by such authorised officers who are suitably experienced, trained, current and competent. Authorised officers will carry identification as proof of their authorisation and to what legislation their authorisation relates.

8.1.2 The Council recognises the varying levels of complexity in enforcement and may vary the powers conferred upon authorised officers, depending on their experience, qualifications and competency.

9.0 Legislative Compliance

9.1 When required, all authorised officers will comply with Codes; B, C and E of the Police & Criminal Evidence Act (1984) (PACE) which is linked to environmental enforcement.

9.1.1 The Council Officers will obtain the necessary authorisations as required by the Regulation of Investigatory Powers Act (2000) (RIPA) before conducting covert camera operations. This will ensure that operations are conducted with due regard to sensitive locations and collateral intrusion when activity is observed or recorded on tape.

10.0 Shared Enforcement Role

10.1 Authorised officers within the Waste & Environment Directorate will, where appropriate, share information with other officers within Wiltshire Council and with external agencies i.e. The Environment Agency, Wiltshire Police, MOD Police. This will assist in the co-ordination and partnership working to tackle environmental crime and reduce overlaps.

11.0 Equal Opportunities

11.1 The Council recognises there is diversity within the community and care will therefore be taken to ensure its enforcement actions are clearly understood by providing written information in an appropriate language wherever possible. The Council can

provide an interpreter service covering many languages if those involved have difficulty in speaking or writing English.

12.0 Complaints Procedure

- 12.1 The Council has a formal complaints procedure which ensures that any complaint is dealt with quickly, consistently and helpfully. Complaints can be conducted in writing, by telephone, email or completing a complaint/suggestion form online.

13.0 Monitoring and Review of the Policy

- 13.1 This policy will be monitored and reviewed to ensure that any changes of legislation, guidance or other circumstances are considered which may affect the principles contained within this document. This process may also include consultation with the groups affected by this document; including local issues to ensure best practice.

Parking Services Enforcement Policy

1. Aim of Parking Services

We manage/enforce the Councils off and on street parking areas. We enforce all parking and waiting restrictions across the Councils network including but not restricted to single/double yellow lines, residential parking zones etc.

We ensure the main traffic networks remain free flowing and free of obstruction to assist with the flow of traffic across Wiltshire.

We improve safety for pedestrians, cyclist and other road users by keeping highways and junctions clear.

We improve access for emergency services.

The purpose of the service is multi layered, we provide a visible presence within car parks and on street pay and display areas to increase compliance, this protects the councils income.

We assist with targeted enforcement outside schools and events such as the Summer Solstice at Stonehenge.

We provide a firm but fair enforcement regime with a robust and transparent appeals process should our customers wish to challenge any Penalty Charge Notices (PCNs) that are issued.

2. Background

We enforce using the legislation within the Traffic Management Act 2004 in particular part 6.

The Civil Enforcement of Road Traffic Contraventions (Approved Devices, Charging Guidelines and General Provisions) (England) Regulations 2022.

The Civil Enforcement of Road Traffic Contraventions (Representations and Appeals) (England) Regulations 2022.

Road Traffic Act 1991

Statutory Guidance for LAs section 87 of the TMA 2004

3. Parking Services approach to checks on compliance

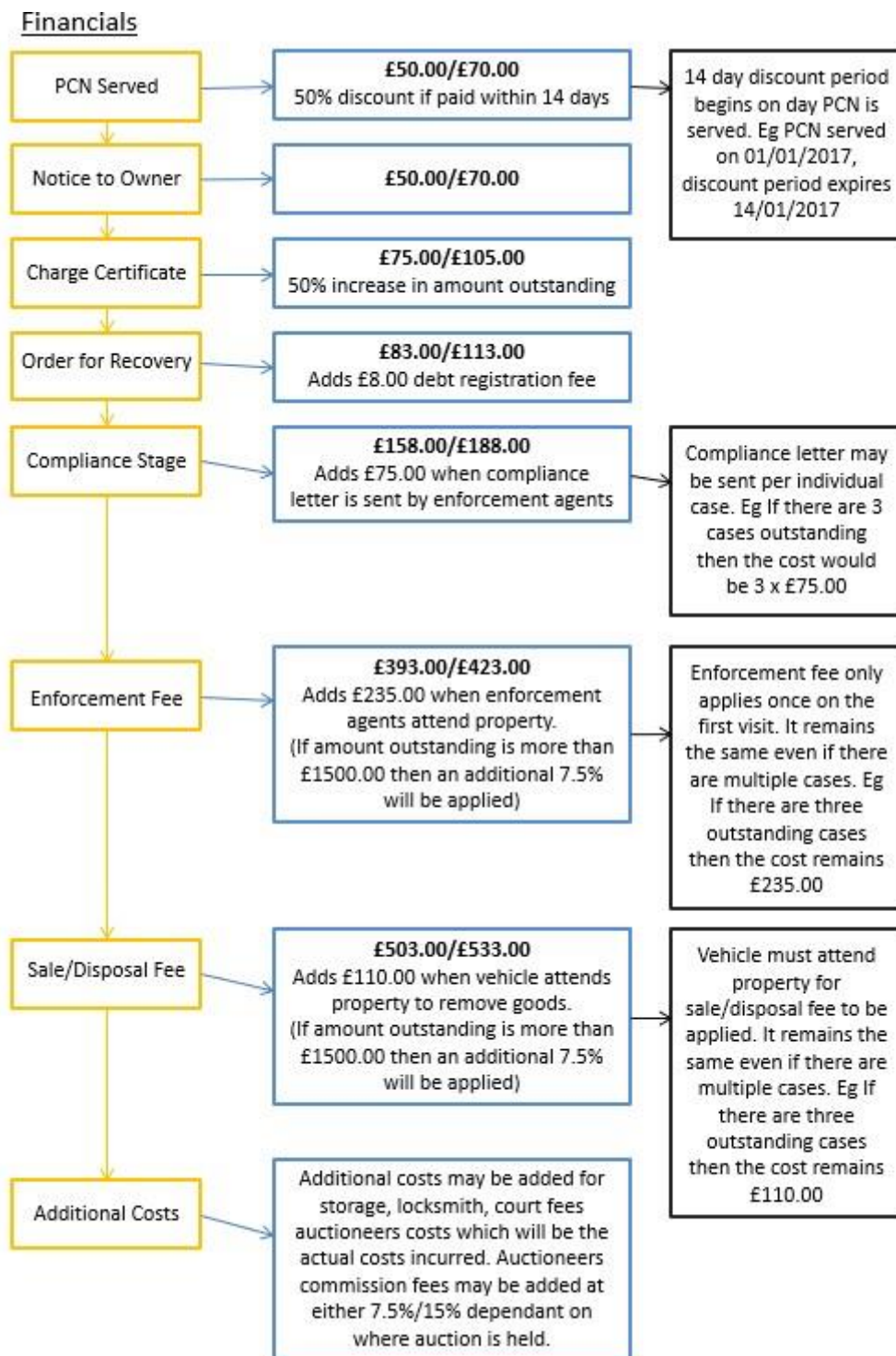
Through regular and routine patrols of our City, Towns and Villages our officers identify areas which need increased levels of attendance. We have a team of 32 Civil Enforcement Officers (CEOs) covering all of Wiltshire. We cover 7 days per week during the hours of 7am – 8pm.

4. Responses to non-compliance

Non-compliance is dealt with through the issuing of PCNS. However in all instances drivers are given the opportunity to remove the vehicle prior to a PCN being served with the focus being on advice and education.

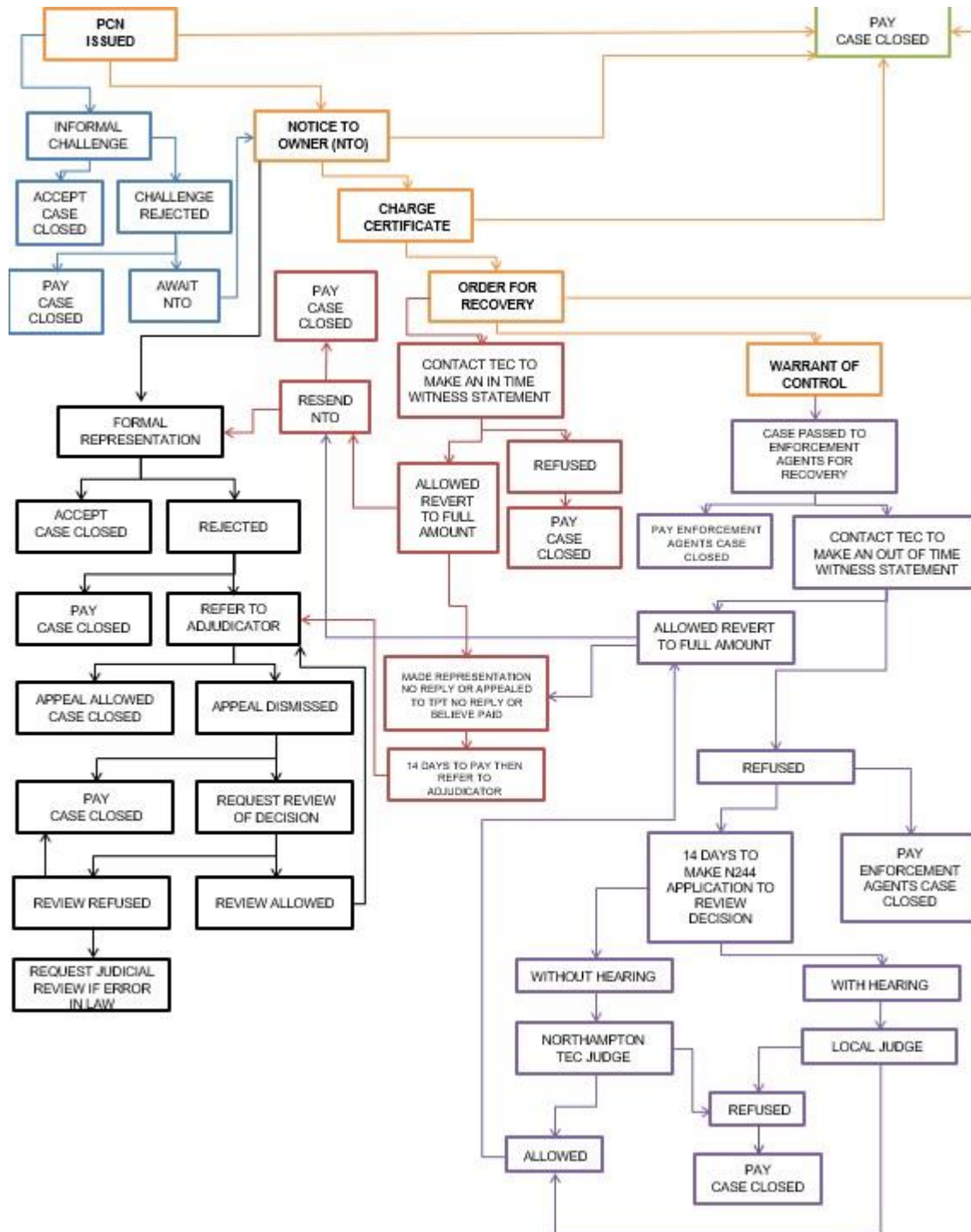
5. Service Standards

The value of PCNs are set by the Department of Transport and the associated Legislation. They are set at two rates £50 reduced to £25 if paid within 14 days for less serious contraventions, and £70 reduced to £35 for more serious contraventions such as double yellow lines. The flow chart below details the progression of a PCN should it proceed unchallenged or unpaid.



6. Appeals and Complaints

Parking Services have a robust appeals process which is defined through the relevant legislation detailed above. There is a nationally recognised process which all LAs follow. This is detailed below showing the life cycle of a PCN.



Corporate complaints do not tend to become involved in complaints regarding PCNs as there is an appeals process already in place for customers to use. Part of that process is having their case heard by an independent adjudicator at the Traffic Penalty Tribunal.

7. Monitoring and review of the Policy

A yearly review is conducted of this policy to ensure all references remain current and factually correct.

WILTSHIRE COUNCIL

PUBLIC PROTECTION ENFORCEMENT POLICY

1 Introduction

- 1.1 This policy addresses the practical application of the Public Protection enforcement procedures and aims to provide a fair and effective approach to enforcement action by officers of the authority.
- 1.2 All enforcement action must be compliant with all relevant legislation and guidelines and must be fair, clear, transparent, consistent and robust.
- 1.3 The policy covers all aspects of the service and seeks to assist officers in the decision making process when dealing with enforcement issues. It sets out a consistent approach regarding the use of formal and informal mechanisms at their disposal to achieve effective and efficient compliance with relevant statutes.

2 Purpose of enforcement

- 2.1 The service supports the judicious use of statutory powers as an effective means of ensuring that businesses and individuals, local premises, practices and activities comply with statutory requirements and do not put the economic wellbeing, health and safety or amenity of the general public, employees, other businesses or consumers at risk. We will assist and advise wherever possible but will also take firm action against those who act irresponsibly or flout the law.

3 Scope

- 3.1 This policy applies to all enforcement activities taken by the Public Protection Service.
- 3.2 This policy should be read in conjunction with any service specific and corporate policies and procedures as well as national guidance on enforcement issues, and the Public Protection Enforcement and Legal Process Manual.
- 3.3 Enforcement in the context of this policy includes action carried out in the exercise of statutory enforcement powers and duties. It includes the inspection of premises, the provision of advice as well as formal enforcement including fixed penalty notices, statutory notices and prosecution.

- 3.4 All officers will follow this enforcement policy as far as reasonably practicable. Any departure from the policy, for example to deal with situations of urgency or imminent risk, must be justifiable and be approved by the appropriate line manager when practicable, which may be after the event.
- 3.5 There may be circumstances where shared or complementary enforcement action may be taken with other agencies. In such cases the decision on enforcement options shall have regard to any relevant policies and procedures of the other agency.

4 Principles

- 4.1 Regulatory effort will be directed in accordance with the Government's "Regulators' Code", and as regulators the council will:
- Carry out our activities in a way that supports those we regulate to comply and grow
 - Provide simple and straightforward ways to engage with those we regulate and hear their views
 - Base our regulatory activities on risk
 - Share information about compliance and risk
 - Ensure clear information, guidance and advice is available to help those we regulate meet their responsibilities to comply
 - Ensure our approach to regulatory activities is transparent
- 4.2 The Council has also adopted the Enforcement Concordat, which established principles of good enforcement and set out what businesses and others being regulated are entitled to expect from enforcement officers.
- 4.3 Enforcement activities will be conducted in an open and transparent manner. Officers will explain clearly in plain language what is expected of those to whom legislation applies and what can be expected of the enforcement service. Clear distinctions will be drawn between statutory requirements and advice or guidance regarding what is good practice but not compulsory.
- 4.4 The authority will seek to raise awareness about the need to comply with legislation using an educational approach to promote good practice.

- 4.5 We aim to provide a courteous and efficient service, and all enforcement activities will be carried out in a helpful manner, actively working with businesses to advise on compliance.
- 4.6 Any enforcement action will be proportionate to the risk and seriousness of the breach of legislation.
- 4.7 The Service will endeavour to ensure that enforcement action is consistent by taking a similar approach in similar circumstances. However officers will take into account many variables such as level of risk, compliance history and the attitude and actions of those involved which may result in different outcomes in what appear potentially similar investigations.
- 4.8 Officers engaged in enforcement activity will be expected to maintain an open mind during the course of an investigation.

5 Investigative Procedures

- 5.1 All investigations into breaches of legislation will follow best professional practice and the requirements of the following:-
- [The Human Rights Act 1998](#)
 - [The Regulation of Investigatory Powers Act 2000](#)
 - [The Police and Criminal Evidence Act 1984](#) and associated [Codes of Practice](#)
 - [The Criminal Procedure and Investigations Act 1996](#)
 - [The Code for Crown Prosecutors](#)
- 5.2 Regard shall be had to corporate guidance and policies on the specific requirements of the above legislation.

6 Enforcement Options

- 6.1 All officers will have regard to:
- the documented procedures listed in the schedule,
 - any departmental or organisational procedure notes
 - any relevant guidance in Statutory Codes of Practice or guidance notes issued under the relevant statutes or by a recognised body and which are accepted as providing a national standard
 - the Public Protection Service Enforcement and Legal Process Manual
- 6.2 **Informal Action**

- 6.2.1 Informal action includes offering advice, verbal warnings and requests for action, the use of informal letters and inspection reports. Informal action should be considered against the following criteria:-
- The act or omission is not serious enough to warrant formal action and does not pose a significant risk to public health, safety or economic welfare.
 - The individual or company's history is such that it can be reasonably expected that the informal action will achieve compliance.
 - The officer has high confidence in the individual or management's ability to correct a defect or contravention and undertake any works which may be required.
 - Standards in general are good, suggesting a high level of awareness of statutory responsibilities.
 - The consequences of non-compliance are acceptable, e.g. minor matters, or the time period allowed to seek compliance does not present a risk to health safety or welfare.
- 6.2.2 Informal action includes education, publicity and media campaigns and working with commercial and community groups.

6.3 **Formal actions**

- 6.3.1 Formal action involves the proportionate use of formal mechanisms to achieve compliance. Formal action may be taken where informal action has been unsuccessful or is deemed inappropriate when considering the seriousness of the offence or the urgency of the situation. Administrative penalties, including fixed penalty notices may be used without prior informal action.
- 6.3.2 Formal action includes the use of Statutory Notices, Penalty Notices, works in default or direct action, review or revocation of licences or other approvals, simple cautions, or prosecution and any other legal action of any nature.
- 6.3.3 Decisions to instigate formal actions will be taken in accordance with the Enforcement Options Guidelines (Annexe 1), which will be reviewed and updated as necessary under the authority of the Associate Director.
- 6.3.4 Decisions to instigate prosecutions will be taken in accordance with the Prosecution Guidelines and all other guidelines and procedures (Annexe 2), which will be reviewed and updated as necessary under the authority of the Associate Director.

7. Qualifications and Authorisations of Officers

7.1 The Associate Director shall ensure that officers who carry out enforcement duties are appropriately qualified and trained.

7.2 The Associate Director shall ensure that officers carrying out enforcement duties are authorised in writing and that the extent of the authorisation is reviewed from time to time in the light of their qualifications and experience.

8 Equal Opportunities

8.1 The service recognises that there is diversity within the community and enforcement activities will have regard to its [equality policy](#).

9 Complaints Procedure

9.1 The Council has a formal [complaints procedure](#) which ensures that any complaint is dealt with quickly, consistently and helpfully. Complaints can be made in person, in writing, by e-mail or on-line complaints form.

9.2 Where repeated or vexatious [complaints](#) are received advice may be sought from the corporate complaints officer.

10 Review

10.1 This Enforcement Policy will be reviewed every two years or when significant new legislation affects the policy and updated as appropriate.

11 Access to this policy

11.1 A copy of this policy is available on the Council website, or can be obtained by writing to the Public Protection Service, County Hall, Bythesea Road, Trowbridge, Wiltshire, BA14 8JN.

Annexe 1: Formal Enforcement Options Guidelines

I. These guidelines should be read in context with the Public Protection Enforcement Policy. Enforcing officers should identify what enforcement options are available, what is the purpose of the enforcement action and then choose the most appropriate action which may include informal actions such as:

- A warning letter
- Advice
- Request for action

II. The following formal options may be available and should be considered subject to the specific legislation. A list of formal options is given below together with some factors which indicate whether the option is appropriate. Options may be applied individually or in combination.

A. Statutory Notices are not a punitive action and may be used where:

- There is non compliance with informal action
- There is a history of non-compliance
- Works or actions are required of the recipient
- Service of a notice is mandatory

B. Works in default or direct action may be used where:

- There is non-compliance with a statutory notice
- In advance or without a statutory notice where the legislation permits; and it is appropriate to deal with an urgent risk
- It is appropriate and proportionate to resolve outstanding requirements
- To deal with urgent risks

C. Fixed Penalty or other Administrative Penalties may be used where:

- Evidence of an offence is found
- It is a proportionate method of dealing with an infraction.

D. Review or Revocation of licence or other permit may be used where:

- It is a proportionate response to the gravity of the situation

E. Simple Cautions may be used where there is an admission of guilt and in line with Home Office guidance to

- Deal quickly and simply with less serious offences
- Divert less serious offences away from the courts
- Reduce the chance of repeat offences

F. Civil Procedures e.g. Undertakings to trade fairly, injunctions

- Where there is a history of persistent complaints or offences

G. Seizure/Forfeiture

- To deal with goods or equipment that is unsafe, illegal or have been used in the commissioning of an offence

H. Prosecutions may be used where

- There is sufficient evidence of the offence and a realistic prospect of conviction.
- It is in the public interest

Prosecutions will only be instigated in accordance with the prosecution guidelines in Annexe 2.

WILTSHIRE COUNCIL

PUBLIC PROTECTION ENFORCEMENT POLICY

ANNEXE 2: PROSECUTION GUIDELINES

1. PURPOSE

- 1.1 To ensure that recommendations and decisions about prosecutions are made in a consistent and fair manner.
- 1.2 These guidelines are intended to act as a guide to Officers in taking enforcement action. These guidelines are not intended to limit or fetter an Officer's discretion.

2. APPLICATION

- 2.1 These guidelines are to be read in the context of the enforcement policy, relevant legislation and case law and in accordance with national guidelines. In particular:
 - 2.1.1 The Code for Crown Prosecutors issued by the CPS (January 2013)
<http://www.cps.gov.uk/news/assets/uploads/files/code2013english.pdf>
 - 2.1.2 Regulators' Code – issued by the Department for Business, Innovation and Skills.
<https://www.gov.uk/government/publications/regulators-code>

3. MAKING THE DECISION TO RECOMMEND PROSECUTION

- 3.1 Prosecution should take place when:
 - 3.1.1 It is in the public interest to prosecute the offender for the charges chosen; and
 - 3.1.2 There is sufficient evidence, capable of being admitted as evidence in Court, to support the prosecution.

4. THE PUBLIC INTEREST TEST

- 4.1 In deciding whether it is in the public interest to prosecute an offender under clause 3.1.1 above, regard must be had to all relevant public interest considerations that weigh in favour of, and against, prosecution proceeding. Annex 1 to these guidelines is a checklist of factors that, if relevant, the Officer ought to turn his or

her mind to in deciding whether or not it is in the public interest to proceed with criminal charges.

4.2 The factors listed do not form a test. They are intended as a guide to help focus the decision-maker's mind on matters of relevance in determining whether the prosecution is in the public interest. The number of factors in favour of, or against, prosecution is not necessarily relevant as to whether or not prosecution is recommended.

5. **THE EVIDENTIAL SUFFICIENCY TEST**

5.1 In determining whether there is sufficient evidence under clause 3.1.2 above, the Officer must be satisfied that there is sufficient admissible evidence to provide a "realistic prospect of conviction" against each proposed defendant on every charge.

5.2 The Officer must be satisfied that the evidence to be relied on will not be excluded by the Court under any enactment or rule of law. In particular:

5.2.1 All interviews, confessions and other formal statements of the proposed defendant have been recorded and obtained in accordance with Police and Criminal Evidence Act (PACE).

5.2.2 All information resulting from investigations has been obtained in accordance with the provisions of Regulation of Investigatory Powers Act where applicable.

5.2.3 All searches have been undertaken by the persons with the required powers and have been conducted in accordance with PACE, its codes of practice, or the particular legislation that governs that search.

5.2.4 The evidence relied on will not be excluded for being hearsay or documentary hearsay.

5.2.5 The evidence must also be reliable. In determining whether the evidence is sufficiently reliable to be accepted by the Court, regard must be given to:

5.2.5.1 Where reliance is being placed on a confession, whether that confession is affected by the defendant's age, intelligence, level of understanding or the circumstances in which the confession was made.

5.2.5.2 Any explanation given by the defendant. Is the explanation credible and likely to be accepted by

the Court? If so, does the explanation constitute a defence to the charges?

5.2.5.3 The identity of the defendant when this is put in issue by the defence. Do eyewitnesses suitably identify the defendant?

5.2.5.4 Is there any unused evidence obtained in the investigation, which is disclosable to the defence, that may undermine the prosecution in any way?

5.2.5.5 The credibility and accuracy of prosecution witnesses. In the event of a conflict of evidence between the defendant and the prosecution witness, is the prosecution witness's evidence likely to be believed?

5.2.6 Evidence that may not be reliable ought not to be discarded. Its reliability must, however, be considered in determining whether there is a realistic prospect of conviction.

6. **SELECTING AND RECOMMENDING CHARGES**

6.1 After considering the factors listed above in part 3.1, Officers may exercise their discretion in the following ways:

6.1.1 Issuing an informal caution either orally or in writing;

6.1.2 Deciding to recommend a Simple Caution; or

6.1.3 Deciding to recommend a formal prosecution.

6.2 An informal caution ought only be recommended if the officer is satisfied that:

6.2.1 An informal caution is likely to be an effective deterrent to the offender; and

6.2.2 The caution is appropriate for the type of offence, the gravity of the offending and the circumstances and history of the offender.

6.3 An out of court disposal may be recommended in accordance with Ministry of Justice guidance. <http://www.justice.gov.uk/out-of-court-disposals>

6.4 If prosecution is recommended, then charges ought to be selected that reflect the seriousness and extent of the offending and

provide the Court with sufficient power to sentence the defendant adequately.

- 6.5 Where numerous offences appear to have been committed, consideration ought to be given to proceeding with specimen charges and having the remaining offences taken into consideration by the Court upon sentencing.
- 6.6 Charges should not be selected solely for the purpose of negotiation, with a view to dropping them in return for a guilty plea on other charges. Each charge must fulfil the criteria detailed in clause 3.1.
- 6.7 Recommendations shall be made in a timely manner, bearing in mind any time limits for bringing a prosecution, the need for adequate time for legal services to prepare and issue summonses and the reluctance of the Courts to entertain cases where there has been unnecessary delay.

7. **ACCEPTING GUILTY PLEAS**

- 7.1 In certain circumstances a defendant may wish to plead guilty to some but not all of the charges. Prosecuting Officers should only accept the guilty pleas in such cases if they are of the opinion that the Court is able to pass a sentence which matches the seriousness of the offences. Officers must never accept a guilty plea because it is convenient.

**ANNEX A:
QUESTIONS TO BE ADDRESSED IN CONSIDERING WHETHER IT
IS IN THE PUBLIC INTEREST TO PROSECUTE**

Questions potentially in favour of prosecution.	Relevant	Irrelevant	Comments
---	----------	------------	----------

Regarding the offence

Is conviction likely to result in more than a nominal penalty?			
Was the defendant the ringleader or organiser of the offence?			
Was the offence premeditated?			

Regarding the victim

Was the victim vulnerable?			
Did the victim suffer fear, damage, disturbance?			
Could the alleged offence have cause, or did it actually, cause pain, distress or suffering to animals?			
Has the victim made a personal statement and, if so, does it support any particular enforcement action?			

Motivation and Intention

Was the offence motivated by discrimination?			
Did the offence involve deliberate misrepresentation or fraud?			
Did the offence occur because the defendant neglected or failed to take due diligence?			

Further Policy considerations

Are there relevant previous convictions / cautions?			
Is the offence likely to be continued or repeated?			
Is the offence, although not serious, widespread?			
Was the offence committed whilst on bail or on a conditional discharge?			
Is there is an element of public risk / danger to health?			
The case would have precedent value or deterrent effect.			
Is there a possibility of significant economic disadvantage to consumers or businesses?			

Questions potentially against prosecution.	Relevant	Irrelevant	Comments.
Has there been a failure to comply with enforcement notices?			
Could the alleged offence have caused, or did it actually cause, harm to human health including injury?			
What is the attitude of the offender? Is there a desire to compensate?			
Is another entity better suited to prosecute?			
Was the offence a genuine mistake?			
Will there be a long delay between the commission of the offence and the first Court date?			
Would a prosecution be detrimental to the victim's health?			
Is the defendant elderly or suffering from significant mental or physical ill health?			
The offender has been, or is being, sentenced for similar offending and the prosecution would add little further.			
The offender is under 18			

Other issues not otherwise considered:

Note: This checklist is not intended to be a test. It is to be used as a guide to direct consideration of relevant issues in determining whether prosecution is in the public interest. It is not exhaustive. Any other factors of relevance that are not included on this list must be taken into account as well.

Draft Planning Enforcement Policy 2024
Service specific annex to the Wiltshire Council Enforcement Policy

1. Aim of planning enforcement

1.1 Planning enforcement ensures that where harmful development is carried out without permission, it is remedied, either by its removal or its modification (for example, by attaching conditions to planning permission).

1.2 Formal enforcement action, such as prosecution, is discretionary and will be undertaken where it is expedient to do so. Expediency considers whether the unauthorised development causes planning harm, which means that it is in breach of the council's Development Plan or other material considerations, such as the emerging Local Plan. The existence of a breach is not, in itself, a good reason to take formal enforcement action but breaches will be subject to investigation, inspection and advice on compliance ahead of this.

2. Background

2.1 The planning system is important to manage the development of our communities and to preserve our historic and natural environment.

2.2 National Planning Policy guidance for enforcement of the planning system is set out in the National Planning Policy Framework (Dec 2023). Paragraph 59 is set out below and provides the foundation for the development of this Policy.

“59. Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate”

2.3 Ordinarily, formal action against a breach of planning control is the last resort and the council should first give those responsible an opportunity to put things right. The council's approach will always be relative to the seriousness of the breach. When there are serious harmful effects, protracted negotiations will not normally delay formal action. In these situations it is important that the Council takes action to prevent irreversible damage or harm (for example where demolition works are occurring to a listed building).

2.4 The developer has a right to submit a retrospective planning application to seek to retain a development or change of use. These types of applications must be considered no more or less the same way as if the development had not already been carried out. In the event an application is refused, or an Enforcement Notice issued, an appeal can be made to the Planning Inspectorate. For some types of enforcement action, such as the serving of a Breach of Condition Notice, there is no right of appeal.

2.5 If the council's actions are considered unreasonable or legally unsound, its decisions can be overturned by the Planning Inspectorate, or the courts and it can be ordered to pay costs.

2.6 Enforcement can be a lengthy and complex process due to the need for thorough investigation, the legal processes involved, the nature of the breach, the site and the people involved.

3. Development Management approach to compliance

3.1 Our approach

The council will respond to alleged breaches of planning control. We will assess the harm caused and decide what action is required.

The council will work with people to ensure that people understand and are complying with planning legislation and that breaches of planning control are resolved. The council will give reasonable time to resolve matters; however, if progress is not made, consideration will be given to using the range of enforcement powers available in order to resolve matters.

Monitoring will be undertaken, and if necessary enforcement, of minerals and landfill permissions according to best practice procedures.

In certain situations, we will proactively investigate a matter where there is a concern that a breach may occur or where there is a high risk of harm being caused by a breach of planning control.

3.2 What is a breach of planning control?

A breach of planning control occurs when development or activities are carried out without the required planning permission or in a manner that does not comply with the approved plans or conditions attached to a planning permission. This can include:

- Unauthorised development: Erecting buildings or structures without planning permission; unlawful earthworks or engineering operations
- Change of use: Changing the use of land or buildings without planning permission.
- Non-compliance with conditions: Failing to adhere to conditions or limitations imposed by a granted planning permission.
- Unauthorised works to a listed building: Carrying out works to a listed building without the necessary listed building consent.
- Breach of advertisement regulations: Displaying advertisements without the required consent.
- Damage to protected trees: Carrying out work on protected trees (those subject to a Tree Preservation Order or within a conservation area) without consent.

Local planning authorities are responsible for investigating alleged breaches and have the power to take enforcement action if necessary.

3.3 Reporting possible breaches of planning control

The council will keep a record of all complaints made relating to breaches of planning control. Complaints will need to be in writing with the name and address and contact details of the complainant. Part of any investigation is understanding the harm being caused, notably to the party complaining.

We aim to treat complainants' personal details in confidence but if formal action results, we may ask the complainant to help in assisting the council when building its case. A successful outcome could depend on the complainant's support.

Anonymous complaints enquiries will not normally be investigated as it can be difficult to verify information about the allegation. Any investigation under such circumstances will be at the council's discretion.

The council relies on the support of its communities to help carry out its enforcement functions. Complainants will be asked to supply as much information as possible. This will help the council to more quickly understand the impact of an issue and assess what action is required. Those who are making enforcement complaints will be asked to provide:

- A clear description of the alleged breach
- Why it is considered to be a breach of planning control
- How the breach is harmful; for example, noise, traffic, smells
- When the activity started; is it happening now, how long has the activity been taking place, is it getting worse?
- A specific site address (if it is a field, describe the surrounding area to help identify the exact site and if possible, an annotated map, grid reference or what3words reference)
- The name and contact details of the site owner/occupier/other responsible person(s) where known
- Name and contact details of the complainant
- Any other information which would be helpful

3.4 Exercising our enforcement powers (proportionality)

The council will investigate breaches of planning control. Formal enforcement action will only ever be taken as a last resort, where all other options for resolving the matter have been exhausted. Formal action will only be taken where it is 'expedient' to do so, considering planning policies having regard to the public interest. The council will prioritise those breaches where there is a higher risk of harm or where the damage caused is significant or irreversible.

The use of planning enforcement powers is discretionary, and the council must decide when it is appropriate to use them. Not every breach of planning control will lead to formal action. In some cases, such as waste management operations, other council teams with different enforcement powers or other regulatory bodies may be better placed to address the matter causing concern. The council will work with external bodies where appropriate to provide a joined up and co-ordinated approach to enforcement.

National Planning Policy (paragraph 59) states that councils should act proportionately when deciding to take enforcement action. While the council will take the opinions of complainants into consideration, the council will ultimately decide if formal powers should be used.

To guide these decisions, the council will consider the following principles:

The principles set out in the Wiltshire Council's Enforcement Policy 2024 (or as amended), the Regulators Code and national and local planning policy.

Planning Enforcement will also be guided by the following principles:

- Planning harm – the impact that a breach has on the environment and people.
- Proportionate – the response should be commensurate to the level of harm being caused by the breach.
- The likelihood of planning permission being granted were an application to be submitted
- Deliberateness and deception – where it is clearly evident that a breach has been planned or committed for a certain purpose. Where the breach has been deliberately concealed.

3.5 Prioritisation of cases

We will undertake initial investigations as quickly as possible. However, the council aim to undertake some investigations more quickly as set out below.

Priority 1

Immediate threat to public safety, substantial damage to or loss of statutorily protected buildings, trees or areas.

Priority 2

Adverse impact on protected areas and residential amenity. Breaches of conditions and legal agreements resulting in serious harm to neighbours, affected parties and/or the environment. Unlawful adverts in protected areas. Unauthorised development where it is possible that the time for taking enforcement action could expire within the next six months.

Priority 3

The breach is of a minor nature which does not cause immediate/long-term harm or loss of amenity.

Vexatious complaints

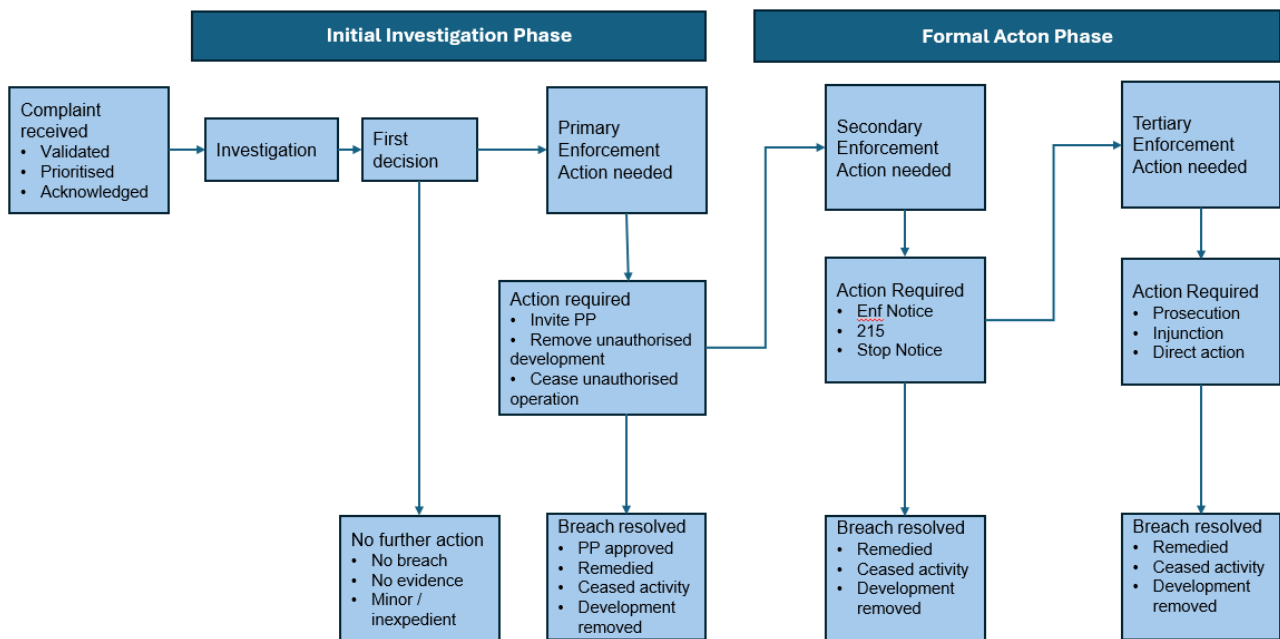
If the complainant appears to be motivated by issues other than planning harm, the council may consider that it would not be in the public interest to investigate. This may include where complaints are made purely on trade competition grounds or motivated by neighbour disputes.

4. Development Management responses to non-compliance

Process overview

There are several ways an investigation can evolve. Some can be resolved very quickly, while others may go on for many months or even years. Some investigations may evolve over time and different actions be required.

4.1 The process is made up of two phases:



Investigations can vary in duration and complexity. The process includes:

Initial investigation phase – Investigate and try and resolve the issue through informal means. This phase will also determine at an early stage where something is not a breach ('permitted development') or where a breach is minor or insignificant.

Formal action phase – This is where the council will consider the use of formal enforcement powers. This will occur if it has not been able to resolve a breach and more formal action is required.

First decision – the council will look to reach a conclusion on what action is needed. The aim is to get to a point where the case can be closed or that there is a good idea of what action is required. This could include:

- No breach – the development is not 'development' or is 'permitted development'.
- Minor – there is a breach, but the low level of planning harm is such that further action is not necessary.
- Initial compliance action needed – see below section titled primary enforcement action.
- Detailed investigation needed – it may be that a lot more information is needed to be collected before a decision can be made.

The aim is to make the first decision for priority 1 cases within 5 working days of visit, for priority 2 within 10 working days of visit, and for priority 3 within 15 working days of visit.

All stakeholders will be informed of the first decision as quickly as possible.

4.2 Primary enforcement action

This applies to situations where the investigation has determined that there is a breach of planning control, and that enforcement action is required to resolve the issue. This includes inviting a

planning application (in situations where permission is likely to be granted) or action is needed to remove the breach or cease the activity.

In these cases, there will be a need to give the persons involved time to prepare a planning application or to remove or cease the development. If a planning application is submitted, then further time is needed to allow this to proceed through the usual process to a decision.

4.3 Possible outcomes

There are several possible outcomes at this stage of the process, depending on the circumstances.

Negotiated remedy – the developer agrees to cease the breach. However, we will not allow negotiations to unduly hamper or delay formal action where it may be required to make the development more acceptable in planning terms or compel it to cease.

Retrospective planning application – an application would be invited where there is a reasonable prospect of planning permission being granted (although this outcome cannot be assumed). The council will pursue submission where there is a need to impose conditions on a permission to restrict the development or modifications to the development may be considered acceptable. It must be noted however that anyone has the right to submit a retrospective planning application, regardless of the likelihood of planning permission being granted.

No breach – this would be where, for example, the matter is ‘permitted development’ or outside of planning control.

The breach is not expedient to pursue – this would be where there is, perhaps, a trivial or technical breach of control only which causes no material harm or adverse impact on the amenity of the site or its surroundings, or where the development is acceptable on its planning merits and enforcement action would solely be to regularise the development. For example, if a household development is slightly larger than what would have been allowed under ‘permitted development’, where in the absence of harm to public amenity, enforcement action would be disproportionate.

The development is immune from enforcement action – the statutory time limits for enforcement action are set out below. The council is unable to take formal action if the time has expired.

Formal action phase

This will be taken when someone has been given an opportunity to act at the initial informal action stage and this has failed to achieve a positive outcome and resolve the matter.

Secondary Enforcement Action required – at this stage the council will consider if the use of its formal planning enforcement powers is required.

It may be that someone has failed to submit a planning application within a reasonable time of being invited, or that planning permission has been refused. It may also be that someone has failed to remove unacceptable unauthorised development or cease an unauthorised activity within an agreed timeframe.

The council will consider if it is expedient to take formal action given the circumstances at that time.

The council has a range of formal powers. Those most used are described below. The nature of the breach will determine which powers are used:

- Warning Notice – formal notice setting out that there is a breach of planning, but at this time the council will not take any further action.
- Breach of Condition Notice – requires compliance with specified conditions within a set timescale.
- Enforcement Notice – requires certain steps to be carried out to remedy matters, again within a set timescale. Can be served together with a Stop Notice (see below).
- Stop Notice/Temporary Stop Notice – requires specified activities to cease (but cannot undo preceding unauthorised works).
- Untidy Land (S215) Notice – requires steps to be taken to secure the proper maintenance of land and buildings within a set timescale.
- Prosecution – in some circumstances the council can prosecute for a breach of planning control (e.g. works to a listed building, damage or removal of a TPO tree).

Where enforcement action has been taken, the council will proactively monitor this situation to ensure that compliance is achieved and that the required actions are taken.

Tertiary Enforcement Action Needed – where primary enforcement action has been taken and compliance is not achieved, the council will consider if further action is required to resolve the situation. This includes prosecution for non-compliance with a notice or taking direct action to remove a breach of planning control. This is often complex and time-consuming and can require significant resources.

Secondary enforcement actions:

- Prosecution – refer the matter to court system.
- Direct action – council enters on to the land and completes the work to ensure compliance.
- Injunction – seek order of the court to compel compliance.
- Continued secondary action – continue to use these powers repeatedly to ensure compliance.

4.4 Timeframes for compliance

Officers will work with land owners to assist people to achieve compliance. This may include giving people timeframes to achieve certain actions (e.g. applying for planning permission or time to cease an activity or remove development).

The council will be reasonable in setting these timeframes and will consider the circumstances of persons involved. It is understood that circumstances can change and delays can occur, and so consideration will be given to allow extra time. Evidence should be provided to demonstrate that progress is being made.

4.5 What is expected

The council expects that people will take breaches of planning control seriously and will work to resolve them as quickly as possible. People in breach of planning control are expected to:

- Prioritise resolving the issue
- Proactively work to resolve the matter
- Keep officers updated on progress
- Engage agents and experts to assist them where necessary

4.6 Asking for more time

The council will consider extending timeframes for compliance where there has been a change in circumstances or where some progress has been made but a delay has occurred. The council will also consider if granting more time is likely to result in the breach being resolved.

Where more time is needed, people in breach of planning control are expected to clearly set out:

- In writing why they need more time
- How much time they require
- Reasons for the delay
- Evidence of the delay
- Evidence of what progress has been made

If the request for more time is not reasonable or some progress has clearly not been made, the council will consider progressing to the next stage in the enforcement process.

As a general guide the council will apply the following timeframes:

- To submit a planning application (where invited to do so by the council) – 28 days
- To tidy land – 28 days
- To remove an unauthorised structure – two months
- To cease a commercial use - three months
- To cease a residential use (including traveller / gypsy site) – six months

Where the breach is causing an adverse effect on amenity or creating a nuisance, these timeframes may be shorter. The council will also consider if there are special or personal circumstances that would require a longer period for compliance. The timeframes are a matter for the council to determine but the council will endeavour to ensure that enforcement action is consistent by taking a similar approach in similar circumstances.

5. Service standards

The council has the following Key Performance Indicators for its planning enforcement service -:

Primary Enforcement Action – site visits	<ul style="list-style-type: none"> • Priority 1- 80% in 24 hours • Priority 2 - 95% in 5 working days • Priority 3 - 95% in 15 working days
Primary Enforcement Action – reach first decision	<ul style="list-style-type: none"> • Priority 1 - 5 working days of visit • Priority 2 - 10 working days of visit • Priority 3 - 15 working days of visit
Secondary Enforcement Action	<ul style="list-style-type: none"> • We aim to make a decision on taking secondary enforcement action within 10 working days of a deadline e.g. if the council gives 28 days for a planning application to be submitted and this is not actioned, a decision on taking secondary action will be taken within 15 working days of the 28-day deadline • We aim to assess compliance with secondary enforcement action deadlines within 10 working days.

Tertiary Enforcement Action	<ul style="list-style-type: none"> • We aim to make a decision on taking tertiary enforcement action within 15 working days of a deadline e.g. where an Enforcement Notice has been served and the deadline for compliance has expired, a decision on taking tertiary enforcement action will be taken within 15 working days. • We aim to assess compliance with tertiary enforcement action deadlines within 10 working days.
Case Completion	<ul style="list-style-type: none"> • Complete 80% of priority 1 cases within one year. • Complete 80% of priority 2 & 3 cases within 6 months.
Registration	<ul style="list-style-type: none"> • Register 95% of new enquiries within 3 working days of receipt. • Respond to 95% of enquirers within 10 working days of initial site visit.

6. Feedback and formal complaints

The council has a formal complaints procedure which ensures that any complaint regarding the provision of a service is dealt with quickly, consistently and helpfully. Complaints can be conducted in writing, by telephone, email or completing a complaint/suggestion form online. [Making a complaint - Wiltshire Council](#)

Feedback about how the council's planning enforcement service is carried out is always welcomed. This helps to inform the way the service evolves to meet customer expectations. Please submit any suggestions for how the service can be improved, to the Director of Planning at developmentmanagement@wiltshire.gov.uk

Appendix – Enforcement Indicators

Enforcement Area	Outcomes sought	Measure description	Target
Anti-Social Behaviour	To reduce levels of reported ASB.	Percentage of reported antisocial behaviour cases resolved within 60 days	Over 90%
Planning	<ul style="list-style-type: none"> To take robust action against unlawful development in a timely manner, where it is expedient to do so To keep complainants regularly informed of the process To make prompt decisions where it is not expedient to take action, explaining the reasons for our decision in clear language 	Register and acknowledge receipt of complaints in three working days	95%
		Initial site inspection [one working day for priority cases; 10 working days other cases]	
		Increased use of Planning Contravention Notices [10% increase each year for five years]	10%
		Close cases and inform complainants where it is not expedient to take action [eight weeks from date of receipt]	90%
		Increased serving of Notices (Enforcement and Breach of Condition Notices) [10% increase each year for five years]	10%
Highways	Removal of obstructions within the Highway (Section 143 Highways Act)	Cases under investigation/ resolved / under formal enforcement % Total number cases taken to resolution	85%
	Removal of vegetation encroachment (Section Section 154 Highways Act)		
Parking	Number of Penalty Charge Notices Issued	Number of Penalty Charge Notices Issued	N/A
Public Protection	High quality compliant food premises	% of A,B and C rated food hygiene completed	100%
Public Protection	Compliance without taking formal action	No. of cases where compliance achieved by informal means (visits, inspection, warning letters etc)	100%
Public Protection	Compliance requiring formal action	No. of cases where compliance achieved by formal means (Notices, seizures, prosecutions, etc)	N/A
Public Protection	Compensation obtained	Redress obtained for consumers or victims of crime by service actions This is where we are able to obtain compensation, refunds and prevent money being handed over to criminals. This may be through the courts or informal negotiation by officers.	
Environmental Enforcement	Informal actions conducted	Actions conducted where the informal approach is proportionate	N/A
	Formal actions conducted	Actions conducted where the formal approach is proportionate	N/A
	Fly tips with evidence	Number of fly tips with evidence or witnessed.	N/A

Appendix – Enforcement Indicators

Private Sector Housing	Housing stock in good condition	Total number of (all) property inspections complete (Per Annum)	
		Properties with Cat 1 and Cat 2 hazards resolved through informal action	N/A
		Properties with Cat 1 and Cat 2 hazards resolved through formal action incl Prohibition notice	N/A
		100% of licensable HMOs have been issued with a licence	100%
HRA Housing	Reduce ASB	New ASB cases reported in month per 1000 properties.	2.75%
	Reduce Tenant arrears	ASB true current rent arrears at the end of month %	
Revs and Bens	Reduce arrears owed to the council in respect of local taxation	Unpaid Council Tax reclaimed in subsequent financial years	30%
Revs and Bens	Reduce arrears inc. Business Improvement District Income		40%
Accounts Receivable (Sundry debts)	Manage and reduce arrears for miscellaneous income due to the council, often concerning large and complex debt		50%
Education Welfare Service	Reduce unauthorised absence from school	Attendance is better than national average.	96%
	Ensure parents are meeting their duties as per s7 Education Act 1996	Penalty notices, prosecutions, Education Supervision Orders, Parenting Orders, School Attendance Orders demonstrate improved attendance. Non-compliance, breaches and non-payments are all pursued through	100% follow up for non-compliance, breach and non-payment
	All children and young people in employment and entertainment are licensed in accordance with relevant legislation	Employers and entertainment companies who contravene child licensing legislation and County Bye-Laws are prosecuted.	100% of licences issued are in compliance
Legal	Evidence of the commitment to more enforcement	Matters opened	N/A
	Evidence of the commitment to more enforcement	Recorded hours	N/A
	Supporting the deterrent effect and profile of the Council's enforcement work	% of successful prosecutions	90%