

Enforcement Policy

Executive Summary

An updated enforcement policy is attached as Appendix 1. The aim of the policy is to reinforce 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.

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.

Proposals

That Full Council:

Adopt the Enforcement Policy as set out at **Appendix 1**.

Reason for Proposals

An assertive and coordinated approach to enforcement will help to increase compliance, prevent further infringements and deter other offenders (in line with the commitment in the Business Plan to 'prevention and early intervention' as a guiding theme).

Parvis Khansari

Corporate Director, Place

Enforcement Policy

Purpose of Report

1. This report outlines an updated enforcement policy for approval by full council.

Relevance to the Council's Business Plan

2. An assertive and coordinated approach to enforcement will help to increase compliance, prevent further infringements and deter other offenders (in line with the commitment in the Business Plan to 'prevention and early intervention' as a guiding theme).

Background

3. Many areas of the council are involved in enforcement, such as Education Welfare, Public Protection, Highways and Civil Parking, community safety, council housing tenancies and private sector housing. The last Wiltshire Council [Enforcement Policy](#) was agreed in May 2011 (Public Protection focused). Other service specific policies exist (e.g. Planning Sept 2009, Licensing Nov 2019, private sector housing) although these have often focused on process and service standards. In March 2023 the Government released an [Anti-Social Behaviour Action Plan](#) which encouraged a more 'muscular approach' to infringements such as fly-tipping, litter and vandalism and provided some additional funding to increase enforcement activity in this area.
4. Recent government research on housing enforcement (but which has findings relevant to all areas) highlights that the 'key drivers' of enforcement are:
 - the capacity of enforcement teams;
 - the experience and expertise of enforcement teams;
 - political will and strategic commitment.
5. Conversely, barriers to effectively tackling poor standards and conditions are:
 - issues relating to the legal framework, such as the range and complexity of laws relevant to enforcement work;
 - difficulties gathering evidence to support enforcement

Main Considerations for the Council

6. It is recognised that an assertive and coordinated approach to enforcement will help to increase compliance, prevent further infringements and deter other offenders (in line with the commitment in the Business Plan to 'prevention and early intervention' as a guiding theme).
7. Enforcement can often be seen as more reactive rather than enforcement-led and it is recognised that enforcement effectiveness can be difficult to evidence (limited use of formal enforcement and prosecutions can be due to good compliance with informal

requests made to offenders). However, comparison on some measures has indicated scope to do more compared with statistical 'near neighbours'. Therefore there is the potential for the approach to enforcement to be tightened whilst recognising service specific legislation and case law.

8. Experience in other councils highlights that: 'Enforcement teams that are well resourced, with highly qualified staff, and supported by corporate strategy and legal departments are proactively using the range of powers available to them'. Increasing capacity and ensuring a multi-disciplinary approach will help to achieve this.
9. Additional council funding in Wiltshire has previously been announced for planning enforcement and the 'We're Targeting Flytippers' campaign. An Enforcement Management Group, bringing together officer representatives from relevant services, has also been meeting in recent months to:
 - Develop a new proactive 'umbrella' enforcement policy – and to revise service specific policies, processes and standards in line with this
 - Share intelligence and coordinate action on specific issues
 - Train and share best practice
 - Develop a standardised approach to submitting an enforcement file for prosecution
 - Advise on priorities for investment and compile performance data
 - Engage with external agencies and comms to promote reporting and new approach
10. A revised, umbrella enforcement policy will help ensure consistency of approach and a suggested draft is included as the first eleven pages of **Appendix 1**. This has been developed with legal advice and includes, as annexes, new service specific policies that have been revised in line with the new approach and an overall performance monitoring framework. If the 'umbrella' policy is approved the service specific policies will be kept up to date by the relevant directors in consultation with the lead cabinet member.
11. Training for enforcement teams is currently being developed which draws on best practice within the council and elsewhere and aims to rollout a standardised approach to compiling and submitting enforcement files for prosecution, recognising the differing levels of experience between teams in taking cases to prosecution that currently exists.
12. Cabinet agreed to an additional £300k of funding for enforcement activities in 2023/24 and £520k of funding in 2024/25. Proposals for this have been developed and agreed through the enforcement management group and cover a wide range of services (many across services). This is separate to the additional investment in planning enforcement, Don't Mess with Wiltshire and the We're Targeting Fly-tippers campaigns.
13. The Enforcement Management Group have also been reviewing a number of cases where these are of interest to two or more service areas and where there have been historic significant breaches of legislation and public interest. Further coordinated action in these areas is expected.

Safeguarding Implications

14. Enforcement officers undertake relevant training in safeguarding to identify abuse and neglect and make appropriate referrals and signposting. When investigating potential offences and an individual may be vulnerable due to mental health or addiction issues then appropriate support from adult social care may be considered. If a matter progresses to court action, consideration is given to offering the defendant access to the [Liaison and Diversion Service](#) which is available to anyone with identified vulnerabilities. The service recruits peer volunteers and professional staff to support people in court who may have not been through a criminal process before, or who may have specific anxieties or conditions, for example learning difficulties or mental health issues.

Public Health Implications

15. The Enforcement Policy aims to be 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.

Procurement Implications

16. There are no direct procurement implications directly arising from the proposed policy.

Equalities Impact of the Proposal

17. The policy makes clear reference to acting in accordance with the Public Sector Equality Duty and to ensuring decisions are transparent, consistent, proportionate, accountable and appropriately targeted by the nature of the reported breach.
18. 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.

Environmental and Climate Change Considerations

19. The Enforcement Policy aims to improve enforcement in areas relevant to the protection of the environment, including planning and highways, parking and waste management. This includes liaison as appropriate with other enforcement agencies such as the Environment Agency.

Workforce Implications

20. Appropriate training is being developed to support the rollout of the revised Enforcement Policy within the council. This includes elements on 'soft' skills such as communication and negotiation, as well as practical elements on submitting an enforcement file to legal services and progressing a case to prosecution. The Enforcement Management Group will continue to share best practice between teams.

Risks that may arise if the proposed decision and related work is not taken

21. The council's existing enforcement policy relates to public protection only. If the policy is not updated it will no longer be reflective of changes in legislation or the expressed wishes of councillors.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

22. If the policy is approved there is a risk that expectations amongst the public are raised that any outstanding enforcement cases will be resolved immediately. However, it should be recognised that often there are complex, historic, cases where the situation on the ground can change rapidly. Similarly, there can also be lengthy lead in periods before people need to comply with an enforcement warning/notice (often six months or longer) and there are rights of appeal, which can extend time periods significantly. Where notices are served and appeals won, action through the courts can take eighteen months or more and is no guarantee of success. This risk will be mitigated through appropriate communications.

Financial Implications

23. There are no direct financial implications arising from the approval of the policy. Reference has been made to additional funding provided for enforcement in general in paragraph 12.

Legal Implications

24. Legal services have actively participated in the development of the proposed enforcement policy through membership of the Enforcement Management Group.
25. Enforcement Policy, as required by the Legislative and Regulatory Reform Act 2006, is currently reserved to full council for adoption under part 3B of the constitution. Other enforcement issues are delegated to the Corporate Director for Place (and in turn to other officers via a scheme of sub delegation). The proposed enforcement policy is a framework by which all officers will exercise their delegated enforcement functions. Cabinet are responsible for implementing and delivering the budget and policy framework agreed by full council and have agreed to the delegation of the maintenance of service specific enforcement to directors, in consultation with the relevant cabinet member
26. Consultation has taken place with councillors, parish councils and other enforcement agencies during September. This sought views on how the policy might be strengthened further. The policy has been generally welcomed by a range of parish councils that responded as well as councillors and other organisations. Some of the specific points made are as below:

Point made	Response
Need to strengthen our approach to illegal vehicle access across footways and pavements; obstruction of the highways; piped watercourses and illegal discharges	We have in place operating procedures relevant to these aspects that will be publicised alongside the umbrella enforcement policy in due course.

<p>Timelines for enforcement are helpful Need consistent language (eg parking enforcement is in first person).</p> <p>Will the completed document be more “branded” too?</p>	<p>Appropriate revisions will be made to the service specific policies</p> <p>The final policies will be made available in a consistent, accessible format on our webpages (not pdf) and a summary page of the principles has been included</p>
<p>Should there be an explicit reference to Council Tax in the policy?</p>	<p>The legislation in respect of the enforcement and recovery of council tax is very clear - the Council Tax Admin and Enforcement Regs 1992. We have signed a code of conduct for Enforcement Agents. Reference to this has been included and can be publicised accordingly</p>
<p>Recommend increasing resources to enable improved monitoring by building regulations officers in conjunction with planning officers during build. This could prevent the need for planning enforcement at a later date, as some things cannot be enforced once they have been built incorrectly.</p>	<p>Noted</p>
<p>Planning enforcement policy:</p> <ul style="list-style-type: none"> • Makes it clearer • Parishes need to be kept informed on cases • Examples of harmful development would be helpful • Would be useful to see a reference to how unauthorised gypsy and traveller developments are handled 	<p>Appropriate revisions will be made by the Director to reflect these points in the service specific planning enforcement policy.</p>
<p>Planning: have noticed a much quicker response rate from your team. Concerned that 95% targets as a KPI mean 5% will miss out on a response</p>	<p>Appropriate revisions will be made by the Director to reflect these points in the service specific planning enforcement policy.</p>

Overview and Scrutiny Engagement

27. The draft policy was circulated to all councillors, including Overview and Scrutiny committee members for comment on 10 September. The Chairmen and Vice-Chairmen of the select committees received a briefing on the policy 3 October. Feedback from this has been reflected as appropriate.

Options Considered

28. Options included either not updating the extant policy or updating the policy to reflect changes in legislation and the expressed wishes of councillors. Adopting a revised policy provides the opportunity to ensure officers are exercising delegated enforcement functions in line with the views of full council and reflecting the legislation,

whilst providing a framework to ensure service specific policies can be maintained in line with this and updated as appropriate.

Conclusions

29. A revised enforcement policy will support an assertive and coordinated 'one council' approach that will help to increase compliance, prevent further infringements and deter other offenders (in line with the commitment in the Business Plan to 'prevention and early intervention' as a guiding theme).

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Appendices

Appendix 1 - Draft Umbrella Enforcement Policy with service specific enforcement policies and overall monitoring framework

Background Papers

None